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PROCLAMATION 4042

Earth Week, 1971

By the President of the United States of America

A Proclamation

Few concerns facing America and the world today are more compelling than the quality of our physical environment. All that we do, all that we hope to achieve for ourselves, all that we hope to create for our children will go for nothing if the world itself is made unfit to live in. The question of what we do with our environment is a matter of cosmic consequence; there is a limit to how long the matter rests merely with man, and if that limit is exceeded, the success of man as an earth creature may itself be limited by forces he no longer controls.

The earth and its atmosphere are a closed system. They are finite. The good water cannot purify itself indefinitely. The good air cannot cleanse itself endlessly. And the good earth cannot sustain and repair the injustices of man forever. Man must help to put his own earthly house in order.

We have made a beginning in this. But we have only begun. Now there must be a conscious, sustained effort by every American and, we might hope, by every citizen of the world if our posterity are not to look back in sorrow and wonder why, when God had created the earth and seen that it was good, man did not agree and leave it that way.

NOW, THEREFORE, I, Richard Nixon, President of the United States of America, do hereby designate the period of April 18 through April 24, 1971, as Earth Week.

I call upon the Governors of the several States to encourage observance of this period and its purposes through appropriate ceremonies and to give special consideration to means of educating our citizens to the preservation of our environment.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of April, in the year of our Lord nineteen hundred seventy-one, and of the Independence of the United States of America the one hundred ninety-fifth.

Richard Nixon

[FR Doc.71-4882 Filed 4-5-71;10:54 am]

NOTE: For the text of the President's Letter to the Nation's Governors urging their observance of Earth Week, 1971, see Weekly Comp. of Pres. Docs., Vol. 7, issue of April 5, 1971.

Rules and Regulations

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAXES

[T.D. 7105]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Definition of Pooled Income Fund

On July 17, 1970, there was published in the FEDERAL REGISTER (35 F.R. 11476) a notice of proposed rule making with respect to amendment of the Income Tax Regulations (26 CFR Part 1) to conform such regulations to section 642(c)(5) of the Internal Revenue Code of 1954, relating to the definition of pooled income fund, as added by section 201(b) of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 558). After consideration of all such relevant matters as were presented by interested persons regarding the rules proposed, the amendment to the regulations as proposed is hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Section 1.642(c)-5, as set forth in paragraph 2 of notice of proposed rule making, is changed by revising paragraphs (a), (b), and (c).

PAR. 2. Section 1.642(c)-6, as set forth in paragraph 2 to the notice of proposed rule making, is changed by revising paragraphs (a), (b), (c), and so much of paragraph (d)(3) as precedes the tables therein.

PAR. 3. Section 1.642(c)-7, as set forth in paragraph 2 to the notice of proposed rule making, is changed by revising paragraphs (a), (b), (c)(1), and (d).

(Sec. 7805 of the Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

Approved: March 29, 1971.

JOHN S. NOLAN,
Acting Assistant Secretary of the Treasury.

PARAGRAPH 1. Section 1.642(c) is amended by revising section 642(c) and by adding a historical note, as follows:

§ 1.642(c) Statutory provisions; estates and trusts; special rules for credits and deductions; charitable contributions deduction.

SEC. 642. *Special rules for credits and deductions.* * * *

(c) *Deduction for amounts paid or permanently set aside for a charitable purpose*—(1) *General rule.* In the case of an estate or trust (other then [sic] a trust meeting the specifications of subpart B), there shall be allowed as a deduction in computing its taxable income (in lieu of the deduction allowed by section 170(a), relating to deduction for charitable, etc., contributions and gifts) any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, paid for a purpose specified in section 170(c) (determined without regard to section 170(c)(2)(A)). If a charitable contribution is paid after the close of such taxable year and on or before the last day of the year following the close of such taxable year, then the trustee or administrator may elect to treat such contribution as paid during such taxable year. The election shall be made at such time and in such manner as the Secretary or his delegate prescribes by regulations.

(2) *Amounts permanently set aside.* In the case of an estate and in the case of a trust (other than a trust meeting the specifications of subpart B) required by the terms of its governing instrument to set aside amounts which was—

(A) Created on or before October 9, 1969, if—

(i) An irrevocable remainder interest is transferred to or for the use of an organization described in section 170(c), or

(ii) The grantor is at all times after October 9, 1969, under a mental disability to change the terms of the trust; or

(B) Establish by a will executed on or before October 9, 1969, if—

(i) The testator dies before October 9, 1972, without having republished the will after October 9, 1969, by codicil or otherwise,

(ii) The testator at no time after October 9, 1969, had the right to change the portions of the will which pertain to the trust, or

(iii) The will is not republished by codicil or otherwise before October 9, 1972, and the testator is on such date and at all times thereafter under a mental disability to republish the will by codicil or otherwise,

there shall also be allowed as a deduction in computing its taxable income any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, permanently set aside for a purpose specified in section 170(c), or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance, or operation of a public cemetery not operated for profit. In the case of a trust, the preceding sentence shall apply only to gross income earned with respect to amounts transferred to the trust before October 9, 1969, or transferred under a will to which subparagraph (B) applies.

(3) *Pooled income funds.* In the case of a pooled income fund (as defined in paragraph (5)), there shall also be allowed as a deduction in computing its taxable income any amount of the gross income attributable to gain from the sale of a capital asset held for more than 6 months, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, permanently set aside for a purpose specified in section 170(c).

(4) *Adjustments.* To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 6 months, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).

(5) *Definition of pooled income fund.* For purposes of paragraph (3), a pooled income fund is a trust—

(A) To which each donor transfers property, contributing an irrevocable remainder interest in such property to or for the use of an organization described in section 170(b)(1)(A) (other than in clauses (vii) or (viii)), and retaining an income interest for the life of one or more beneficiaries (living at the time of such transfer),

(B) In which the property transferred by each donor is commingled with property transferred by other donors who have made or make similar transfers,

(C) Which cannot have investments in securities which are exempt from the taxes imposed by this subtitle,

(D) Which includes only amounts received from transfers which meet the requirements of this paragraph,

(E) Which is maintained by the organization to which the remainder interest is contributed and of which no donor or beneficiary of an income interest is a trustee, and

(F) From which each beneficiary of an income interest receives income, for each year for which he is entitled to receive the income interest referred to in subparagraph (A), determined by the rate of return earned by the trust for such year.

For purposes of determining the amount of any charitable contribution allowable by reason of a transfer of property to a pooled fund, the value of the income interest shall be determined on the basis of the highest rate of return earned by the fund for any of the 3 taxable years immediately preceding the taxable year of the fund in which the transfer is made. In the case of funds in existence less than 3 taxable years preceding the taxable year of the fund in which a transfer is made, the rate of return shall be deemed to be 6 percent per annum, except that the Secretary or his delegate may prescribe a different rate of return.

(6) *Taxable private foundations.* In the case of a private foundation which is not exempt from taxation under section 501(a) for the taxable year, the provisions of this subsection shall not apply and the provisions of section 170 shall apply.

* * * * *

[Sec. 642(c) as amended by sec. 201(b), Tax Reform Act 1969 (83 Stat. 558)]

PAR. 2. Immediately after § 1.642(c)-4 the following new sections are inserted:

§ 1.642(c)-5 Definition of pooled income fund.

(a) *In general*—(1) *Application of provisions.* Section 642(c)(5) prescribes certain rules for the valuation of contributions involving transfers to certain funds described in that section as pooled income funds. This section sets forth the requirements for qualifying as a pooled income fund and provides for the manner of allocating the income of the fund to the beneficiaries. Section 1.642(c)-6 provides for the valuation of a remainder interest in property transferred to a

pooled income fund. § 1.642(c)-7 provides transitional rules under which certain funds may be amended so as to qualify as pooled income funds in respect to transfers of property occurring after July 31, 1969.

(2) *Tax status of fund and its beneficiaries.* Notwithstanding any other provision of this chapter, a fund which meets the requirements of a pooled income fund, as defined in section 642(c)(5) and paragraph (b) of this section, shall not be treated as an association within the meaning of section 7701(a)(3). Such a fund, which need not be a trust under local law, and its beneficiaries shall be taxable under part I, subchapter J, chapter 1 of the Code, but the provisions of subpart E (relating to grantors and others treated as substantial owners) of such part shall not apply to such fund.

(3) *Recognition of gain or loss on transfer to fund.* No gain or loss shall be recognized to the donor on the transfer of property to a pooled income fund. In such case, the fund's basis and holding period with respect to property transferred to the fund by a donor shall be determined as provided in sections 1015(b) and 1223(2). If, however, a donor transfers property to a pooled income fund and, in addition to creating or retaining a life income interest therein, receives property from the fund, or transfers property to the fund which is subject to an indebtedness, this subparagraph shall not apply to the gain realized by reason of (i) the receipt of such property or (ii) the amount of such indebtedness, whether or not assumed by the pooled income fund, which is required to be treated as an amount realized on the transfer. For applicability of the bargain sale rules, see section 1011(b) and the regulations thereunder.

(4) *Charitable contributions deduction.* A charitable contributions deduction for the value of the remainder interest, as determined under § 1.642(c)-6, may be allowed under section 170, 2055, 2106, or 2522, where there is a transfer of property to a pooled income fund. For a special rule relating to the reduction of the amount of a charitable contribution of certain ordinary income property or capital gain property, see section 170(e)(1)(A) or (B)(i) and the regulations thereunder.

(5) *Definitions.* For purposes of this section, § 1.642(c)-6, and § 1.642(c)-7—

(i) The term "income" has the same meaning as it does under section 643(b) and the regulations thereunder.

(ii) The term "donor" includes a decedent who makes a testamentary transfer of property to a pooled income fund.

(iii) The term "governing instrument" means either the governing plan under which the pooled income fund is established and administered or the instrument of transfer, as the context requires.

(iv) The term "public charity" means an organization described in clause (i) to (vi) of section 170(b)(1)(A). If an organization is described in clause (i) to (vi) of section 170(b)(1)(A) and is also described in clause (viii) of such section, it shall be treated as a public charity.

(v) The term "fair market value", when used with respect to property, means its value in excess of the indebtedness or charges against such property.

(vi) The term "determination date" means each day within the taxable year of a pooled income fund on which a valuation is made of the property in the fund. The property in the fund shall be valued on the first day of the taxable year of the fund and on at least 3 other days within the taxable year. The period between any two consecutive determination dates within the taxable year shall not be greater than 3 calendar months. In the case of a taxable year of less than 12 months, the property in the fund shall be valued on the first day of such taxable year and on such other days within such year as occur at successive intervals of no greater than 3 calendar months.

(6) *Cross references.* (i) See section 4947(a)(2) and section 4947(b)(3)(B) for the application to pooled income funds of the provisions relating to private foundations and section 508(e) for rules relating to provisions required in the governing instrument prohibiting certain activities specified in section 4947(a)(2).

(ii) For rules for postponing the time for deduction of a charitable contribution of a future interest in tangible personal property, see section 170(a)(3) and the regulations thereunder.

(b) *Requirements for qualification as a pooled income fund.* A pooled income fund to which this section applies must satisfy all of the following requirements:

(1) *Contribution of remainder interest to charity.* Each donor must transfer property to the fund and contribute an irrevocable remainder interest in such property to or for the use of a public charity, retaining for himself, or creating for another beneficiary or beneficiaries, a life income interest in the transferred property. A contingent remainder interest shall not be treated as an irrevocable remainder interest for purposes of this subparagraph.

(2) *Creation of life income interest.* Each donor must retain for himself for life an income interest in the property transferred to such fund, or create an income interest in such property for the life of one or more beneficiaries, each of whom must be living at the time of the transfer of the property to the fund by the donor. The term "one or more beneficiaries" includes those members of a named class who are alive and can be ascertained at the time of the transfer of the property to the fund. In the event more than one beneficiary of the income interest is designated, such beneficiaries may enjoy their shares of income concurrently, consecutively, or both concurrently and consecutively. The donor may retain the power exercisable only by will to revoke or terminate the income interest of any designated beneficiary other than the public charity. The governing instrument must specify at the time of the transfer the particular beneficiary or beneficiaries to whom the income is payable and the share of income distributable to each person so specified. The public charity to or for the use of which the remainder interest is contributed may also be designated as one of the beneficiaries of an income interest. The donor need not retain or create a life interest in all the income from the property transferred to the fund provided any income not payable under the terms of the governing instrument to an income beneficiary is contributed to, and within the taxable year in which it is received is paid to, the same public charity to or for the use of which the remainder interest is contributed. No charitable contributions deduction shall be allowed to the donor for the value of such income interest of the public charity or for the amount of any such income paid to such organization.

(3) *Commingling of property required.* The property transferred to the fund by each donor must be commingled with, and invested or reinvested with, other property transferred to the fund by other donors satisfying the requirements of subparagraphs (1) and (2) of this paragraph. The governing instrument of the pooled income fund must contain a provision requiring compliance with the preceding sentence. The public charity to or for the use of which the remainder interest is contributed may maintain more than one pooled income fund, provided that each such fund is maintained by the organization and is not a device to permit a group of donors to create a fund which may be subject to their manipulation. The fund must not include property transferred under arrangements other than those specified in section 642(c)(5) and this paragraph. However, a fund shall not be disqualified as a pooled income fund under this paragraph because any portion of its properties is invested or reinvested jointly with other properties, not a part of the pooled income fund, which are held by, or for the use of, the public charity which maintains the fund, as for example, with securities in the general endowment fund of the public charity to or for the use of which the remainder interest is contributed. Where such joint investment or reinvestment of properties occurs, records must be maintained which sufficiently indentify the portion of the total fund which is owned by the pooled income fund and the income earned by, and attributable to, such portion. Such a joint investment or reinvestment of properties shall not be treated as an association or partnership for purposes of the Code. A bank which serves as trustee of more than one pooled income fund may maintain a common trust fund to which section 584 applies for the collective investment and reinvestment of moneys of such funds.

(4) *Prohibition against exempt securities.* The property transferred to the fund by any donor must not include any securities, the income from which is exempt from tax under subtitle A of the Code, and the fund must not invest in such

securities. The governing instrument of the fund must contain specific prohibitions against accepting or investing in such securities.

(5) *Maintenance by charitable organization required.* The fund must be maintained by the same public charity to or for the use of which the irrevocable remainder interest is contributed. The requirement of maintenance will be satisfied where the public charity exercises control directly or indirectly over the fund. For example, this requirement of control shall ordinarily be met when the public charity has the power to remove the trustee or trustees of the fund and designate a new trustee or trustees. A national organization which carries out its purposes through local organizations, chapters, or auxiliary bodies with which it has an identity of aims and purposes may maintain a pooled income fund (otherwise satisfying the requirements of this paragraph) in which one or more local organizations, chapters, or auxiliary bodies which are public charities have been named as recipients of the remainder interests. For example, a national church body may maintain a pooled income fund where donors have transferred property to such fund and contributed an irrevocable remainder which are ordinarily exercised by a interest therein to or for the use of various local churches or educational institutions of such body. The fact that such local organizations or chapters have been separately incorporated from the national organization is immaterial.

(6) *Prohibition against donor or beneficiary serving as trustee.* The fund must not have, and the governing instrument must prohibit the fund from having, as a trustee a donor to the fund or a beneficiary (other than the public charity to or for the use of which the remainder interest is contributed) of an income interest in any property transferred to such fund. Thus, if a donor or beneficiary (other than such public charity) directly or indirectly has general responsibilities with respect to the fund trustee, such fund does not meet the requirements of section 642(c)(5) and this paragraph. The fact that a donor of property to the fund, or a beneficiary of the fund, is a trustee, officer, director, or other official of the public charity to or for the use of which the remainder interest is contributed ordinarily will not prevent the fund from meeting the requirements of section 642(c)(5) and this paragraph.

(7) *Income of beneficiary to be based on rate of return of fund.* Each beneficiary entitled to income of any taxable year of the fund must receive such income in an amount determined by the rate of return earned by the fund for such taxable year with respect to his income interest, computed as provided in paragraph (c) of this section. The governing instrument of the fund shall direct the trustee to distribute income currently or within the first 65 days following the close of the taxable year in which the income is earned. Any such payment made after the close of the taxable year shall be treated as paid on the last day of the taxable year. A statement shall be attached to the return of the pooled income fund indicating the date and amount of such payments after the close of the taxable year. Subject to the provisions of part I, subchapter J, chapter 1 of the Code, the beneficiary shall include in his gross income all amounts properly paid, credited, or required to be distributed to the beneficiary during the taxable year or years of the fund ending within or with his taxable year. The governing instrument shall provide that the income interest of any designated beneficiary shall either terminate with the last regular payment which was made before the death of the beneficiary or be prorated to the date of his death.

(8) *Termination of life income interest.* Upon the termination of the income interest retained or created by any donor, the trustee shall sever from the fund an amount equal to the value of the remainder interest in the property upon which the income interest is based. The value of the remainder interest for such purpose shall be its value as of the determination date next succeeding the termination of the income interest. The amount so severed from the fund must either be paid to, or retained for the use of, the designated public charity, as provided in the governing instrument. However, see subparagraph (3) of this paragraph for rules relating to commingling of property.

(c) *Allocation of income to beneficiary*—(1) *In general.* Every income interest retained or created in property transferred to a pooled income fund shall be assigned a proportionate share of the annual income earned by the fund, such share, or unit of participation, being based on the fair market value of such property on the date of transfer, as provided in this paragraph.

(2) *Units of participation*—(i) *Unit plan.* (*a*) On each transfer of property by a donor to a pooled income fund, one or more units of participation in the fund shall be assigned to the beneficiary or beneficiaries of the income interest retained or created in such property, the number of units of participation being equal to the number obtained by dividing the fair market value of the property by the fair market value of a unit in the fund at the time of the transfer.

(*b*) The fair market value of a unit in the fund at the time of the transfer shall be determined by dividing the fair market value of all property in the fund at such time by the number of units then in the fund. The initial fair market value of a unit in a pooled income fund shall be the fair market value of the property transferred to the fund divided by the number of units assigned to the income interest in that property. The value of each unit of participation will fluctuate with each new transfer of property to the fund in relation to the appreciation or depreciation in the fair market value of the property in the fund, but all units in the fund will always have equal value.

(c) The share of income allocated to to each unit of participation shall be determined by dividing the income of the fund for the taxable year by the outstanding number of units in the fund at the end of such year, except that, consistently with paragraph (b)(7) of this section, income shall be allocated to units outstanding during only part of such year by taking into consideration the period of time such units are outstanding. For this purpose the actual income of such part of the taxable year, or a prorated portion of the annual income, may be used, after making such adjustments as are reasonably necessary to reflect fluctuations during the year in the fair market value of the property in the fund.

(ii) *Other plans.* The governing instrument of the fund may provide any other reasonable method not described in subdivision (i) of this subparagraph for assigning units of participation in the fund and allocating income to such units which reaches a result reasonably consistent with the provisions of such subdivision.

(iii) *Transfers between determination dates.* For purposes of subdivisions (i) and (ii) of this subparagraph, if a transfer of property to the fund by a donor occurs on other than a determination date, the number of units of participation assigned to the income interest in such property may be determined by using the fair market value of the property in the fund on the determination date immediately preceding the date of transfer (determined without regard to the property so transferred), subject, however, to appropriate adjustments on the next succeeding determination date. Such adjustments may be made by any reasonable method, including the use of a method whereby the average fair market value of the property in the fund at the time of the transfer is obtained by reference to the fair market values of the property in the fund on the determination dates immediately preceding and succeding the date of transfer. The application of this subdivision may be illustrated by the following example:

Example. The determination dates of a pooled income fund are the first day of each calendar month. On April 1, 1971, the fair market value of the property in the fund is $100,000, at which time 1,000 units of participation are outstanding with a value of $100 each. On April 15, 1971, B transfers property with a fair market value of $50,000 to the fund, retaining for himself for life an income interest in such property. On May 1, 1971, the fair market value of the property in the fund, including the property transferred by B, is $160,000. The average of the fair market values of the property in the fund (excluding the property transferred by B) on April 1 and May 1, 1971, is $105,000 ($100,000+[$160,000−$50,000]÷2). Accordingly, the fair market value of a unit of participation in the fund on April 15, 1971, at the time of B's transfer is $1,050 ($105,000/1,000 units), and B is assigned 467 units of participation in the fund ($50,000/$1,050).

(3) *Special rule for partial allocation of income to charity.* Notwithstanding subparagraph (2) of this paragraph, the governing instrument may provide that a unit of participation is entitled to

share in the income of the fund in a lesser amount than would otherwise be determined under such subparagraph, provided that the income otherwise allocable to the unit under such subparagraph is paid within the taxable year in which it is received to the public charity to or for the use of which the remainder interest is contributed under the governing instrument.

(4) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). On July 1, 1970, A and B transfer separate properties with a fair market value of $20,000 and $10,000, respectively, to a newly created pooled income fund which is maintained by Y University and uses as its taxable year the fiscal year ending June 30. A and B each retain in themselves for life an income interest in such property, the remainder interest being contributed to Y University. The pooled income fund assigns an initial value of $100 to each unit of participation in the fund, and under the governing instruments A receives 200 units, and B receives 100 units, in the fund. On October 1, 1970, which is a determination date, C transfers property to the fund with a fair market value of $12,000, retaining in himself for life an income interest in such property and contributing the remainder interest to Y University. The fair market value of the property in the fund at the time of C's transfer is $36,000. The fair market value of A's and B's units at the time of such transfer is $120 each ($36,000/300). By reason of his transfer of property C is assigned 100 units of participation in the fund ($12,000/$120).

Example (2). Assume that the pooled income fund in example (1) earns $2,600 for its taxable year ending June 30, 1971, and there are no further contributions of property to the fund in such year. Further assume $300 is earned in the first quarter ending September 30, 1970. Therefore, the fund earns $1 per unit for the first quarter ($300 divided by 300 units outstanding) and $5.75 per unit for the remainder of the taxable year ([$2,600—$300] divided by 400 units outstanding). If the fund distributes its income for the year based on its actual earnings per quarter, the income must be distributed as follows:

Beneficiary	*Share of income*
A	$1,350 ([200×$1]+[200×$5.75]).
B	$675 ([100×$1]+[100×$5.75]).
C	$575 (100×$5.75).

Example (3). (a) On July 1, 1970, A and B transfer separate properties with a fair market value of $10,000 and $20,000, respectively, to a newly created pooled income fund which is maintained by X University and uses as its taxable year the fiscal year ending June 30. A and B each retain in themselves an income interest for life in such property, the remainder interest being contributed to X University. The governing instrument provides that each unit of participation in the fund shall have a value of not more than its initial fair market value; the instrument also provides that the income allocable to appreciation in the fair market value of such unit (to the extent in excess of its initial fair market value) at the end of each quarter of the fiscal year is On October 1, 1970, which is a determination date, C contributes to the fund property with a fair market value of $60,000 and retains in himself an income interest for life in such property, the remainder interest being contributed to X University. The initial fair market value of the units assigned to A, B, and C is $100. A, B, and C's units of participation are as follows:

Beneficiary	*Units of participation*
A	100 ($10,000 divided by $100).
B	200 ($20,000 divided by $100).
C	600 ($60,000 divided by $100).

(b) The fair market value of the property in the fund at the time of C's contribution is $40,000. Assuming the fair market value of the property in the fund is $100,000 on December 31, 1970, and that the income of the fund for the second quarter ending December 31, 1970, is $2,000, the income is shared by the income beneficiaries and X University as follows:

Beneficiary	*Allocation of income*
A, B, and C	90% ($90,000 divided by $100,000).
X University	10% ($10,000 divided by $100,000).

(c) For the quarter ending December 31, 1970, each unit of participation is allocated $2 (90 percent×$2,000 divided by 900) of the income earned for that quarter. A, B, C, and X University share in the income as follows:

Beneficiary	*Share of income*
A	$200 (100×$2).
B	$400 (200×$2).
C	$1,200 (600×$2).
X University	$200 (10%×$2,000).

(d) *Effective date.* Section 642(c)(5) and this section apply to transfers in trust made after July 31, 1969.

§ 1.642(c)–6 Valuation of a remainder interest in property transferred to a pooled income fund.

(a) *In general.* (1) For purposes of sections 170, 2055, 2106, and 2522 the fair market value of a remainder interest in property transferred after July 31, 1969, to a pooled income fund to which § 1.642(c)–5 applies is its present value determined under this section. The present value of the remainder interest at the time of the transfer of property to the fund shall be determined by computing the present value at such time of the life income interest in the transferred property (as determined under paragraph (b) of this section) and subtracting such value from the fair market value of the transferred property on the appropriate valuation date. The fact that the income beneficiary of the income interest in such property may not receive the last income payment, as provided in paragraph (b)(7) of § 1.642(c)–5, shall not be taken into account for purposes of determining the present value of the life income interest. For purposes of this section, the term "appropriate valuation date" means the date on which property is transferred to the fund by the donor except that, for purposes of section 2055 or 2106, it means the alternate valuation date if it is elected in accordance with section 2032 and the regulations thereunder.

(2) The method for determining the present value of a remainder interest in property transferred to a pooled income fund where such value is dependent on the termination of one life is set forth in paragraph (d) of this section. If the computation of the value of the remainder interest requires the use of a factor which is not provided in paragraph (d) of this section, the Commissioner may, if conditions permit, supply the factor upon request. The request must be accompanied by a statement of the pooled income fund's yearly rate of return and of the date of birth and sex of each individual the duration of whose life may affect the value of the remainder interest and by copies of the relevant instruments. If the Commissioner furnishes the factor, a copy of the letter supplying the factor shall be attached to the tax return in which the deduction is claimed. If the Commissioner does not furnish the factor, the taxpayer must furnish a factor computed in accordance with the principles set forth in this section. Many special factors involving the valuation of an income interest dependent upon the continuation or termination of more than one life may be found in, or computed with the use of the tables contained in, the publications entitled "Actuarial Values I: Valuation of Last Survivor Charitable Remainders" and "Actuarial Values II: Factors at 6 Percent Involving One and Two Lives." These publications may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Any claim for deduction in any return for the value of a remainder interest in property transferred to a pooled income fund must be supported by a statement attached to the return showing the computation of the present value of such interest.

(b) *Present value of life income interest.* The present value of the life income interest in property transferred to a pooled income fund shall be computed on the basis of—

(1) Life contingencies determined, as to each male and female life involved, from the values of l_x that are set forth in columns (2) and (3), respectively, of table LN of paragraph (f) of § 20.2031–10 of this chapter (Estate Tax Regulations), and

(2) Discount at a rate of interest, compounded annually, equal to the highest yearly rate of return of the pooled income fund for the 3 taxable years immediately preceding its taxable year in which the transfer of property to the fund is made. For purposes of this subparagraph, the first taxable year of a pooled income fund shall be considered a taxable year even though such taxable year consists of less than 12 months. However, appropriate adjustments shall be made to annualize the rate of return earned by the fund for such period. Where it appears from the facts and circumstances that the highest yearly rate of return for the 3 taxable years immediately preceding the taxable year in which the transfer of property is made has been purposely arranged to be substantially incommensurate with the reasonably anticipated earnings of the fund with the objective of obtaining an excessive charitable contributions deduction, such rate of return shall not be used. In such a case the highest yearly

rate of return of the fund shall be determined by treating the fund as a pooled income fund which has been in existence for less than 3 preceding taxable years. If a pooled income fund has been in existence less than 3 taxable years immediately preceding the taxable year in which the transfer of property to the fund is made, the highest yearly rate of return shall be deemed to be 6 percent. For purposes of this subparagraph the yearly rate of return of a pooled income fund shall be determined as provided in paragraph (c) of this section unless the highest yearly rate of return is deemed to be 6 percent.

(c) *Computation of pooled income fund's yearly rate of return.* (1) For purposes of paragraph (b) of this section, the yearly rate of return earned by a pooled income fund for a taxable year shall be that percentage obtained by dividing the amount of income earned by the pooled income fund for such taxable year by an amount equal to (i) the average fair market value for such taxable year of the property in such fund less (ii) the corrective term adjustment.

(2) The average fair market value of the property in a pooled income fund for a taxable year shall be the sum of the amounts of the fair market value of all property held by the pooled income fund on each determination date, as defined in paragraph (a)(5)(vi) of § 1.642(c)-5, of such taxable year divided by the number of determination dates in such taxable year. For such purposes the fair market value of property held by the fund shall be determined without including any income earned by the fund.

(3)(i) The corrective term adjustment shall be the sum of the products obtained by multiplying each income payment made by the pooled income fund within its taxable year by the percentage set forth in column (2) of the following table opposite the period within such year, set forth in column (1), which includes the date on which that payment is made:

TABLE

(1) Payment period	(2) Percentage of payment
Last week of 4th quarter	0
Balance of 4th quarter	25
Last week of 3d quarter	25
Balance of 3d quarter	50
Last week of 2d quarter	50
Balance of 2d quarter	75
Last week of 1st quarter	75
Balance of 1st quarter	100

(ii) If the taxable year of the fund consists of less than 12 months, the corrective term adjustment shall be the sum of the products obtained by multiplying each income payment made by the pooled income fund within such taxable year by the percentage obtained by subtracting from 1 a fraction the numerator of which is the number of days from the first day of such taxable year to the date of such income payment and the denominator of which is 365.

(4) A pooled income fund's method of calculating its yearly rate of return must be supported by a full statement attached to the income tax return of the pooled income fund for each taxable year.

(5) The application of this paragraph may be illustrated by the following examples:

Example (1). (a) The pooled income fund maintained by W University has established determination dates on the first day of each calendar quarter. The pooled income fund is on a calendar-year basis. The pooled income fund earned $5,000 of income during 1971. The fair market value of its property (determined without including any income earned by the fund), and the income paid out, on the first day of each calendar quarter in 1971 are as follows:

Date	Fair market value of property	Income payment
Jan. 1	$100,000	$1,200
Apr. 1	105,000	1,200
July 1	95,000	1,200
Oct. 1	100,000	1,400
	400,000	5,000

(b) The average fair market value of the property in the fund for 1971 is $100,000 ($400,000, divided by 4).

(c) The corrective term adjustment for 1971 is $3,050, determined by applying the percentages obtained in column (2) of the table in subparagraph (3) of this paragraph:

Multiplication	Product
100% × $1,200	$1,200
75% × $1,200	900
50% × $1,200	600
25% × $1,400	350
Sum of products	3,050

(d) The pooled income fund's yearly rate of return for 1971 is 5.157 percent, determined as follows:

$$\frac{\$5,000}{\$100,000-\$3,050}=0.05157$$

Example (2). (a) The pooled income fund maintained by X University has established determination dates on the first day of each calendar quarter. The pooled income fund is on a calendar-year basis. The pooled income fund earned $5,000 of income during 1971 and paid out $3,000 on December 15, 1971, and $2,000 on January 15, 1972, the last amount being treated under paragraph (b)(7) of § 1.642(c)-5 as paid on December 31, 1971. The fair market value of its property (determined without including any income earned by the fund) on the determination dates in 1971 and the income paid out during 1971 are as follows:

Date	Fair market value of property	Income payment
Jan. 1	$125,000	
Apr. 1	125,000	
July 1	75,000	
Oct. 1	75,000	
Dec. 15		$3,000
Dec. 31		2,000
	400,000	5,000

(b) The average fair market value of the property in the fund for 1971 is $100,000 ($400,000 divided by 4).

(c) The corrective term adjustment for 1971 is $750, determined by applying the percentages obtained in column (2) of the table in subparagraph (3) of this paragraph:

Multiplication	Product
0% × $2,000	$
25% × $3,000	750
Sum of products	750

(d) The pooled income fund's yearly rate of return for 1971 is 5.038 percent, determined as follows:

$$\frac{\$5,000}{\$100,000-\$750}=0.05038$$

(d) *Present value of remainder interest dependent on the termination of one life*—(1) *In general.* The present value under this section of a remainder interest which is dependent on the termination of the life of one individual shall be determined under this paragraph. The present value of such a remainder interest shall be computed by the use of Table G(1) or Table G(2) in subparagraph (3) of this paragraph. Table G(1) is to be used when the individual upon whose life the present value of the remainder interest is based is a male, and Table G(2) is to be used when the individual upon whose life the present value of the remainder interest is based is a female whose age is less than 95 years. In the case of a female whose age is more than 94 years, Table G(1) is to be used. The factors in these tables have been obtained by subtracting from 1 the factor for determining the present value of the life income interest. For purposes of the computations under this section, the age of an individual is to be taken as the age of that individual at his nearest birthday.

(2) *Computation of value of remainder interest.* The factor which is used in determining the present value of the remainder interest is the factor under the appropriate yearly rate of return in column (2) of Table G(1) or Table G(2) opposite the number in column (1) which corresponds to the age of the individual upon whose life the value of the remainder interest is based. If the yearly rate of return is a percentage which is between yearly rates of return for which factors are provided in Table G(1) or Table G(2), a linear interpolation must be made. The present value of the remainder interest is determined by multiplying, by the factor determined under this subparagraph, the fair market value on the appropriate valuation date. If the yearly rate of return is below 2.2 percent or above 8 percent, see paragraph (a)(2) of this section. The application of this subparagraph may be illustrated by the following example:

Example. M, a male who will be 50 years old on April 15, 1970, transfers $100,000 to a pooled income fund on January 1, 1970, and retains in himself a life income interest in such property. The highest yearly rate of return earned by the fund for its 3 preceding taxable years is 4.717 percent. In table G(1) the figure in column (2) opposite 50 years under 4.6 percent is 0.40087 and under 4.8 percent is 0.38764. The present value of the remainder interest is $39,313, computed as follows:

Factor at 4.6 percent for male aged 50	0.40087
Factor at 4.8 percent for male aged 50	.38764
Difference	.01323

Interpolation adjustment:

$$\frac{4.717\% - 4.6\%}{0.2\%} = \frac{x}{0.01323}$$

$$x = 0.00774$$

Factor at 4.6 percent for male aged 50	0.40087
Less: Interpolation adjustment	.00774
Interpolated factor	.39313
Present value of remainder interest ($100,000 × 0.39313)	$39,313

(3) *Actuarial tables.* The following tables, which show the factor obtained by subtracting from 1 the factor for determining the present value of the life income interest dependent on the termination of the life of one individual, shall be used in the application of the provisions of this section:

TABLE G(1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN

(1) Age	(2) Yearly rate of return				
	2.2%	2.4%	2.6%	2.8%	3%
0	.26256	.2362	.21314	.19296	.17526
1	.24606	.21876	.19485	.17389	.15548
2	.25009	.22258	.19844	.17724	.15859
3	.25473	.22702	.20267	.18125	.16238
4	.25966	.23178	.20723	.18559	.16649
5	.26483	.23677	.21203	.19018	.17087
6	.27017	.24195	.21702	.19497	.17545
7	.27568	.2473	.22219	.19994	.18021
8	.28134	.25282	.22753	.20509	.18516
9	.28716	.2585	.23305	.21043	.19029
10	.29314	.26436	.23875	.21595	.19562
11	.29928	.27038	.24462	.22165	.20114
12	.30555	.27654	.25065	.22751	.20681
13	.31193	.28282	.25678	.23349	.21261
14	.31836	.28915	.26299	.23954	.21849
15	.32483	.29553	.26925	.24565	.22443
16	.33131	.30194	.27554	.25179	.23041
17	.33784	.30839	.28187	.25798	.23643
18	.3444	.31487	.28825	.26422	.24251
19	.35102	.32143	.29471	.27055	.24868
20	.35772	.32808	.30126	.27697	.25495
21	.3645	.33481	.3079	.28349	.26133
22	.37136	.34163	.31465	.29012	.26782
23	.37836	.3486	.32154	.29691	.27446
24	.38551	.35573	.32862	.30389	.28134
25	.39287	.3631	.33593	.31113	.28846
26	.40045	.37066	.3435	.31863	.29586
27	.40824	.37852	.35131	.32638	.30353
28	.41622	.38655	.35935	.33438	.31146
29	.42439	.39479	.36761	.34262	.31964
30	.43272	.40321	.37605	.35106	.32803
31	.44121	.4118	.38469	.3597	.33664
32	.44985	.42056	.39352	.36855	.34547
33	.45865	.4295	.40254	.3776	.35452
34	.4676	.4386	.41174	.38686	.36379
35	.47669	.44787	.42113	.39631	.37327
36	.48592	.45728	.43068	.40595	.38295
37	.49528	.46684	.44039	.41577	.39283
38	.50475	.47654	.45026	.42575	.40289
39	.51433	.48637	.46027	.4359	.41313
40	.52399	.49629	.4704	.44618	.42352
41	.53374	.50632	.48064	.4566	.43406
42	.54356	.51642	.49099	.46713	.44473
43	.55343	.52661	.50143	.47777	.45553
44	.56337	.53687	.51195	.48851	.46644
45	.57335	.54719	.52256	.49935	.47748
46	.58337	.55757	.53324	.51029	.48861
47	.59343	.568	.54399	.5213	.49985
48	.60349	.57845	.55477	.53235	.51114
49	.61352	.58887	.56553	.54341	.52244
50	.62348	.59924	.57625	.55444	.53373
51	.63337	.60954	.58691	.56541	.54498
52	.64318	.61978	.59752	.57634	.55618
53	.65293	.62996	.60808	.58724	.56737
54	.66266	.64012	.61864	.59814	.57858
55	.67236	.65028	.6292	.60906	.58982
56	.68206	.66044	.63977	.62001	.6011
57	.69173	.67059	.65035	.63097	.61241
58	.70135	.68069	.66089	.64191	.6237
59	.71086	.69069	.67134	.65276	.63492
60	.72024	.70056	.68166	.66349	.64602
61	.72947	.71029	.69184	.67408	.65699
62	.73856	.71987	.70188	.68454	.66783
63	.74751	.72932	.71178	.69487	.67855
64	.75633	.73865	.72157	.70508	.68916
65	.76504	.74786	.73125	.71519	.69966
66	.77362	.75694	.7408	.72518	.71005
67	.78209	.76591	.75024	.73505	.72034
68	.79043	.77476	.75956	.74482	.73052
69	.79867	.78351	.76879	.7545	.74062
70	.80683	.79218	.77794	.7641	.75064

TABLE G (1)—Continued

(1) Age	(2) Yearly rate of return				
	2.2%	2.4%	2.6%	2.8%	3%
71	.8149	.80076	.78701	.77363	.7606
72	.82288	.80926	.796	.78308	.7705
73	.83078	.81768	.80491	.79246	.78032
74	.83856	.82599	.81372	.80174	.79005
75	.84624	.83418	.82241	.8109	.79966
76	.85379	.84226	.83098	.81996	.80917
77	.86124	.85023	.83945	.8289	.81858
78	.86854	.85804	.84776	.8377	.82783
79	.87564	.86566	.85587	.84627	.83686
80	.88249	.873	.8637	.85457	.8456
81	.88897	.87996	.87112	.86243	.8539
82	.89501	.88645	.87804	.86977	.86164
83	.90065	.89251	.88451	.87664	.86889
84	.90606	.89833	.89072	.88323	.87586
85	.91143	.90411	.8969	.8898	.8828
86	.91659	.90967	.90285	.89612	.88949
87	.92155	.91502	.90857	.90221	.89594
88	.92629	.92012	.91404	.90803	.90211
89	.93072	.9249	.91916	.91349	.90789
90	.93475	.92926	.92383	.91846	.91317
91	.93838	.93318	.92803	.92295	.91792
92	.94165	.93671	.93182	.92699	.92221
93	.94457	.93986	.9352	.9306	.92604
94	.94717	.94267	.93822	.93382	.92946
95	.94954	.94523	.94097	.93675	.93257
96	.95184	.94772	.94365	.93961	.93561
97	.95403	.95009	.94619	.94232	.93849
98	.95611	.95234	.9486	.9449	.94124
99	.95808	.95447	.9509	.94736	.94385
100	.95996	.95651	.95309	.94969	.94633
101	.96175	.95845	.95517	.95192	.9487
102	.96348	.96032	.95718	.95407	.95099
103	.96517	.96214	.95915	.95617	.95322
104	.96687	.96399	.96114	.9583	.95548
105	.96871	.96598	.96328	.96059	.95792
106	.97002	.96838	.96585	.96334	.96085
107	.97401	.97173	.96947	.96721	.96497
108	.97919	.97735	.97552	.9737	.97189
109	.98924	.98828	.98733	.98638	.98544

TABLE G(1)

(1) Age	(2) Yearly rate of return				
	3.2%	3.4%	3.6%	3.8%	4%
0	.15973	.14608	.13407	.12348	.11414
1	.1393	.12506	.11252	.10145	.09167
2	.14218	.1277	.11493	.10364	.09365
3	.14573	.13103	.11804	.10654	.09634
4	.14962	.1347	.12149	.10977	.09938
5	.15378	.13864	.12521	.11328	.10268
6	.15814	.14278	.12913	.117	.10619
7	.16269	.14711	.13325	.1209	.10989
8	.16743	.15164	.13757	.12501	.11379
9	.17236	.15636	.14207	.12931	.11788
10	.17748	.16127	.14678	.13381	.12218
11	.1828	.16639	.15169	.13851	.12668
12	.18828	.17167	.15676	.14338	.13135
13	.19389	.17708	.16198	.1484	.13616
14	.19959	.18259	.16728	.1535	.14106
15	.20534	.18815	.17265	.15866	.14602
16	.21114	.19375	.17805	.16386	.15102
17	.21698	.19941	.18351	.16912	.15608
18	.22289	.20512	.18903	.17444	.1612
19	.22888	.21093	.19465	.17986	.16641
20	.23498	.21685	.20037	.18539	.17174
21	.2412	.22289	.20622	.19103	.17719
22	.24753	.22904	.21219	.19681	.18276
23	.25403	.23537	.21834	.20277	.18853
24	.26075	.24193	.22471	.20896	.19452
25	.26773	.24876	.23137	.21544	.20082
26	.275	.25589	.23834	.22224	.20744
27	.28256	.26331	.24562	.22934	.21437
28	.29039	.27101	.25318	.23675	.2216
29	.29848	.27899	.26102	.24445	.22914
30	.30679	.2872	.26911	.2524	.23694
31	.31534	.29566	.27746	.26062	.24502
32	.32412	.30436	.28606	.2691	.25336
33	.33314	.31331	.29492	.27785	.26199
34	.34238	.32251	.30404	.28687	.2709
35	.35186	.33194	.31341	.29616	.28008
36	.36154	.34161	.32303	.3057	.28953
37	.37144	.3515	.33288	.31549	.29924
38	.38155	.3616	.34296	.32553	.30922
39	.39184	.37192	.35327	.33581	.31943
40	.4023	.38241	.36378	.34629	.32988
41	.41292	.39300	.37447	.35698	.34053
42	.42369	.40393	.38534	.36785	.3514
43	.43461	.41492	.39639	.37892	.36246
44	.44566	.42607	.4076	.39017	.37372
45	.45684	.43736	.41897	.4016	.38518
46	.46814	.44879	.43049	.41319	.39681
47	.47956	.46035	.44217	.42494	.40862
48	.49104	.47199	.45394	.43681	.42055
49	.50255	.48368	.46576	.44875	.43257
50	.51406	.49537	.4776	.46071	.44463
51	.52554	.50704	.48944	.47267	.4567
52	.53699	.5187	.50127	.48465	.4688

TABLE G(1)—Continued

(1) Age	(2) Yearly rate of return				
	3.2%	3.4%	3.6%	3.8%	4%
53	.54843	.53036	.51311	.49665	.48093
54	.5599	.54206	.52502	.50872	.49314
55	.57142	.55382	.537	.52089	.50547
56	.58299	.56566	.54906	.53315	.5179
57	.59461	.57756	.5612	.5455	.53045
58	.60623	.58946	.57336	.5579	.54304
59	.61778	.60131	.58547	.57025	.5556
60	.62922	.61305	.59749	.58252	.56809
61	.64053	.62468	.6094	.59468	.58049
62	.65172	.63619	.6212	.60675	.5928
63	.6628	.64759	.6329	.61872	.60502
64	.67377	.6589	.64452	.63061	.61717
65	.68464	.67011	.65605	.64243	.62925
66	.69541	.68123	.66748	.65417	.64126
67	.70607	.69225	.67883	.66582	.6532
68	.71664	.70317	.69009	.6774	.66506
69	.72713	.71403	.7013	.68892	.67689
70	.73756	.72483	.71245	.70041	.68869
71	.74793	.73559	.72357	.71186	.70046
72	.75824	.74629	.73464	.72328	.71221
73	.76848	.75693	.74566	.73466	.72392
74	.77863	.76748	.7566	.74597	.73558
75	.78868	.77794	.76745	.75719	.74716
76	.79862	.78831	.77821	.76833	.75866
77	.80846	.79857	.78887	.77938	.77008
78	.81816	.80869	.7994	.7903	.78138
79	.82764	.81859	.80971	.801	.79245
80	.83681	.82817	.8197	.81138	.8032
81	.84552	.83729	.8292	.82125	.81314
82	.85365	.8458	.83808	.83049	.82202
83	.86128	.85378	.84641	.83915	.83021
84	.8686	.86146	.85442	.84749	.84068
85	.87591	.86912	.86243	.85584	.84935
86	.88296	.87652	.87016	.8639	.85773
87	.88975	.88365	.87763	.87169	.86583
88	.89626	.89049	.88479	.87916	.87361
89	.90236	.8969	.89151	.88618	.88092
90	.90793	.90276	.89765	.8926	.88781
91	.91295	.90804	.90319	.89839	.89365
92	.91748	.91281	.90819	.90362	.8991
93	.92153	.91707	.91266	.9083	.90398
94	.92515	.92088	.91666	.91247	.90834
95	.92844	.92435	.92029	.91628	.91231
96	.93165	.92773	.92384	.92	.91619
97	.9347	.93094	.92722	.92353	.91988
98	.9376	.934	.93044	.9269	.9234
99	.94036	.93691	.93349	.9301	.92674
100	.94299	.93960	.93641	.93316	.92993
101	.94551	.94234	.9392	.93608	.93298
102	.94793	.94489	.94188	.93889	.93592
103	.95029	.94739	.94451	.94164	.9388
104	.95269	.94991	.94716	.94443	.94171
105	.95527	.95264	.95002	.94743	.94485
106	.95837	.95591	.95346	.95103	.94862
107	.96274	.96052	.95832	.95613	.95395
108	.97000	.9683	.96651	.96474	.96297
109	.9845	.98356	.98263	.9817	.98077

TABLE G(1)

(1) Age	(2) Yearly rate of return				
	4.2%	4.4%	4.6%	4.8%	5%
0	.10589	.09859	.09212	.08638	.08128
1	.08301	.07535	.06856	.06252	.05715
2	.0848	.07695	.06998	.06378	.05826
3	.0873	.07926	.07211	.06574	.06006
4	.09014	.08191	.07459	.06805	.06221
5	.09324	.08483	.07732	.07061	.06462
6	.09655	.08795	.08027	.07338	.06722
7	.10006	.09126	.08339	.07634	.07001
8	.10375	.09477	.08672	.07948	.07299
9	.10765	.09847	.09023	.08282	.07616
10	.11175	.10237	.09395	.08636	.07952
11	.11605	.10648	.09787	.0901	.08309
12	.12052	.11076	.10196	.094	.08682
13	.12513	.11518	.10619	.09806	.0907
14	.12983	.11968	.1105	.10219	.09465
15	.13459	.12425	.11488	.10638	.09866
16	.13939	.12885	.11929	.1106	.1027
17	.14425	.13352	.12376	.11488	.1068
18	.14917	.13823	.12827	.1192	.11094
19	.15418	.14304	.13289	.12363	.11517
20	.15931	.14797	.13762	.12816	.11951
21	.16455	.15301	.14246	.13281	.12397
22	.16993	.15819	.14744	.13758	.12855
23	.17549	.16385	.1526	.14255	.13332
24	.18129	.16915	.158	.14775	.13832
25	.18739	.17505	.16371	.15326	.14364
26	.19382	.18129	.16975	.15911	.14929
27	.20057	.18785	.17612	.16529	.15528
28	.20763	.19473	.18281	.17179	.1616
29	.215	.20193	.18983	.17862	.16824
30	.22264	.20939	.19712	.18573	.17517
31	.23056	.21715	.2047	.19314	.1824
32	.23876	.2252	.21259	.20086	.18994

TABLE G(1)—Continued

(1) Age	(2) Yearly rate of return				
	4.2%	4.4%	4.6%	4.8%	5%
33	.24725	.23354	.22077	.20888	.1978
34	.25603	.24217	.22926	.21721	.20596
35	.26509	.25111	.23805	.22585	.21445
36	.27443	.26032	.24714	.2348	.22325
37	.28405	.26983	.25652	.24405	.23236
38	.29393	.27962	.26619	.2536	.24177
39	.30408	.28967	.27614	.26344	.25149
40	.31446	.29997	.28635	.27354	.26148
41	.32507	.31052	.29681	.2839	.27174
42	.3359	.32129	.30752	.29452	.28226
43	.34694	.33229	.31846	.3054	.29305
44	.35819	.34352	.32964	.31651	.30409
45	.36965	.35495	.34104	.32787	.31538
46	.3813	.3666	.35267	.33946	.32692
47	.39314	.37846	.36451	.35128	.33871
48	.40512	.39046	.37653	.36328	.35068
49	.4172	.40258	.38866	.37542	.3628
50	.42933	.41476	.40087	.38764	.37502
51	.44148	.42697	.41313	.39991	.3873
52	.45367	.43923	.42544	.41226	.39966
53	.46591	.45155	.43782	.42469	.41212
54	.47824	.46398	.45032	.43725	.42472
55	.4907	.47655	.46298	.44998	.43751
56	.50328	.48926	.4758	.46288	.45048
57	.51599	.5021	.48877	.47595	.46363
58	.52876	.51503	.50182	.48912	.4769
59	.54151	.52795	.51489	.50231	.4902
60	.5542	.54082	.52791	.51547	.50348
61	.56681	.55361	.54087	.52857	.51671
62	.57933	.56632	.55376	.54162	.52989
63	.59178	.57897	.5666	.55462	.54304
64	.60416	.59157	.57939	.56759	.55617
65	.61649	.60412	.59214	.58053	.56928
66	.62875	.61662	.60485	.59344	.58236
67	.64095	.62906	.61751	.6063	.59542
68	.65308	.64145	.63014	.61914	.60845
69	.66519	.65381	.64275	.63197	.6215
70	.67728	.66617	.65535	.64482	.63456
71	.68935	.67853	.66798	.65769	.64767
72	.70141	.69088	.6806	.67058	.6608
73	.71345	.70322	.69323	.68348	.67395
74	.72543	.71552	.70583	.69636	.6871
75	.73735	.72775	.71837	.70919	.70021
76	.7492	.73993	.73086	.72198	.71329
77	.76097	.75205	.74331	.73473	.72634
78	.77263	.76405	.75564	.74739	.7393
79	.78407	.77584	.76776	.75983	.75205
80	.79518	.7873	.77955	.77195	.76448
81	.80577	.79822	.79081	.78352	.77635
82	.81568	.80846	.80135	.79437	.78749
83	.82499	.81807	.81126	.80456	.79796
84	.83306	.82734	.82083	.8144	.80808
85	.84295	.83664	.83042	.8243	.81826
86	.85164	.84563	.83971	.83387	.82811
87	.86005	.85434	.84871	.84316	.83768
88	.86813	.86272	.85737	.85209	.84689
89	.87573	.87059	.86552	.86051	.85557
90	.88208	.8778	.87208	.86823	.86352
91	.88896	.88432	.87974	.8752	.87072
92	.89463	.89021	.88583	.88151	.87723
93	.89971	.89548	.8913	.88716	.88306
94	.90424	.90019	.89618	.89221	.88827
95	.90838	.90448	.90063	.89681	.89303
96	.91241	.90868	.90498	.90131	.89768
97	.91626	.91268	.90912	.9056	.90211
98	.91992	.91648	.91307	.90969	.90634
99	.92341	.92011	.91683	.91359	.91037
100	.92674	.92357	.92042	.91731	.91422
101	.92992	.92688	.92386	.92086	.9179
102	.93298	.93006	.92717	.92429	.92144
103	.93598	.93319	.93041	.92765	.92492
104	.93902	.93634	.93369	.93105	.92843
105	.94228	.93974	.93721	.93471	.93222
106	.94622	.94383	.94147	.93911	.93678
107	.95178	.94963	.94749	.94536	.94324
108	.96121	.95946	.95772	.95598	.95426
109	.97985	.97893	.97801	.9771	.97619

TABLE G(1)

(1) Age	(2) Yearly rate of return				
	5.2%	5.4%	5.6%	5.8%	6%
0	.07674	.07269	.06908	.06585	.06295
1	.05237	.0481	.04429	.04088	.03783
2	.05332	.04893	.04499	.04146	.0383
3	.05499	.05045	.04638	.04274	.03947
4	.05609	.05231	.04811	.04434	.04095
5	.05924	.05442	.05009	.04619	.04268
6	.06169	.05672	.05226	.04823	.0446
7	.06432	.05921	.0546	.05044	.04669
8	.06714	.06187	.05712	.05283	.04895
9	.07015	.06473	.05983	.0554	.05139

TABLE G(1)—Continued

(1) Age	(2) Yearly rate of return				
	5.2%	5.4%	5.6%	5.8%	6%
10	.07335	.06777	.06273	.05816	.05402
11	.07675	.07102	.06582	.06111	.05684
12	.08032	.07442	.06908	.06423	.05981
13	.08403	.07797	.07247	.06747	.06292
14	.08781	.08159	.07594	.07079	.06609
15	.09165	.08526	.07945	.07415	.06931
16	.09551	.08896	.08298	.07753	.07254
17	.09943	.0927	.08656	.08095	.07581
18	.10338	.09649	.09018	.08441	.07911
19	.10744	.10036	.09388	.08794	.08249
20	.11159	.10433	.09768	.09158	.08597
21	.11586	.10842	.10159	.09531	.08954
22	.12025	.11262	.10561	.09916	.09322
23	.12482	.11701	.10982	.10319	.09708
24	.12963	.12164	.11426	.10745	.10116
25	.13476	.12657	.11901	.11202	.10555
26	.14022	.13184	.1241	.11693	.11028
27	.14602	.13746	.12952	.12217	.11535
28	.15215	.1434	.13528	.12774	.12075
29	.15861	.14967	.14137	.13365	.12647
30	.16535	.15623	.14775	.13985	.1325
31	.1724	.16311	.15444	.14637	.13883
32	.17977	.1703	.16145	.1532	.14549
33	.18745	.1778	.16879	.16036	.15248
34	.19546	.18563	.17645	.16785	.1598
35	.20378	.1938	.18444	.17568	.16745
36	.21242	.20228	.19277	.18384	.17545
37	.22139	.21109	.20142	.19233	.18378
38	.23066	.22022	.2104	.20116	.19245
39	.24024	.22966	.2197	.21031	.20146
40	.25011	.2394	.2293	.21977	.21077
41	.26026	.24942	.2392	.22953	.2204
42	.27067	.25973	.24938	.23959	.23033
43	.28137	.27031	.25985	.24994	.24056
44	.29232	.28118	.27061	.26059	.25109
45	.30354	.29231	.28165	.27153	.26192
46	.31502	.30372	.29298	.28277	.27305
47	.32676	.31539	.30458	.29429	.28448
48	.33869	.32727	.3164	.30603	.29615
49	.35078	.33932	.3284	.31797	.30802
50	.36298	.35149	.34052	.33004	.32003
51	.37526	.36375	.35274	.34222	.33215
52	.38762	.37609	.36507	.35451	.3444
53	.40009	.38856	.37752	.36694	.3568
54	.41271	.4012	.39016	.37957	.3694
55	.42554	.41405	.40302	.39242	.38224
56	.43856	.42711	.4161	.40552	.39534
57	.45178	.44038	.42941	.41885	.40869
58	.46513	.45379	.44287	.43235	.42222
59	.47852	.46726	.4564	.44593	.43583
60	.4919	.48073	.46995	.45954	.44948
61	.50524	.49417	.48347	.47313	.46313
62	.51855	.50758	.49698	.48672	.47679
63	.53183	.52098	.51048	.50031	.49046
64	.5451	.53438	.52399	.51392	.50415
65	.55836	.54778	.53751	.52755	.51788
66	.57161	.56117	.55104	.5412	.53164
67	.58484	.57456	.56457	.55486	.54542
68	.59806	.58795	.57811	.56854	.55923
69	.61129	.60136	.59169	.58228	.57311
70	.62457	.61483	.60533	.59608	.58706
71	.63789	.62835	.61905	.60997	.60111
72	.65125	.64193	.63282	.62394	.61526
73	.66464	.65554	.64666	.63798	.62949
74	.67804	.66919	.66052	.65205	.64376
75	.69141	.6828	.67438	.66613	.65806
76	.70476	.69642	.68825	.68023	.67239
77	.7181	.71003	.70211	.69435	.68673
78	.73135	.72356	.71592	.70841	.70105
79	.7444	.7369	.72953	.7223	.71519
80	.75713	.74992	.74283	.73587	.72902
81	.76931	.76238	.75556	.74886	.74227
82	.78073	.77407	.76752	.76107	.75473
83	.79146	.78507	.77877	.77256	.76646
84	.80185	.79571	.78966	.7837	.77783
85	.8123	.80643	.80063	.79492	.7893
86	.82243	.81682	.81129	.80583	.80045
87	.83226	.82692	.82165	.81644	.8113
88	.84174	.83666	.83164	.82668	.82178
89	.85067	.84584	.84107	.83635	.83169
90	.85887	.85427	.84972	.84523	.84078
91	.86628	.8619	.85756	.85327	.84903
92	.873	.8688	.86466	.86056	.8565
93	.87901	.87499	.87102	.86709	.86319
94	.88438	.88053	.87671	.87293	.86919
95	.88928	.88557	.8819	.87826	.87465
96	.89408	.89052	.88698	.88348	.88002
97	.89866	.89523	.89183	.88847	.88513
98	.90301	.89972	.89646	.89322	.89001
99	.90717	.90401	.90087	.89776	.89468
100	.91115	.9081	.90509	.9021	.89913
101	.91495	.91202	.90912	.90625	.90339
102	.91861	.9158	.91302	.91025	.9075
103	.9222	.9195	.91683	.91417	.91154
104	.92583	.92324	.92068	.91813	.91561
105	.92974	.92728	.92484	.92241	.92
106	.93445	.93214	.92984	.92756	.92529
107	.94114	.93904	.93696	.93488	.93282
108	.95253	.95063	.94912	.94743	.94574
109	.97528	.97438	.97348	.97259	.9717

TABLE G(1)—Continued

(1) Age	(2) Yearly rate of return				
	6.2%	6.4%	6.6%	6.8%	7%
0	.06036	.05802	.05592	.05403	.05232
1	.03509	.03263	.03041	.02841	.02661
2	.03546	.0329	.0306	.02852	.02664
3	.03652	.03386	.03147	.02931	.02735
4	.0379	.03515	.03266	.03041	.02837
5	.03952	.03667	.03408	.03174	.02962
6	.04133	.03836	.03568	.03325	.03104
7	.0433	.04022	.03744	.03491	.03261
8	.04544	.04225	.03936	.03673	.03434
9	.04775	.04445	.04146	.03872	.03624
10	.05026	.04684	.04373	.0409	.03831
11	.05295	.04941	.04619	.04325	.04056
12	.0558	.05213	.04879	.04575	.04295
13	.05877	.05499	.05153	.04837	.04547
14	.06181	.0579	.05432	.05104	.04804
15	.06489	.06084	.05714	.05375	.05063
16	.06799	.0638	.05998	.05646	.05323
17	.07111	.06679	.06283	.05919	.05584
18	.07426	.0698	.0657	.06194	.05847
19	.07749	.07289	.06865	.06476	.06116
20	.0808	.07605	.07168	.06764	.06392
21	.08422	.07932	.07479	.07062	.06675
22	.08774	.08268	.07801	.07368	.06969
23	.09143	.08621	.08139	.07691	.07277
24	.09535	.08996	.08498	.08036	.07607
25	.09956	.09402	.08887	.0841	.07967
26	.10412	.09841	.0931	.08817	.08358
27	.10902	.10313	.09766	.09257	.08783
28	.11424	.10819	.10255	.09729	.0924
29	.11979	.11357	.10777	.10235	.09729
30	.12564	.11924	.11327	.10769	.10247
31	.1318	.12523	.11909	.11335	.10797
32	.13829	.13155	.12524	.11933	.11379
33	.14509	.13818	.1317	.12563	.11993
34	.15224	.14516	.13852	.13228	.12641
35	.15974	.15249	.14568	.13928	.13325
36	.16757	.16015	.15318	.14661	.14043
37	.17574	.16817	.16103	.15431	.14797
38	.18425	.17652	.16923	.16235	.15585
39	.19311	.18522	.17778	.17074	.16408
40	.20228	.19424	.18664	.17946	.17265
41	.21176	.20358	.19584	.1885	.18155
42	.22155	.21324	.20535	.19787	.19078
43	.23165	.22321	.21519	.20758	.20033
44	.24206	.23349	.22534	.2176	.21023
45	.25278	.24409	.23583	.22795	.22046
46	.26381	.25501	.24662	.23864	.23102
47	.27514	.26624	.25775	.24965	.24192
48	.28673	.27773	.26914	.26094	.2531
49	.29851	.28943	.28076	.27246	.26452
50	.31045	.3013	.29254	.28415	.27612
51	.32252	.31329	.30446	.29599	.28788
52	.33472	.32543	.31652	.30798	.29979
53	.34707	.33773	.32877	.32016	.31189
54	.35963	.35025	.34124	.33258	.32425
55	.37245	.36305	.354	.34529	.3369
56	.38554	.37612	.36704	.35829	.34987
57	.3989	.38946	.38037	.3716	.36314
58	.41244	.40301	.39391	.38513	.37666
59	.42608	.41667	.40758	.39879	.39031
60	.43977	.43038	.42131	.41253	.40404
61	.45346	.44411	.43506	.4263	.41782
62	.46718	.45787	.44885	.44012	.43166
63	.48091	.47165	.46269	.45399	.44555
64	.49468	.48549	.47658	.46793	.45953
65	.5085	.49939	.49053	.48194	.47359
66	.52235	.51332	.50454	.49602	.48772
67	.53624	.52731	.51862	.51016	.50193
68	.55017	.54134	.53275	.52437	.51622
69	.56417	.55546	.54698	.5387	.53064
70	.57826	.56969	.56132	.55316	.54519
71	.59247	.58403	.5758	.56776	.5599
72	.60678	.5985	.59041	.5825	.57477
73	.62119	.61307	.60514	.59737	.58978
74	.63565	.62772	.61995	.61235	.60491
75	.65015	.64241	.63482	.62739	.62011
76	.66469	.65715	.64976	.64251	.63541
77	.67927	.67195	.66476	.65771	.65079
78	.69382	.68673	.67975	.67291	.6662
79	.7082	.70134	.6946	.68798	.68147
80	.72228	.71567	.70916	.70276	.69647
81	.73578	.7294	.72312	.71695	.71087
82	.74848	.74233	.73627	.73031	.72444
83	.76044	.75451	.74867	.74291	.73724
84	.77203	.76632	.7607	.75515	.74968
85	.78374	.77827	.77287	.76754	.76228
86	.79513	.78989	.78471	.77961	.77457
87	.80622	.80121	.79626	.79138	.78655
88	.81695	.81217	.80744	.80277	.79817
89	.82708	.82252	.81802	.81357	.80917
90	.83639	.83204	.82775	.82349	.8193
91	.84483	.84068	.83657	.83251	.82849
92	.85248	.84851	.84457	.84068	.83682
93	.85934	.85553	.85175	.84801	.84431
94	.86548	.86181	.85818	.85458	.85102
95	.87108	.86755	.86405	.86057	.85714
96	.87658	.87318	.8698	.86646	.86315
97	.88183	.87855	.8753	.87209	.86889
98	.88684	.88368	.88055	.87746	.87438
99	.89162	.88858	.88557	.88258	.87963
100	.89618	.89326	.89037	.88749	.88464
101	.90056	.89775	.89496	.89219	.88945

TABLE G(1)—Continued

(1) Age	(2) Yearly rate of return 6.2%	6.4%	6.6%	6.8%	7%
102	.90478	.90208	.8994	.89673	.89409
103	.90892	.90632	.90374	.90118	.89863
104	.91309	.9106	.90813	.90567	.90323
105	.9176	.91523	.91286	.91051	.90818
106	.92303	.92079	.91857	.91636	.91416
107	.93078	.92874	.92671	.9247	.92269
108	.94406	.94239	.94073	.93908	.93743
109	.97081	.96993	.96905	.96816	.96729

TABLE G(1)

(1) Age	(2) Yearly rate of return 7.2%	7.4%	7.6%	7.8%	8%
0	.05077	.04937	.04809	.04693	.04588
1	.02498	.0235	.02215	.02094	.01983
2	.02494	.0234	.022	.02073	.01957
3	.02558	.02397	.02251	.02118	.01996
4	.02652	.02484	.02332	.02193	.02066
5	.02769	.02594	.02434	.02289	.02156
6	.02903	.0272	.02554	.02401	.02262
7	.03052	.02861	.02687	.02527	.02382
8	.03216	.03017	.02836	.02669	.02517
9	.03397	.0319	.03	.02826	.02666
10	.03595	.03379	.03181	.02999	.02833
11	.0381	.03585	.03379	.0319	.03015
12	.0404	.03806	.03591	.03393	.03211
13	.04282	.04038	.03814	.03608	.03418
14	.04528	.04274	.04042	.03827	.0363
15	.04777	.04513	.04271	.04048	.03842
16	.05026	.04752	.045	.04267	.04052
17	.05276	.04991	.04729	.04487	.04263
18	.05527	.05232	.04959	.04707	.04474
19	.05784	.05477	.05194	.04931	.04688
20	.06047	.05729	.05434	.05161	.04908
21	.06319	.05988	.05682	.05398	.05134
22	.06599	.06255	.05937	.05641	.05366
23	.06894	.06537	.06207	.05899	.05613
24	.07209	.0684	.06496	.06176	.05878
25	.07554	.07171	.06813	.06481	.0617
26	.07931	.07534	.07163	.06817	.06494
27	.08341	.07929	.07544	.07185	.06849
28	.08782	.08356	.07957	.07584	.07235
29	.09257	.08815	.08402	.08015	.07652
30	.0976	.09303	.08874	.08473	.08097
31	.10293	.09821	.09378	.08962	.08572
32	.10859	.10371	.09913	.09483	.09078
33	.11457	.10954	.10481	.10036	.09616
34	.1209	.11571	.11083	.10623	.10189
35	.12758	.12223	.11719	.11244	.10795
36	.1346	.1291	.12391	.11901	.11437
37	.14198	.13632	.13097	.12592	.12114
38	.1497	.14389	.1384	.13319	.12826
39	.15779	.15183	.14618	.14082	.13575
40	.1662	.16009	.15429	.14879	.14358
41	.17495	.1687	.16275	.15711	.15174
42	.18404	.17764	.17155	.16577	.16026
43	.19346	.18692	.18069	.17477	.16912
44	.20322	.19654	.19018	.18411	.17834
45	.21331	.20651	.20002	.19382	.1879
46	.22375	.21682	.2102	.20388	.19783
47	.23454	.22748	.22075	.2143	.20814
48	.24561	.23844	.23159	.22503	.21874
49	.25692	.24965	.24269	.23601	.22962
50	.26843	.26106	.25398	.24721	.2407
51	.28009	.27262	.26546	.25858	.25197
52	.29192	.28437	.2771	.27013	.26342
53	.30395	.29631	.28897	.2819	.2751
54	.31624	.30853	.3011	.29396	.28708
55	.32883	.32106	.31357	.30635	.29938
56	.34175	.33392	.32637	.31908	.31206
57	.35499	.34711	.33951	.33217	.32509
58	.36847	.36057	.35292	.34554	.3384
59	.3821	.37417	.3635	.35908	.3519
60	.39583	.38789	.3802	.37275	.36554
61	.40961	.40167	.39395	.38649	.37925
62	.42346	.41551	.4078	.40032	.39306
63	.43737	.42943	.42172	.41424	.40698
64	.45137	.44345	.43576	.42829	.42102
65	.46547	.45758	.44991	.44246	.4352
66	.47966	.4718	.46416	.45673	.4495
67	.49392	.48612	.47853	.47113	.46392
68	.50828	.50054	.493	.48564	.47847
69	.52277	.5151	.50762	.50032	.4932
70	.53741	.52983	.52242	.51518	.50812
71	.55223	.54474	.53741	.53026	.52326
72	.56722	.55983	.5526	.54553	.53862
73	.58235	.57508	.56797	.56101	.55419
74	.59761	.59048	.58349	.57665	.56994
75	.61298	.60598	.59913	.59241	.58582
76	.62844	.6216	.6149	.60832	.60187
77	.644	.63734	.6308	.62438	.61807
78	.6596	.65312	.64675	.6405	.63435
79	.67508	.66879	.66261	.65653	.65056
80	.69028	.68419	.6782	.67231	.66651

TABLE G(1)—Continued

(1) Age	(2) Yearly rate of return 7.2%	7.4%	7.6%	7.8%	8%
81	.70489	.69001	.69321	.6875	.68189
82	.71866	.71297	.70736	.70184	.69639
83	.73166	.72615	.72072	.71538	.7101
84	.74429	.73897	.73373	.72856	.72346
85	.75709	.75198	.74694	.74195	.73704
86	.76959	.76467	.75982	.75503	.7503
87	.78178	.77708	.77243	.76783	.7633
88	.79361	.78911	.78466	.78027	.77592
89	.80482	.80052	.79627	.79206	.7879
90	.81513	.81103	.80696	.80293	.79896
91	.82451	.82057	.81668	.81282	.80901
92	.83301	.82924	.8255	.8218	.81814
93	.84065	.83702	.83342	.82987	.82634
94	.84748	.84399	.84053	.8371	.8337
95	.85373	.85036	.84701	.8437	.84042
96	.85987	.85661	.85339	.85019	.84702
97	.86573	.86259	.85948	.8564	.85334
98	.87134	.86831	.86531	.86235	.85939
99	.87669	.87378	.87089	.86802	.86518
100	.88181	.879	.87622	.87346	.87072
101	.88672	.88402	.88133	.87867	.87603
102	.89147	.88886	.88627	.88371	.88116
103	.89611	.8936	.89111	.88864	.88618
104	.90081	.8984	.896	.89363	.89127
105	.90586	.90356	.90128	.89901	.89674
106	.91197	.9098	.90764	.9055	.90336
107	.9207	.91872	.91675	.91479	.91284
108	.93579	.93415	.93253	.93092	.9293
109	.96642	.96555	.96468	.96382	.96296

TABLE G(2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN

(1) Age	(2) Yearly rate of return 2.2%	2.4%	2.6%	2.8%	3%
0	.22662	.20119	.17921	.1602	.14372
1	.21362	.18742	.16474	.14508	.12802
2	.21706	.19061	.16768	.14777	.13046
3	.2211	.19443	.17126	.1511	.13356
4	.2254	.19852	.17511	.15472	.13694
5	.2299	.2028	.17917	.15855	.14053
6	.23455	.20724	.18339	.16254	.14429
7	.23937	.21186	.1878	.16672	.14823
8	.24433	.21663	.19235	.17105	.15233
9	.24944	.22155	19707	.17554	.1566
10	.25468	.22662	.20193	.18019	.16103
11	.26006	.23183	.20694	.18499	.16561
12	.26557	.23717	.21209	.18993	.17033
13	.27118	.24262	.21736	.195	.17518
14	.2769	.24818	.22274	.20018	.18015
15	.28271	.25385	.22823	.20548	.18524
16	.28861	.25961	.23382	.21088	.19043
17	.29461	.26547	.23952	.21638	.19574
18	.3007	.27144	.24533	.22201	.20117
19	.3069	.27752	.25126	.22776	.20673
20	.31323	.28374	.25733	.23367	.21244
21	.31967	.29008	.26354	.23971	.2183
22	.32625	.29656	.26989	.24591	.22432
23	.33295	.30318	.27639	.25226	.2305
24	.33979	.30995	.28305	.25877	.23685
25	.34676	.31686	.28986	.26545	.24337
26	.35387	.32393	.29683	.2723	.25007
27	.36112	.33114	.30396	.27931	.25694
28	.36851	.3385	.31126	.28651	.264
29	.37603	.34601	.31871	.29387	.27123
30	.38369	.35367	.32632	.30139	.27865
31	.39147	.36147	.33409	.30909	.28623
32	.39938	.36941	.34201	.31695	.294
33	.40743	.3775	.3501	.32498	.30195
34	.41562	.38574	.35834	.33319	.31009
35	.42394	.39414	.36675	.34158	.31842
36	.43239	.40268	.37533	.35014	.32693
37	.44098	.41136	.38406	.35888	.33563
38	.44969	.42019	.39295	.36778	.34452
39	.45852	.42915	.40199	.37685	.35358
40	.46746	.43825	.41118	.38609	.36281
41	.47652	.44747	.42051	.39548	.37222
42	.48568	.45681	.42998	.40502	.3818
43	.49495	.46628	.43959	.41472	.39154
44	.50433	.47587	.44933	.42457	.40146
45	.51382	.48559	.45922	.43458	.41155
46	.52341	.49543	.46925	.44476	.42182
47	.5331	.50539	.47942	.45508	.43224
48	.54289	.51545	.48971	.46554	.44284
49	.55275	.52562	.50012	.47614	.45358
50	.5627	.53588	.51064	.48686	.46446
51	.57271	.54622	.52125	.4977	.47548
52	.58278	.55665	.53197	.50866	.48663
53	.59293	.56716	.5428	.51974	.49792
54	.60317	.57779	.55375	.53098	.50939

TABLE G(2)—Continued

(1) Age	(2) Yearly rate of return 2.2%	2.4%	2.6%	2.8%	3%
55	.61353	.58856	.56487	.54239	.52105
56	.62399	.59945	.57613	.55397	.5329
57	.63456	.61046	.58753	.56571	.54494
58	.64518	.62155	.59904	.57758	.55711
59	.65583	.63269	.6106	.58951	.56938
60	.66648	.64383	.62218	.60149	.5817
61	.67711	.65496	.63377	.61349	.59406
62	.68771	.66609	.64537	.62551	.60647
63	.6983	.67722	.65699	.63757	.61891
64	.7089	.68837	.66864	.64967	.63143
65	.71951	.69954	.68033	.66183	.64402
66	.73013	.71075	.69207	.67406	.6567
67	.74075	.72196	.70384	.68634	.66945
68	.75134	.73316	.7156	.69862	.68221
69	.76185	.74429	.7273	.71086	.69495
70	.77226	.75533	.73892	.72303	.70762
71	.78256	.76626	.75044	.7351	.72021
72	.79275	.77709	.76187	.74709	.73273
73	.80281	.78778	.77318	.75897	.74515
74	.81271	.79833	.78433	.7707	.75742
75	.82243	.80869	.7953	.78225	.76952
76	.83199	.81889	.80612	.79365	.78147
77	.8414	.82894	.81678	.8049	.79329
78	.8506	.83879	.82724	.81594	.80489
79	.85951	.84833	.83739	.82667	.81618
80	.86807	.8575	.84715	.837	.82705
81	.87619	.86621	.85642	.84682	.8374
82	.88384	.87442	.86517	.85609	.84718
83	.89111	.88223	.8735	.86493	.8565
84	.8982	.88985	.88164	.87357	.86562
85	.9053	.89749	.88981	.88225	.8748
86	.91192	.90462	.89743	.89035	.88337
87	.91802	.9112	.90447	.89784	.8913
88	.92364	.91726	.91096	.90475	.89862
89	.92876	.92279	.91689	.91106	.90531
90	.93339	.92778	.92224	.91677	.91137
91	.93752	.93224	.92703	.92187	.91678
92	.94115	.93617	.93124	.92637	.92155
93	.94432	.93959	.93491	.93029	.92571
94	.94708	.94257	.93811	.9337	.92934

TABLE G(2)

(1) Age	(2) Yearly rate of return 3.2%	3.4%	3.6%	3.8%	4%
0	.12943	.11702	.10624	.09684	.08866
1	.11321	.10032	.08911	.07932	.07079
2	.1154	.10228	.09084	.08085	.07212
3	.11826	.10491	.09325	.08305	.07412
4	.12141	.10783	.09595	.08555	.07642
5	.12476	.11096	.09886	.08824	.07891
6	.12829	.11426	.10194	.09111	.08158
7	.13201	.11775	.10521	.09416	.08443
8	.13588	.12139	.10863	.09737	.08743
9	.13992	.12521	.11223	.10075	.0906
10	.14412	.12918	.11598	.10429	.09393
11	.14847	.13331	.11988	.10798	.09741
12	.15297	.13759	.12394	.11182	.10104
13	.1576	.142	.12813	.11579	.1048
14	.16236	.14653	.13244	.11989	.10868
15	.16723	.15118	.13687	.1241	.11269
16	.17221	.15594	.14141	.12842	.1168
17	.1773	.16082	.14607	.13286	.12102
18	.18252	.16582	.15086	.13743	.12537
19	.18787	.17096	.15578	.14213	.12986
20	.19338	.17626	.16087	.14701	.13452
21	.19905	.18172	.16611	.15204	.13934
22	.20487	.18734	.17152	.15724	.14432
23	.21086	.19313	.1771	.16261	.14948
24	.21703	.19911	.18288	.16817	.15483
25	.22338	.20526	.18883	.17392	.16038
26	.2299	.2116	.19498	.17987	.16612
27	.23661	.21814	.20132	.18601	.17206
28	.24352	.22487	.20787	.19237	.17822
29	.2506	.23179	.21461	.19892	.18457
30	.25788	.23891	.22156	.20568	.19114
31	.26534	.24621	.22869	.21264	.19792
32	.27298	.25371	.23604	.21981	.2049
33	.28082	.26142	.24359	.2272	.21211
34	.28886	.26933	.25136	.23481	.21955
35	.29709	.27745	.25934	.24264	.22722
36	.30553	.28578	.26754	.2507	.23513
37	.31416	.29432	.27597	.25899	.24327
38	.32299	.30306	.28461	.2675	.25164
39	.33201	.31201	.29346	.27624	.26024
40	.34121	.32116	.30252	.28519	.26908
41	.3506	.3305	.31179	.29437	.27814
42	.36018	.34004	.32126	.30376	.28742
43	.36993	.34977	.33095	.31337	.29694
44	.37987	.3597	.34084	.3232	.30668
45	.39	.36983	.35095	.33326	.31668
46	.40032	.38018	.36128	.34355	.32691
47	.41082	.39071	.37182	.35407	.33738
48	.4215	.40144	.38257	.36481	.34809
49	.43234	.41235	.39351	.37576	.35902

TABLE G(2)—Continued

(1) Age	(2) Yearly rate of return 3.2%	3.4%	3.6%	3.8%	4%
50	.44335	.42343	.40464	.38691	.37016
51	.4545	.43468	.41595	.39825	.38152
52	.46579	.44609	.42745	.40979	.39308
53	.47725	.45768	.43913	.42155	.40487
54	.48891	.46948	.45105	.43355	.41692
55	.50078	.48152	.46322	.44582	.42927
56	.51286	.49379	.47565	.45837	.44191
57	.52515	.50629	.48832	.47118	.45484
58	.53759	.51896	.50119	.48421	.468
59	.55015	.53177	.51421	.49741	.48135
60	.56278	.54467	.52733	.50173	.49484
61	.57546	.55763	.54054	.52416	.50844
62	.5882	.57067	.55384	.53769	.52218
63	.601	.58378	.56724	.55133	.53604
64	.61388	.597	.58076	.56512	.55007
65	.62687	.61034	.59442	.57907	.56427
66	.63996	.62381	.60822	.59318	.57866
67	.65313	.63737	.62215	.60743	.59322
68	.66634	.65099	.63615	.62178	.60788
69	.67954	.66462	.65017	.63617	.6226
70	.69268	.6782	.66416	.65054	.63732
71	.70576	.69174	.67812	.66489	.65204
72	.71878	.70522	.69203	.67921	.66675
73	.7317	.71861	.70588	.69348	.68141
74	.74449	.73189	.71961	.70765	.69599
75	.75711	.745	.73319	.72167	.71043
76	.76959	.75798	.74665	.73558	.72478
77	.78194	.77084	.76	.7494	.73903
78	.79408	.7835	.77315	.76302	.7531
79	.8059	.79583	.78597	.77631	.76685
80	.8173	.80774	.79837	.78917	.78016
81	.82815	.81908	.81018	.80144	.79286
82	.83842	.82982	.82137	.81307	.80491
83	.84821	.84007	.83206	.82419	.81644
84	.8578	.85011	.84254	.8351	.82777
85	.86746	.86024	.85313	.84613	.83923
86	.8765	.86972	.86304	.85646	.84997
87	.88486	.8785	.87223	.86605	.85994
88	.89258	.88661	.88072	.87491	.86917
89	.89964	.89403	.8885	.88303	.87764
90	.90603	.90075	.89554	.89039	.88531
91	.91174	.90677	.90185	.89699	.89218
92	.91678	.91207	.90742	.90281	.89825
93	.92118	.9167	.91227	.90789	.90355
94	.92502	.92075	.91652	.91233	.90818

TABLE G(2)

(1) Age	(2) Yearly rate of return 4.2%	4.4%	4.6%	4.8%	5%
0	.08151	.07526	.06979	.065	.06079
1	.06333	.0568	.05108	.04606	.04165
2	.06447	.05777	.05188	.04672	.04217
3	.06629	.05941	.05337	.04805	.04336
4	.0684	.06135	.05514	.04967	.04484
5	.0707	.06347	.0571	.05147	.0465
6	.07318	.06577	.05922	.05344	.04831
7	.07583	.06824	.06152	.05557	.0503
8	.07864	.07086	.06396	.05785	.05242
9	.08162	.07365	.06657	.06029	.0547
10	.08474	.07659	.06933	.06288	.05713
11	.08802	.07967	.07224	.06561	.0597
12	.09145	.08291	.07529	.06848	.0624
13	.09501	.08627	.07846	.07148	.06523
14	.09868	.08975	.08175	.07458	.06816
15	.10248	.09334	.08515	.0778	.07121
16	.10638	.09704	.08865	.08112	.07435
17	.1104	.10085	.09227	.08455	.07759
18	.11454	.10479	.09601	.0881	.08096
19	.11881	.10886	.09988	.09178	.08445
20	.12326	.1131	.10392	.09562	.0881
21	.12787	.1175	.10811	.09961	.09191
22	.13264	.12206	.11247	.10378	.09588
23	.13759	.1268	.11701	.10811	.10003
24	.14273	.13173	.12174	.11264	.10436
25	.14806	.13686	.12666	.11736	.10888
26	.1536	.14219	.13178	.12229	.11361
27	.15933	.14772	.13711	.12741	.11854
28	.16529	.15347	.14266	.13276	.12369
29	.17145	.15942	.14841	.13831	.12904
30	.17782	.1656	.15439	.14409	.13462
31	.1844	.17199	.16057	.15007	.14041
32	.1912	.17859	.16699	.15629	.14644
33	.19822	.18543	.17363	.16274	.15269
34	.20549	.1925	.18051	.16944	.1592
35	.21298	.19982	.18765	.17638	.16595
36	.22072	.20738	.19503	.18358	.17296
37	.2287	.2152	.20267	.19104	.18023
38	.23692	.22325	.21056	.19875	.18777
39	.24538	.23155	.21869	.20671	.19556
40	.25407	.2401	.22708	.21494	.20361
41	.26301	.24889	.23572	.22342	.21192
42	.27217	.25792	.24461	.23215	.2205
43	.28157	.2672	.25375	.24115	.22934
44	.29122	.27674	.26315	.25041	.23846
45	.30112	.28653	.27283	.25996	.24787

TABLE G(2)—Continued

(1) Age	(2) Yearly rate of return 4.2%	4.4%	4.6%	4.8%	5%
46	.31128	.29659	.28278	.2698	.25757
47	.32168	.30691	.293	.2799	.26756
48	.33234	.31749	.3035	.2903	.27784
49	.34323	.32832	.31425	.30095	.28839
50	.35434	.33939	.32525	.31187	.29922
51	.36568	.35069	.3365	.32305	.31031
52	.37724	.36223	.34799	.33449	.32168
53	.38904	.37403	.35976	.34622	.33334
54	.40113	.38612	.37184	.35826	.34534
55	.41352	.39854	.38426	.37067	.35772
56	.42623	.41129	.39704	.38344	.37048
57	.43924	.42436	.41015	.39657	.38361
58	.45251	.43771	.42355	.41001	.39706
59	.46598	.45127	.43719	.42371	.41079
60	.47961	.46501	.45102	.43761	.42474
61	.49337	.47891	.46502	.45169	.43889
62	.50727	.49296	.4792	.46597	.45325
63	.52133	.50718	.49356	.48045	.46783
64	.53557	.5216	.50814	.49516	.48266
65	.55	.53624	.52296	.51014	.49777
66	.56464	.5511	.53802	.52539	.51317
67	.57947	.56617	.55331	.54088	.52884
68	.59443	.5814	.56878	.55656	.54472
69	.60945	.59671	.598435	.57237	.56075
70	.6245	.61206	.51997	.58825	.57686
71	.63956	.62743	.63565	.60419	.59305
72	.65463	.64283	.63136	.62019	.60932
73	.66966	.65822	.64707	.63621	.62562
74	.68462	.67354	.66273	.65219	.64193
75	.69946	.68876	.6783	.6681	.66581
76	.71422	.70389	.69381	.68395	.69047
77	.72889	.71897	.70927	.69978	.24224
78	.74339	.73388	.72458	.71546	.70654
79	.75757	.74848	.73957	.73084	.72228
80	.77131	.76264	.75413	.74578	.73758
81	.78444	.77617	.76805	.76007	.75224
82	.7969	.78902	.78128	.77368	.7662
83	.80882	.80133	.79397	.78672	.77959
84	.82055	.81345	.80646	.79958	.7928
85	.83243	.82574	.81914	.81265	.80624
86	.84358	.83727	.83106	.82493	.81889
87	.85393	.84799	.84214	.83636	.83066
88	.86351	.85792	.8524	.84696	.84158
89	.8723	.86704	.86184	.8567	.85163
90	.88028	.87531	.8704	.86555	.86076
91	.88743	.88273	.87809	.8735	.86895
92	.89374	.88929	.88488	.88051	.8762
93	.89926	.89502	.89081	.88666	.88254
94	.90408	.90002	.896	.89202	.88809

TABLE G(2)

(1) Age	(2) Yearly rate of return 5.2%	5.4%	5.6%	5.8%	6%
0	.05709	.05383	.05096	.04842	.04617
1	.03776	.03435	.03132	.02842	.0263
2	.03816	.03463	.0315	.02866	.02628
3	.03922	.03557	.03233	.02873	.02692
4	.04057	.03679	.03344	.03047	.02793
5	.04209	.03818	.03472	.03164	.0289
6	.04377	.03973	.03614	.03295	.03011
7	.04561	.04144	.03774	.03443	.03147
8	.04759	.04329	.03945	.03603	.03297
9	.04972	.04528	.04131	.03777	.03459
10	.05199	.04741	.04331	.03964	.03635
11	.05441	.04968	.04545	.04165	.03824
12	.05696	.05208	.04771	.04378	.04025
13	.05962	.0546	.05008	.04602	.04236
14	.06239	.05721	.05255	.04835	.04457
15	.0655	.05994	.05512	.05078	.04686
16	.06824	.06274	.05778	.0533	.04924
17	.07132	.06565	.06054	.05591	.05171
18	.07451	.06868	.0634	.05862	.05428
19	.07782	.07182	.06638	.06145	.05697
20	.0813	.07512	.06952	.06443	.05979
21	.08492	.07857	.0728	.06755	.06276
22	.08871	.08218	.07624	.07082	.06588
23	.09266	.08595	.07984	.07426	.06915
24	.09681	.08992	.08362	.07787	.07269
25	.10114	.09406	.08759	.08167	.07625
26	.10567	.09841	.09176	.08566	.08007
27	.1104	.10296	.09613	.08985	.08409
28	.11537	.10773	.10071	.09426	.08832
29	.12052	.11269	.1055	.09887	.09279
30	.12591	.11789	.11051	.10369	.09742
31	.13151	.1233	.11573	.10873	.10227
32	.13734	.12894	.12118	.114	.10735
33	.1434	.13481	.12686	.1195	.11267
34	.14971	.14093	.1328	.12524	.11824
35	.15627	.14731	.13898	.13125	.12407
36	.1631	.15394	.14543	.13752	.13015
37	.17019	.16085	.15215	.14405	.13651
38	.17754	.16802	.15914	.15086	.14313
39	.18515	.17545	.16639	.15793	.15002
40	.19303	.18315	.17392	.16528	.15719
41	.20118	.19112	.18171	.1729	.16464
42	.20958	.19936	.18978	.1808	.17236

TABLE G(2)—Continued

(1) Age	(2) Yearly rate of return 5.2%	5.4%	5.6%	5.8%	6%
43	.21827	.20788	.19814	.18898	.18038
44	.22723	.21669	.20678	.19746	.18869
45	.23649	.2258	.21573	.20625	.19731
46	.24606	.23521	.22499	.21535	.20626
47	.25591	.24493	.23456	.22477	.21552
48	.26607	.25495	.24445	.23452	.22512
49	.2765	.26527	.25463	.24456	.23502
50	.28723	.27588	.26512	.25491	.24524
51	.29823	.28677	.2759	.26558	.25577
52	.30951	.29795	.28697	.27654	.26661
53	.3211	.30946	.29838	.28784	.2778
54	.33304	.32132	.31016	.29952	.28938
55	.34537	.33359	.32236	.31164	.30141
56	.3581	.34627	.33498	.3242	.31388
57	.37121	.35935	.34802	.33718	.3268
58	.38467	.3728	.36144	.35055	.34012
59	.39841	.38654	.37517	.36426	.35378
60	.41239	.40054	.38916	.37824	.36774
61	.42659	.41477	.4034	.39248	.38197
62	.44101	.42923	.4179	.40698	.39648
63	.45566	.44395	.43266	.42178	.41129
64	.47059	.45896	.44773	.4369	.42645
65	.48582	.47429	.46314	.45238	.44197
66	.50136	.48994	.4789	.46822	.45789
67	.51719	.50591	.49499	.48441	.47417
68	.53324	.52213	.51134	.50089	.49076
69	.54947	.53853	.5279	.5176	.50759
70	.56579	.55505	.54461	.53446	.5246
71	.58222	.57169	.56144	.55147	.54177
72	.59874	.58844	.5784	.56864	.55912
73	.61531	.60526	.59546	.58591	.57659
74	.63188	.6221	.61255	.60323	.59413
75	.6484	.6389	.62961	.62054	.61167
76	.6649	.6557	.64669	.63788	.62927
77	.6814	.67251	.6638	.65528	.64693
78	.69779	.68922	.68083	.6726	.66454
79	.71388	.70565	.69758	.68966	.68189
80	.72954	.72165	.7139	.70629	.69883
81	.74455	.73690	.72957	.72227	.71511
82	.75884	.75162	.74451	.73752	.73065
83	.77257	.76567	.75888	.75219	.74561
84	.78613	.77956	.77309	.76671	.76044
85	.79994	.79371	.78759	.78155	.77559
86	.81293	.80705	.80126	.79554	.7899
87	.82503	.81948	.814	.80859	.80326
88	.83627	.83103	.82585	.82074	.81569
89	.84661	.84166	.83677	.83193	.82715
90	.85601	.85133	.84669	.84212	.83759
91	.86446	.86002	.85563	.85128	.84699
92	.87193	.86771	.86353	.8594	.8553
93	.87847	.87444	.87045	.8665	.86259
94	.88419	.88033	.8765	.87272	.86897

TABLE G(2)

(1) Age	(2) Yearly rate of return 6.2%	6.4%	6.6%	6.8%	7%
0	.04418	.04241	.04083	.03943	.03817
1	.0242	.02234	.02069	.01922	.0179
2	.0241	.02217	.02045	.01891	.01754
3	.02466	.02264	.02085	.01925	.01782
4	.02548	.02338	.02151	.01984	.01834
5	.02646	.02428	.02233	.02059	.01902
6	.02757	.02531	.02327	.02145	.01983
7	.02884	.02648	.02437	.02247	.02076
8	.03023	.02777	.02557	.02359	.02181
9	.03175	.0292	.0269	.02484	.02298
10	.0334	.03075	.02836	.02621	.02427
11	.03517	.03242	.02993	.02769	.02566
12	.03707	.03421	.03162	.02929	.02718
13	.03906	.03609	.0334	.03097	.02876
14	.04115	.03806	.03526	.03273	.03044
15	.04332	.04012	.03721	.03458	.03218
16	.04557	.04225	.03922	.03649	.03399
17	.04791	.04446	.04132	.03847	.03588
18	.05035	.04676	.04351	.04055	.03784
19	.05289	.04918	.04581	.04272	.03991
20	.05567	.05173	.04823	.04502	.04209
21	.0584	.05442	.05078	.04745	.04441
22	.06136	.05724	.05347	.05002	.04685
23	.06449	.06022	.05631	.05273	.04944
24	.06779	.06337	.05932	.0556	.05219
25	.07127	.0667	.0625	.05865	.0551
26	.07494	.07021	.06587	.06187	.05819
27	.07879	.07391	.06941	.06527	.06145
28	.08285	.07782	.07317	.06888	.06491
29	.08712	.08192	.07712	.07267	.06856
30	.0916	.08623	.08127	.07668	.07242
31	.09629	.09075	.08563	.08088	.07647
32	.1012	.0955	.09021	.0853	.08074
33	.10634	.10047	.09501	.08995	.08523
34	.11174	.10569	.10007	.09484	.08997
35	.11739	.11117	.10538	.09997	.09494
36	.1233	.1169	.11093	.10537	.10018
37	.12947	.1229	.11677	.11104	.10567
38	.13592	.12917	.12287	.11697	.11144

TABLE G(2)—Continued

(1) Age	(2) Yearly rate of return				
	6.2%	6.4%	6.6%	6.8%	7%
39	.14263	.13571	.12924	.12317	.11748
40	.14962	.14253	.13588	.12964	.12378
41	.15689	.14963	.14281	.13639	.13038
42	.16444	.157	.15001	.14343	.13724
43	.17229	.16467	.15751	.15077	.14441
44	.18043	.17265	.16532	.1584	.15188
45	.18889	.18094	.17345	.16637	.15968
46	.19768	.18957	.18191	.17467	.16782
47	.20678	.19852	.1907	.18329	.17628
48	.21623	.20781	.19983	.19227	.1851
49	.22599	.21741	.20928	.20157	.19424
50	.23606	.22735	.21907	.21121	.20373
51	.24645	.2376	.22918	.22117	.21355
52	.25717	.24818	.23963	.23147	.22371
53	.26824	.25912	.25044	.24215	.23425
54	.27971	.27048	.26167	.25326	.24523
55	.29163	.2823	.27337	.26485	.25668
56	.30402	.29459	.28556	.27692	.26865
57	.31687	.30735	.29823	.2895	.28111
58	.33012	.32053	.31134	.30251	.29404
59	.34374	.33409	.32482	.31592	.30737
60	.35766	.34796	.33864	.32968	.32105
61	.37186	.36213	.35276	.34375	.33506
62	.38636	.37661	.36721	.35815	.34941
63	.40117	.39142	.382	.37291	.36414
64	.41635	.4066	.39718	.38807	.37928
65	.43191	.42218	.41278	.40368	.39488
66	.44788	.4382	.42882	.41975	.41095
67	.46424	.45462	.44529	.43625	.42748
68	.48092	.47139	.46213	.45314	.44442
69	.49787	.48843	.47926	.47035	.46169
70	.51501	.50569	.49662	.4878	.47922
71	.53233	.52315	.5142	.50549	.49701
72	.54985	.54081	.53201	.52343	.51506
73	.56751	.55864	.55	.54156	.53332
74	.58524	.57657	.5681	.55983	.55175
75	.60301	.59454	.58627	.57818	.57026
76	.62085	.6126	.60453	.59664	.58891
77	.63876	.63076	.62292	.61524	.60772
78	.65664	.6489	.6413	.63385	.62656
79	.67427	.6668	.65946	.65226	.6452
80	.6915	.6843	.67723	.67029	.66347
81	.70807	.70114	.69434	.68765	.68107
82	.72389	.71724	.7107	.70427	.69794
83	.73914	.73276	.72648	.72031	.71423
84	.75426	.74816	.74216	.73625	.73042
85	.76973	.76394	.75824	.75262	.74707
86	.78434	.77885	.77344	.7681	.76283
87	.79799	.79279	.78766	.78259	.77759
88	.8107	.80577	.80091	.7961	.79136
89	.82243	.81776	.81315	.80859	.80408
90	.83311	.82869	.82431	.81998	.8157
91	.84274	.83853	.83437	.83026	.82618
92	.85126	.84725	.84329	.83936	.83548
93	.85873	.85489	.8511	.84735	.84363
94	.86526	.86158	.85794	.85434	.85077

TABLE G(2)

(1) Age	(2) Yearly rate of return				
	7.2%	7.4%	7.6%	7.8%	8%
0	.03705	.03604	.03513	.03432	.03359
1	.01672	.01567	.01472	.01388	.01311
2	.01631	.01521	.01422	.01333	.01253
3	.01653	.01538	.01434	.01341	.01258
4	.017	.01579	.01471	.01374	.01285
5	.01762	.01636	.01522	.0142	.01326
6	.01835	.01704	.01584	.01477	.01379
7	.01922	.01784	.01659	.01546	.01444
8	.0202	.01875	.01745	.01626	.01518
9	.0213	.01979	.01841	.01717	.01604
10	.02251	.02093	.01949	.01818	.017
11	.02383	.02217	.02066	.0193	.01806
12	.02526	.02352	.02195	.02051	.01921
13	.02676	.02495	.0233	.02179	.02042
14	.02835	.02645	.02472	.02315	.02171
15	.03001	.02802	.02622	.02457	.02306
16	.03172	.02965	.02776	.02604	.02446
17	.03351	.03135	.02937	.02757	.02591
18	.03537	.03312	.03105	.02917	.02743
19	.03733	.03498	.03282	.03085	.02903
20	.03941	.03696	.03471	.03264	.03074
21	.04162	.03906	.03671	.03455	.03255
22	.04395	.04128	.03882	.03657	.03448
23	.04641	.04363	.04107	.03871	.03654
24	.04904	.04614	.04347	.04101	.03874
25	.05182	.04881	.04603	.04345	.04107
26	.05478	.05165	.04875	.04606	.04358
27	.05792	.05465	.05163	.04883	.04624
28	.06124	.05785	.0547	.05179	.04908
29	.06476	.06123	.05796	.05492	.0521
30	.06847	.06481	.06141	.05824	.0553
31	.07238	.06858	.06504	.06175	.05868
32	.0765	.07255	.06888	.06546	.06226

TABLE G(2)—Continued

(1) Age	(2) Yearly rate of return				
	7.2%	7.4%	7.6%	7.8%	8%
33	.08084	.07675	.07294	.06937	.06606
34	.08542	.08118	.07722	.07352	.07007
35	.09024	.08586	.08175	.07792	.07432
36	.09532	.09078	.08653	.08255	.07882
37	.10066	.09596	.09156	.08744	.08357
38	.10626	.10141	.09686	.09259	.08858
39	.11214	.10712	.10242	.09799	.09383
40	.11828	.11311	.10825	.10368	.09937
41	.12471	.11938	.11436	.10963	.10517
42	.13141	.12592	.12074	.11586	.11125
43	.13841	.13276	.12742	.12238	.11762
44	.14573	.13991	.13441	.12922	.1243
45	.15336	.14738	.14172	.13637	.1313
46	.16134	.15519	.14939	.14387	.13865
47	.16964	.16334	.15737	.1517	.14632
48	.1783	.17184	.16571	.15989	.15435
49	.18729	.18068	.17439	.16842	.16273
50	.19662	.18986	.18342	.17729	.17145
51	.20629	.19937	.19279	.18651	.18051
52	.2163	.20924	.20251	.19608	.18994
53	.22671	.21951	.21262	.20605	.19977
54	.23755	.23021	.22319	.21647	.21005
55	.24888	.24141	.23426	.22741	.22085
56	.26073	.25313	.24586	.23888	.23219
57	.27309	.26538	.25799	.25089	.24407
58	.28591	.2781	.2706	.26339	.25646
59	.29914	.29124	.28364	.27632	.26929
60	.31275	.30476	.29707	.28965	.28251
61	.32668	.31862	.31085	.30335	.29612
62	.34008	.33285	.32501	.31744	.31013
63	.35566	.34748	.33958	.33194	.32455
64	.37078	.36256	.3546	.34691	.33946
65	.38636	.37811	.37012	.36239	.3549
66	.40244	.39418	.38617	.37841	.37089
67	.41898	.41073	.40272	.39496	.38742
68	.43595	.42773	.41974	.41198	.40444
69	.45328	.44509	.43713	.42939	.42186
70	.47087	.46275	.45484	.44714	.43964
71	.48875	.4807	.47286	.46521	.45776
72	.5069	.49895	.49119	.48362	.47623
73	.52529	.51745	.50978	.50231	.49501
74	.54385	.53614	.52859	.52123	.51402
75	.56252	.55495	.54755	.5403	.53322
76	.58135	.57394	.56669	.55959	.55264
77	.60035	.59313	.58605	.57911	.57231
78	.6194	.61238	.60549	.59874	.5921
79	.63826	.63146	.62477	.61821	.61178
80	.65676	.65018	.64371	.63735	.63111
81	.67461	.66826	.66201	.65586	.64982
82	.69171	.68558	.67955	.67362	.66778
83	.70823	.70234	.69652	.6908	.68517
84	.72468	.71902	.71345	.70795	.70254
85	.7416	.7362	.73089	.72564	.72047
86	.75763	.7525	.74743	.74244	.7375
87	.77265	.76777	.76295	.75819	.7535
88	.78666	.78203	.77745	.77293	.76846
89	.79963	.79523	.79088	.78658	.78232
90	.81148	.80729	.80315	.79906	.79501
91	.82216	.81817	.81423	.81033	.80647
92	.83164	.82783	.82407	.82034	.81665
93	.83995	.83631	.8327	.82913	.82559
94	.84723	.84373	.84026	.83682	.83342

§ 1.642(c)–7 Transitional rules with respect to pooled income funds.

(a) *In general*—(1) *Amendment of certain funds.* A fund created before May 7, 1971, and not otherwise qualifying as a pooled income fund may be treated as a pooled income fund to which § 1.642(c)–5 applies if on July 31, 1969, or on each date of transfer of property to the fund occurring after July 31, 1969, it possessed the initial characteristics described in paragraph (b) of this section and is amended, in the time and manner provided in paragraph (c) of this section, to meet all the requirements of section 642(c)(5) and § 1.642(c)–5. If a fund to which this subparagraph applies is amended in the time and manner provided in pararaph (c) of this section it shall be treated as provided in paragraph (d) of this section for the period beginning on August 1, 1969, or, if later, on the date of its creation and ending the day before the date on which it meets the requirements of section 642(c)(5) and § 1.642(c)–5.

(2) *Severance of a portion of a fund.* Any portion of a fund created before May 7, 1971 which consists of property transferred to such fund after July 31, 1969, may be severed from such fund consistently with the principles of paragraph (c)(2) of this section and established before July 1, 1971, as a separate pooled income fund, provided that on and after the date of severance the severed fund meets all the requirements of section 642(c)(5) and § 1.642(c)–5. A fund which is established as a separate fund pursuant to this subparagraph shall be treated as provided in paragraph (d) of this section for the period beginning on the first day of any transfer of property in such fund and ending the day before the day on which it meets the requirements of section 642(c)(5) and § 1.642(c)–5.

(b) *Initial characteristics required.* A fund described in paragraph (a)(1) of this section shall not be treated as a pooled income fund to which section 642(c)(5) applies, even though it is amended as provided in paragraph (c) of this section, unless it possessed the following characteristics on July 31, 1969, or on each date of transfer of property to the fund occurring after July 31, 1969:

(1) It satisfied the requirements of section 642(c)(5)(A) other than that the fund be a trust;

(2) It was constituted in a way to attract and contain commingled properties transferred to the fund by more than one donor satisfying such requirements; and

(3) Each beneficiary of a life income interest which was retained or created in any property transferred to the fund was entitled to receive, but not less often than annually, a proportional share of the annual income earned by the fund, such share being based on the fair market value of the property in which such life interest was retained or created.

(c) *Amendment requirements.* (1) A fund described in paragraph (a)(1) of this section and possessing the initial characteristics described in paragraph (b) of this section on the date prescribed therein shall be treated as a pooled income fund if it is amended to meet all the requirements of section 642(c)(5) and § 1.642(c)–5 before July 1, 1971, or, if later, on or before the 30th day after the date on which any judicial proceedings begun before July 1, 1971, which are required to amend its governing instrument or any other instrument which does not permit it to meet such requirements, become final. However, see paragraph (d) of this section for limitation on the period in which a claim for credit or refund may be filed.

(2) In addition, if the transferred property described in paragraph (b)(2) of this section is commingled with other property, the transferred property must be separated on or before the date specified in subparagraph (1) of this paragraph from the other property and allocated to the fund in accordance with the transferred property's percentage share of the fair market value of the

total commingled property on the date of separation. The percentage share shall be the ratio which the fair market value of the transferred property on the date of separation bears to the fair market value of the total commingled property on that date and shall be computed in a manner consistent with paragraph (c) of § 1.642(c)–5. The property which is so allocated to the fund shall be treated as property received from transfers which meet the requirements of section 642(c)(5), and such transfers shall be treated as made on the dates on which the properties giving rise to such allocation were transferred to the fund by the respective donors. The property so allocated to the fund must be representative of all the commingled property other than securities the income from which is exempt from tax under substitle A of the Code; compensating increases in other commingled property allocated to the fund shall be made where such tax-exempt securities are not allocated to the fund. The application of this subparagraph may be illustrated by the following example:

Example. (a) The trustees of X fund are in the process of amending it in order to qualify as a pooled income fund. The property transferred to the X fund was commingled with other property transferred to the organization by which the fund was established. After taking into account the various transfers and the appreciation in the fair market value of all the properties, the fair market value of the property allocated to the fund on the various transfer dates is set forth in the following schedule and determined in the manner indicated:

TRANSFERS

Date of transfer	Value of all property before transfer	Trust property	Other property	Value of all property after transfer	Property allocated to fund
	(1)	(2)	(3)	(4)	(5)
January 1, 1968		$100,000	$100,000	$200,000	[1] $100,000
September 30, 1968	$300,000	100,000		400,000	[2] 250,000
January 15, 1969	480,000	60,000		540,000	[3] 360,000
November 11, 1969	600,000	200,000		800,000	[4] 600,000

[1] $100,000=(the amount in column (2)).
[2] 250,000=([$100,000/$200,000×$300,000]+$100,000).
[3] 360,000=([$250,000/$400,000×$480,000]+$60,000).
[4] 600,000=([$360,000/$540,000×$600,000]+$200,000).

(b) On September 30, 1970, the trustees decide to separate the property of X fund from the other property. The fair market value of all the commingled property is $1 million on September 30, 1970, and there were no additional transfers to the fund after November 11, 1969. Accordingly, the fair market value of the property required to be allocated to X fund must be $750,000 ($600,000/$800,000×$1,000,000), and X fund's percentage share of the commingled property is 75 percent ($750,000/$1,000,000). Accordingly, assuming that the commingled property consists of Y stock with a fair market value of $800,000 and Z bonds with a fair market value of $200,000, there must be allocated to X fund at the close of September 30, 1970, Y stock with a value of $600,000 ($800,000×75%) and Z bonds with a value of $150,000 ($200,000×75%).

(d) *Transactions before amendment of or severance from fund.* (1) A fund which is amended pursuant to paragraph (c) of this section, or is severed from a fund pursuant to paragraph (a)(2) of this section, shall be treated for all purposes, including the allowance of a deduction for any charitable contribution, as if it were before its amendment or severance a pooled income fund to which section 642(c)(5) and § 1.642(c)–5 apply. Thus, for example, where a donor transferred property in trust to such an amended or severed fund on August 1, 1969, but before its amendment or severance under this section, a charitable contributions deduction for the value of the remainder interest may be allowed under section 170, 2055, 2106, or 2522. The deduction may not be allowed, however, until the fund is amended or severed pursuant to this section and shall be allowed only if a claim for credit or refund is filed within the period of limitation prescribed by section 6511(a).

(2) For purposes of determining under paragraph (b)(2) of § 1.642(c)–6 the highest yearly rate of return earned by a fund (which is amended pursuant to paragraph (c) of this section) for the 3 preceding taxable years, taxable years of the fund preceding its taxable year in which the fund is so amended and qualifies as a pooled income fund under this section shall be used provided that the fund did not at any time during such preceding years hold any investments in securities the income from which is exempt from tax under subtitle A of the Code. If any such tax-exempt securities were held during such period by such amended fund, or if the fund consists of a portion of a fund which is severed pursuant to paragraph (a)(2) of this section, the highest yearly rate of return under paragraph (b)(2) of § 1.642(c)–6 shall be determined by treating the fund as a pooled income fund which has been in existence for less than 3 taxable years preceding the taxable year in which the transfer of property to the fund is made.

(3) Property transferred to a fund before its amendment pursuant to paragraph (c) of this section, or before its severance under paragraph (a)(2) of this section, shall be treated as property received from transfers which meet the requirements of section 642(c)(5).

[FR Doc.71-4589 Filed 4-5-71;8:45 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Agriculture

Section 213.3113 is amended to show that certain Schedule A positions of agricultural commodity graders (poultry), grade GS–9 and below, who inspect egg products on a temporary basis will be excepted under a separate Schedule A authority after May 31, 1971. The positions are currently excepted under subparagraph (1) of paragraph (a) of § 213.3113. Effective on publication in the FEDERAL REGISTER (4–6–71), subparagraph (6) is added to paragraph (f) of § 213.3113 as set out below.

§ 213.3113 Department of Agriculture.

* * * * *

(f) *Consumer and Marketing Service.* * * *

(6) After May 31, 1971, temporary positions at GS–9 and below of agricultural commodity graders (poultry) who inspect egg products. Employment under this authority may not exceed 1,280 hours a year.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-4736 Filed 4-5-71;8:50 am]

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3306 is amended to show that the title of the Private Secretary to one of the four Deputy Directors of Defense Research and Engineering has been changed to reflect the fact that her superior's current specialization is Research and Technology rather than Chemistry and Materials. Effective on publication in the FEDERAL REGISTER (4–6–71), subparagraph (2) of paragraph (a) of § 213.3306 is amended as set out below.

§ 213.3306 Department of Defense.

* * * * *

(a) *Office of the Secretary.* * * *

(2) Two Private Secretaries to the Deputy Secretary of Defense and one Private Secretary to each of the following: the Director of Defense Research and Engineering; the Principal Deputy Director of Defense Research and Engineering; the Deputy Directors of Defense Research and Engineering (Tactical Warfare Programs), (Strategic and Space Systems), (Research and Technology), (Electronics and Information Sys-

tems); the Director, Advanced Research Projects Agency; the Assistant Secretaries of Defense (Manpower and Reserve Affairs), (International Security Affairs), (Public Affairs), (Installations and Logistics), (Administration), (Comptroller), and (Systems Analysis); the General Counsel; the Deputy General Counsel; the Assistant to the Secretary of Defense (Atomic Energy); and the Military Assistants to the Secretary of Defense.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-4737 Filed 4-5-71;8:50 am]

PART 213—EXCEPTED SERVICE

Office of Consumer Affairs

Section 213.3371 is amended to show that the President's Committee on Consumer Interests has been replaced by the Office of Consumer Affairs. This section is further amended to show that one position of Assistant to the Special Assistant to the President for Consumer Affairs is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER (4–6–71), the headnote of § 213.3371 is amended and paragraph (i) is added as set out below.

§ 213.3371 Office of Consumer Affairs.

* * * * *

(i) One Assistant to the Special Assistant to the President for Consumer Affairs.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-4738 Filed 4-5-71;8:50 am]

PART 213—EXCEPTED SERVICE

Department of Transportation

Section 213.3394 is amended to show that one position of Public Information Assistant to the Director, Office of Public Affairs is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER (4–6–71), subparagraph (26) is added to paragraph (a) of § 213.3394 as set out below.

§ 213.3394 Department of Transportation.

(a) *Office of the Secretary.* * * *

(26) One Public Information Assistant to the Director, Office of Public Affairs.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-4739 Filed 4-5-71;8:50 am]

PART 307—TRANSITIONAL AND VETERANS READJUSTMENT APPOINTMENTS

Appointment and Promotion Authorization

Sections 307.103 and 307.106 are amended to permit veterans readjustment appointments to positions in grades below GS–5 under specified conditions relating to qualifications and opportunity for progression with respect to positions in certain grades; and to authorize promotions of veterans readjustment appointees to positions at GS–3 or below.

§ 307.103 Appointment authority.

(a) Subject to paragraph (b) of this section, an agency may appoint by veterans readjustment appointment to a position at GS–5 or below, or the equivalent in other pay systems, any veteran eligible under § 307.102 who meets the qualification standards of the Commission for the position. On the basis of his total experience, including military experience, any veteran eligible under § 307.102 meets the qualification standards for positions at GS–3 and below, and equivalent levels, provided the agency considers him capable of performing the duties of the specific position.

(b) An agency may make an appointment to a position in GS–2 or below, or equivalent levels, when there is substantial opportunity for progression to at least GS–3, or the equivalent.

(c) An appointment under this section is subject to investigation by the Commission. A law, Executive order, or regulation which disqualifies a person for appointment in the competitive service also disqualifies him for a veterans readjustment appointment.

* * * * *

§ 307.106 Noncompetitive movement.

(a) An agency may reassign, transfer, or, subject to § 335.103 of this chapter, promote to any position at GS–3 or below, or the equivalent, an employee serving under veterans readjustment appointment whom the agency considers capable of performing the duties of the position.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 11521, 35 F.R. 5311)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-4735 Filed 4-5-71;8:49 am]

PART 334—TEMPORARY ASSIGNMENT OF EMPLOYEES BETWEEN EXECUTIVE AGENCIES AND STATES, LOCAL GOVERNMENTS, AND INSTITUTIONS OF HIGHER EDUCATION

A new Part 334 is added to Subchapter B of Chapter I of Title 5 of the Code of Federal Regulations to prescribe the regulations for the administration of Subchapter IV of the Intergovernmental Personnel Act of 1970, 84 Stat. 1909. The new Part 334 reads as follows:

Sec.
334.101 Purpose.
334.102 Definitions.
334.103 Period of assignment.
334.104 Counting a period of service.
334.105 Requirement for written agreement.
334.106 Reports required.

AUTHORITY: The provisions of this Part 334 issued under 5 U.S.C. 3376, E.O. 11589, 36 F.R. 6343.

§ 334.101 Purpose.

The purpose of this part is to carry into effect the objectives of subchapter VI of chapter 33 of title 5, United States Code, which authorizes the temporary assignment of employees between Executive agencies and States, local governments, and institutions of higher education.

§ 334.102 Definitions.

In this part:

(a) "Assignment" means a period of service of a Federal employee under section 3372(b)(1) or 3373 of title 5, United States Code, or of an employee of an institution of higher education under section 3372(b)(2) of title 5, United States Code, or of a State or local employee under section 3374 of title 5, United States Code;

(b) "Employee" means an employee as that term is defined in section 2105 of title 5, United States Code, employed by an Executive agency and an individual employed by a State, local government, or institution of higher education, as appropriate;

(c) "Executive agency" has the meaning given that term by section 105 of title 5, United States Code;

(d) "Institution of higher education" means a public or private 4-year college or university or a technical or junior college; and

(e) "State" and "local government" have the meanings given those terms by section 3371 of title 5, United States Code.

§ 334.103 Period of assignment.

(a) A single assignment may not exceed 2 years, except that the head of an Executive agency, with the concurrence of the employee, may extend the period of assignment for not more than 2 additional years.

(b) An assignment may be terminated before the date it is scheduled to end at the request of the Executive agency, the State, the local government, or the institution of higher education and in

accordance with the agreement required by § 334.105.

§ 334.104 Counting a period of service.

In applying the 2-year limitation in § 334.103 to successive assignments, assignments involving the same Executive agency, State, local government, or institution of higher education and employee which follow one another in less than 30 calendar days are deemed a single assignment.

§ 334.105 Requirement for written agreement.

(a) Before an assignment is made:

(1) The Executive agency and the State, local government, or institution of higher education shall enter into a written agreement which records the obligations and responsibilities of the parties as specified in the Federal Personnel Manual; and

(2) The employee concurs in writing with those portions of the agreement which pertain to his obligations and responsibilities.

(b) An existing agreement may be modified only as specified in the Federal Personnel Manual and with the written concurrence of the employee to those portions of the modification which pertain to his obligations and responsibilities.

§ 334.106 Reports required.

An Executive agency which assigns an employee to or receives an employee from a State, local government, or institution of higher education in accordance with this part shall submit to the Commission such reports as the Commission may request.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-4794 Filed 4-5-71;8:52 am]

Title 7—AGRICULTURE

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER I—DETERMINATION OF PRICES

PART 877—SUGARCANE; PUERTO RICO

Fair and Reasonable Prices for 1970–71 Crop

Pursuant to the provisions of section 301(c)(2) of the Sugar Act of 1948, as amended (herein referred to as "act"), after investigation, and due consideration of evidence presented at the public hearing held in San Juan, P.R., on November 12, 1970, the following determination is hereby issued:

The regulations previously appearing in these sections under "Determination of Prices; Sugarcane; Puerto Rico" remain in full force and effect as to the crops to which they were applicable.

Sec.
877.21 General requirements.
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AUTHORITY: The provisions of this Part 877 issued under sections 301, 403, 61 Stat. 929, as amended, 932; 7 U.S.C. 1131, 1153.

§ 877.21 General requirements.

A producer of sugarcane in Puerto Rico who is also a processor of sugarcane, to which this part applies as provided in § 877.28 of this part (herein referred to as "processor"), shall have paid, or contracted to pay, for sugarcane of the 1970–71 crop grown by other producers and processed by him, prices not less than those determined in accordance with the following requirements.

§ 877.22 Definitions.

For the purpose of this part, the term:

(a) "Price of raw sugar" means the simple average of the daily spot price quotations for sugar deliverable under the New York Coffee and Sugar Exchange No. 10 domestic contract (bulk sugar) for the period January 1, 1971, through December 31, 1971, except that if the Director of the Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, determines that any such price quotation does not reflect the true market value of raw sugar because of inadequate volume or other factors, he may designate the price to be effective under this determination which he determines will reflect the true market value of raw sugar.

(b) "Sugar yield period" means any period not exceeding 1 calendar month as may be elected by the processor to determine the yield of raw sugar. The period adopted by the processor shall be used uniformly throughout the grinding season. In instances where odd days occur because a processor begins or ends grinding on a day which does not correspond with the beginning or ending of the sugar yield period, or grinding is interrupted because of holidays or for other reasons, such odd days shall be included either in the prior or subsequent sugar yield period, or treated as a separate sugar yield period.

(c) "Raw sugar" means raw sugar, 96° basis.

(d) "Yield of raw sugar" means the yield of raw sugar per 100 pounds of net sugarcane determined for the sugar yield period in accordance with the formulae set forth in Schedule A attached hereto and made a part hereof.

(e) "Inferior varieties of sugarcane" means sugarcane of the Saccharum Spontaneum or Saccharum Sinense variety (including sugarcane of the Japanese, Uba, Kavangerie, Zuinga, Caledonia, Coimbatore 213, and Coimbatore 281 varieties).

(f) "Net sugarcane" means (1) the gross weight of the sugarcane delivered to the mill determined to contain a quantity of trash not in excess of 5 percent of the gross weight, or (2) the gross weight of the sugarcane delivered to the mill less the quantity of trash determined to be in excess of 5 percent of such gross weight.

(g) "Trash" means green or dried leaves, sugarcane tops above the last formed joint, soil, stones, and all other extraneous material.

(h) "Area office" means Caribbean Area Agricultural Stabilization and Conservation Service Office, Post Office Box 8037, Fernandez Juncos Station, San Juan, PR 00910.

§ 877.23 Payment for sugarcane.

(a) The payment for net sugarcane delivered by the producer to the processor shall be made either by the delivery to the producer of his share of raw sugar or by the payment to the producer of the money value of his share of raw sugar, whichever method is agreed upon by the producer and the processor.

(b) For each 100 pounds of net sugarcane (including inferior varieties of sugarcane) having a yield of raw sugar of 9 pounds or more, the producer's share of raw sugar shall be not less than the quantity of raw sugar determined by applying the following applicable percentage to the yield of raw sugar of the producer's net sugarcane:

Pounds of raw sugar per 100 pounds of net sugarcane	*Percentage*
9.0	63.0
9.5	63.5
10.0	64.0
10.5	64.5
11.0	65.0
11.5	65.5
12.0	66.0
12.5	65.5
13.0	67.0
13.5 and over	67.5

Intermediate points within the above scale are to be interpolated to the nearest one-tenth point.

(c) For each 100 pounds of net sugarcane (including inferior varieties of sugarcane) having a yield of raw sugar of less than 9 pounds, the producer's share of raw sugar shall be not less than the quantity determined by subtracting 3⅓ pounds of raw sugar from the yield of raw sugar of the producer's net sugarcane.

(d) If settlement with the producer is made in sugar, delivery shall be made, loaded in the producer's vehicle, at the mill where the sugar is produced, unless the producer and processor agree in writing to delivery at another mill: *Provided*, That the processor shall bear any increase in marketing costs resulting from such agreement.

(e) If settlement with the producer is made in cash, the processor shall pay to the producer the money value of his share of raw sugar determined on the basis of the price of raw sugar converted to an f.o.b. mill price by subtracting therefrom the admissible deductions for

selling and delivery expenses on raw sugar in accordance with Schedule B, attached hereto and made a part hereof.

§ 877.24 Payment for molasses.

For each ton of net sugarcane delivered the processor shall either deliver to the producer 66 percent of the average production of blackstrap molasses per ton of net sugarcane of the 1970–71 crop processed at each mill or shall pay to the producer the money value of such quantity of molasses, whichever method is agreed upon between the producer and the processor. If settlement with the producer is made in cash such settlement shall be based upon the average gross proceeds from the sale of molasses less the admissible deductions for selling and delivery expenses in accordance with Schedule C attached hereto and made a part hereof. A processor operating more than one mill shall compute the average gross proceeds per gallon from the sales of molasses produced at all mills operated by such processor and shall compute the net proceeds per gallon separately for each mill operated by such processor. If a processor has not sold 1970–71 crop molasses by the time he is required to submit to the area office a statement as required by § 877.27(b), he shall have made a provisional molasses payment to producers based upon not less than 85 percent of the average of the net proceeds per gallon realized by all other processors in Puerto Rico who made cash settlements for 1970–71 crop molasses, as determined by the Director of the area office. Final settlement with producers shall be made promptly after the 1970–71 crop molasses has been sold, based upon the average net proceeds therefrom and the processor shall promptly submit to the area office a statement as required by § 877.27(b). In the event a processor has transferred all or part of its 1970–71 production of molasses to an affiliate, molasses payments to growers shall be based on the price of the molasses transferred to the affiliate, but such price shall not be less than the average net proceeds per gallon as determined by the Director of the area office for all processors who sold 1970–71 crop molasses. Where payment is based on the average net proceeds of all processors who sold molasses, the processor is required to make a provisional molasses payment not later than June 1, 1972, based upon not less than 85 percent of the estimated average of net proceeds per gallon realized by all other processors in Puerto Rico, as determined by the Director of the area office from reports submitted under provisions of § 877.27(b). Processor is further required to make a final molasses payment in the amount necessary to base the total molasses payment upon a price not less than the average net proceeds per gallon for all processors who sold the 1970–71 crop of molasses after the area office has determined such net proceeds and notified the processor.

§ 877.25 Determination of net sugarcane.

(a) The net sugarcane of each producer (including the processor) which is delivered to the mill each day shall be determined as follows: The processor jointly with a representative designated by the producers or the producer organization in any mill area, shall examine the sugarcane deliveries and estimate whether the deliveries contain a quantity of trash (1) not in excess of 5 percent of the gross weight, or (2) in excess of 5 percent of the gross weight. In the absence of a producer representative the processor shall have full responsibility for examining such sugarcane deliveries and for making such estimates. As to the deliveries of sugarcane of any producer which are estimated to contain trash not in excess of 5 percent, the gross weight of the sugarcane delivered shall also be the net weight. As to the deliveries of sugarcane of any producer estimated by both the processor and the representative of producers or by either of such parties to contain trash in excess of 5 percent, the net weight shall be determined by taking a representative sample of not less than 100 pounds of sugarcane from one or more of the deliveries deemed to be representative and separate therefrom all trash, except that when the sugarcane is sampled by means of a core sampler the sample shall be not less than 20 pounds. The weight of trash which is removed from the sample of sugarcane shall be expressed as a percentage of the gross weight of the sample. The net weight of the sugarcane delivery from which the sample was taken shall be determined by deducting from the gross weight of such sugarcane, a percentage thereof which represents the excess, if any, of the trash over 5 percent, and the same adjustments as determined above shall be applied to the gross weight of all other deliveries delivered by that producer during the same day, or in the case of sugarcane handled in bulk during the same sugar yield period, which are estimated to contain trash content reasonably similar to the delivery from which the sample was taken. A written description of the procedure to be used when sugarcane is sampled by means of a core sampler shall be submitted by the processor to the area office and shall be subject to approval of that office. The determination of net sugarcane shall not be made where the direct cane analysis method is used.

(b) With respect to the sample taken as provided in paragraph (a) of this section, the processor shall make a separate determination of the weight of soil and stones contained in such sample and may charge the producer 5 cents per ton of net sugarcane delivered which is represented by the sample for each 1 percent, fractions in proportion, by which the weight of soil and stones is in excess of 1 percent of the gross weight of the sample.

(c) The processor may charge the producer 66 percent of the actual cost, but not to exceed $2.64, for each sample taken for trash including soil and stones to cover the cost of sampling and measuring the actual quantity of trash.

§ 877.26 Services and allowances to producers.

(a) When payment is made to the producer by the delivery of raw sugar, the processor shall store and insure all such sugar through December 31, 1971, and shall bear the cost thereof.

(b) Allowances made to producers by the processor for the 1969–70 crop shall be made for the 1970–71 crop at the rates which were effective under comparable conditions in 1969–70; the costs of services which were borne by the processor for the 1969–70 crop shall be borne for the 1970–71 crop: *Provided*, That the processor shall not be required to bear the cost of ocean transportation of sugarcane: *And provided further*, That nothing in this paragraph shall be construed as prohibiting negotiations between the processor and producer with respect to the amount of allowances to be made to the producer, any change to be approved in writing by the area office upon a determination by the Director of the area office that the change results in allowances which are fair and reasonable.

§ 877.27 Reporting requirements.

(a) The processor shall submit to the area office a statement as to whether settlement with producers is to be made in sugar or in cash, together with a statement as to the sugar yield which will be used during the grinding season. Such information shall be submitted not later than 14 days after publication of this part in the FEDERAL REGISTER, except that if the Director of the area office determines that the failure to submit such statement by such date was unintentional, an extension of time may be granted by the area office.

(b) If the processor makes settlement in cash he shall submit in duplicate to the area office statements verified by a Certified Public Accountant of the gross proceeds from the sales of molasses and the deductions made in determining the f.o.b. mill price of sugar and the net proceeds from molasses. Such statements shall be submitted not later than June 1, 1972, except that if the Director of the area office determines that the failure to submit such statement by such date was unintentional, an extension of time may be granted by the area office.

§ 877.28 Applicability.

The requirements of this part are applicable to all sugarcane purchased from other producers and processed by a processor who produces sugarcane (a processor-producer is defined in § 893.1 of this chapter); and to sugarcane purchased by a cooperative processor from nonmembers. The requirements are not applicable to sugarcane processed by a cooperative processor for its members.

§ 877.29 Procedures for checking compliance.

The procedures to be followed by the ASCS Caribbean Area office in checking compliance with the requirements of this

part are set forth under the heading Part 8—"Fair Price Determination" in Handbook 5–SU, issued by the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service. Handbook 5–SU may be inspected at and copies obtained from the ASCS Caribbean Area Office, Post Office Box 8037, Fernandez Juncos Station, San Juan, PR 00910.

§ 877.30 Subterfuge.

The processor shall not reduce the returns to the producer below those determined in accordance with the requirements of this part through any subterfuge or device whatsoever.

STATEMENT OF BASES AND CONSIDERATIONS

General. The foregoing determination establishes the fair and reasonable price requirements which must be met, as one of the conditions for payment under the act, by a producer who processes sugarcane of the 1970–71 crop grown by other producers.

Requirements of the act. Section 301 (c) (2) of the act provides as a condition for payment, that the producer on the farm who is also directly or indirectly a processor of sugarcane, as may be determined by the Secretary, shall have paid, or contracted to pay under either purchase or toll agreements, for sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing.

1970–71 price determination. This determination continues the provisions of the prior determination, except that processors may charge actual costs for the items formerly covered under item 6 of Schedule B and for which a flat rate of 7 cents per hundredweight was allowed, and where a processor transfers all its molasses to an affiliate at a set price or a price to be determined, the molasses payment to growers shall be based upon such price but such price shall be not less than the average net proceeds per gallon as determined for all processors who sold molasses.

A public hearing was held in San Juan, P.R., on November 12, 1970, at which interested persons were afforded the opportunity to present testimony and make recommendations with respect to fair and reasonable prices for the 1970–71 crop of sugarcane. A representative of the Association of Sugar Producers of Puerto Rico recommended that processors not be required to pay transportation allowances on the quantity of trash that is in excess of 5 percent of the gross weight of the sugarcane; that processors who are charged interest on advances they receive from raw sugar sales be allowed to charge producers interest on the advances the processor makes to producers for sugarcane purchased; that admissible deductions for selling and delivery expense on raw sugar sales include actual costs instead of the blanket allowance of 7 cents per hundredweight of sugar for reclaiming, weighing, and loading at mill or where stored; shore risk, marine, and war risk insurance; brokerage or commission and exchange; weighing, testing, and sampling at destination; and all other expenses not itemized in Schedule A.

The witness stated that the sugar industry in Puerto Rico continues to face difficulties and that both the growers and the processors are in very difficult financial positions. He stated that because of the mechanization of the cane cutting and loading operations, a mass of extraneous matter is being transported to the mills, sometimes as high as 40 percent; that the mills pay transportation allowances on matter which not only has no sugar content but which requires removal from the millsite at the processor's expense; that it is to the advantage of all parties to send to the mill the cleanest cane possible; and that one deterrent to trashy cane will be to stop paying producers transportation allowances on excess trash. The witness stated that in the past, purchasers of Puerto Rican raw sugar made cash advances to processors and charged no interest, which in turn allowed the processor to make cash advances to producers without charging interest; that with the high cost of money the raw sugar purchasers no longer made such interest-free advances; and that processors should be allowed to charge growers interest on advances they make to growers. He also said that the blanket deduction of 7 cents per hundredweight for certain items of selling and delivery expense has not been changed since first provided in the 1956–57 determination; that since the cost of all items has increased since that time the 7 cents is no longer fair; and that processors should be allowed to deduct the actual costs incurred for these items.

A representative of the Sugar Board of Puerto Rico testified that the Sugar Board is highly interested in having the mills use the core sampler for obtaining a direct sample of the cane and to determine by analysis the sugar yield of each delivery of cane. He stated that the provisions of the 1970 crop determination, concerning the methods of sampling and determination of yields, cover adequately the use of the core sampler and do not need to be changed.

In a supplemental brief a representative of the Puerto Rican Farm Bureau recommended that no change be made in the determination. He stated that the sugar industry in Puerto Rico faces the most serious crisis of its history, and that the Commonwealth Government's efforts have been concentrated primarily on giving assistance to processors to modernize sugar mills and to promote cane cutting by mechanical means by which producer-processors benefit more than anyone else in the industry. He said that the changes proposed by the Sugar Producers Association are most untimely, but if such proposals are considered, then the Farm Bureau wanted the following proposals considered: (1) increase payment to growers for sugarcane to the point that they recover expenses and a fair return on their investment, (2) require from all sugar mills the installation of cane cleaning equipment either at the fields or at the mills, and (3) establish efficiency standards for sugar mill operations and require them to pay growers for sugar losses in molasses and/or baggage in excess of a set tolerance. He said that the Farm Bureau sincerely believes that it is in the best interests of all parties concerned that no change be made in the existing fair price determination.

Consideration has been given to the recommendations made at the public hearing; to data on the returns, costs, and profits of producing and processing sugarcane obtained by field survey for prior crops and recast in terms of price and production conditions likely to prevail for the 1970–71 crop; and to other pertinent information. Analysis of these data indicate that, on average, neither the producing nor the processing of sugarcane has been profitable for several years, and will not be profitable for the 1970–71 crop. The decrease in total sugar production continued for the 1969–70 crop which yielded 455,000 tons of sugar, the smallest production in many years. Present indications are that the 1970–71 crop will also yield less than 500,000 tons of raw sugar. About 1,600,000 tons of cane were left standing at the end of the 1968–69 crop and 700,000 tons at the end of the 1969–70 crop. The difficulties of producers in getting their cane harvested, plus a 20-percent decline in the yield of raw sugar per ton (193 pounds in the 1967–68 as compared to 154 pounds in 1969–70) contributed largely to the decrease in production.

The recommendation made at the hearing that the allowable items of selling and delivery expense on raw sugar previously covered by an allowance of 7 cents be based on actual costs has been adopted. Analysis of the actual costs of these items for the 1968–69 crop, the latest year available, indicates an average of 8 cents per hundredweight, and indications are that these costs have increased since then. It is believed that the allowance of actual costs will be more equitable and, also, will conform to the Puerto Rican Sugar Board's method of allowing actual costs for these items of expense.

The recommendation that processors not be required to pay transportation allowances on trash in excess of 5 percent of the gross weight of the cane has not been adopted. The Department is concerned about the increasing amounts of trash being delivered with sugarcane and believes that the payment of a hauling allowance on this material only worsens the situation. Since, at the present time, a relatively small amount of sugarcane is being tested for trash, it is not likely that a provision eliminating the payment of hauling allowances on trash in excess of 5 percent would act as much of a deterrent in the delivery of trashy sugarcane. Such an action would discriminate against the small number of growers whose sugarcane is being tested for trash. Until the core sampler comes into more general use and the majority of the cane

is tested for trash it is deemed equitable to continue the present method of paying hauling allowances.

The provision relating to the molasses payment has been changed to clarify the basis for the molasses payment to producers where molasses is transferred to an affiliate company. If there is a transfer price for such molasses, then that price will be the basis for the molasses payment to producers provided such price is not less than the average for all processors who sold 1970–71 crop molasses. If the transfer price is less than the average for all producers who sold 1970–71 crop molasses or if there is no transfer price for such molasses the payment to producers will be based on the average net proceeds per gallon for all processors who sold 1970–71 crop molasses.

The recommendations made by the Puerto Rican Farm Bureau to increase payments to growers for sugarcane, require the mills to install cleaning equipment, and require the mills to pay growers for sugar losses in molasses and/or bagasse have not been adopted. The proposed changes, if adopted, would appreciably alter the sharing relationship. Because of the precarious financial position of both processors and producers such actions would detrimental to the sugar industry. The Department does not have the authority to require sugar mills to install cleaning equipment.

The changes that have been made in the determination are not expected to appreciably alter the sharing relationship.

On the basis of an examination of all pertinent factors, the provisions of this determination are deemed to be fair and reasonable. Accordingly, I hereby find and conclude that the foregoing determination will effectuate the price provisions of the Sugar Act of 1948, as amended.

NOTE: The recordkeeping and reporting requirements of these regulations have been approved by, and subsequent recordkeeping and reporting requirements will be subject to the approval of the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date. This determination shall become effective upon publication in the FEDERAL REGISTER (4–6–71), and is applicable to the 1970–71 crop of Puerto Rican sugarcane.

Signed at Washington, D.C., on March 30, 1971.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

SCHEDULE A—FORMULAE FOR DETERMINING THE "YIELD OF RAW SUGAR" FOR EACH PRODUCER

(A) Where a continuous sample of the crusher juice of the deliveries of sugarcane by a producer is used, the formula for determining the yield of raw sugar shall be:

$$R=TI(S-0.3B)F$$

Where:

R=Yield of raw sugar, 96° bias;

S=Polarization of the crusher juice obtained from the sugarcane of each producer;

B=Brix of the crusher juice obtained from the sugarcane of each producer;

T=Trash correction factor which varies inversely with the amount of trash contained in the sugarcane of each producer from 1.0 for sugarcane which contains an amount of trash not in excess of 5 percent of the gross weight of sugarcane to 0.76075 for sugarcane which contains an amount of trash in excess of 30 percent; *Provided*, That where sugarcane has been subjected to a washing process prior to milling, the amount of trash that is soil shall be excluded in determining the correction factor.

I=Inferior sugarcane correction factor which is applied only to inferior varieties of sugarcane of each producer and is determined as follows:

(a) When the purity, P (where $P=100\ S\div B$), of the crusher juice of sugarcane is equal to 75 or more, the factor $I=0.9$; or

(b) When the purity, P (where $P=100\ S\div B$), of the crusher juice of such sugarcane is less than 75, the factor, $I=0.9-0.02\ (75-P)$;

F=Yield factor which is determined as follows:

(a) Determine the "tentative recovery of raw sugar," 96° basis, for each producer delivering sugarcane during the settlement period from the product of the formula $(S-0.3B)$, the number of hundredweights of net sugarcane, the applicable trash correction factor, T; and where applicable the inferior sugarcane correction factor, I; and

(b) Divide the pounds of raw sugar, 96° basis, produced at the mill during the applicable settlement period by the sum of the "tentative recoveries of raw sugar" for all producers to obtain the yield factor, F.

If part of the sugarcane delivered by producers is subjected to a washing process prior to milling, the polarization and brix of the resulting dilute crusher juice of such sugarcane shall be converted to an undiluted crusher juice basis by application of dilution compensation factors (DCF) computed as follows:

$$\text{Pol DCF}=\frac{\text{Brix of undiluted crusher juice sample}}{\text{Brix of diluted crusher juice sample}}$$

$$\text{Brix DCF}=\frac{\text{Pol of undiluted crusher juice sample}}{\text{Pol of diluted crusher juice sample}}$$

A written description of procedures and the frequency of sampling sugarcane to be used in determining DCF factors shall be submitted by the processor to the area office and shall be subject to approval of that office.

(B) Where the "direct cane analysis" method is used the sampling of sugarcane delivered by producers must be by the core sampler method and the formula for determining the yield of raw sugar shall be:

$$R=F[S-0.3(B+0.1\ f_c)]$$

Where:

R=96° Yield percent cane

S=Pol percent cane

B=Brix percent cane

f_c=Fiber percent cane

F=Factor calculated using the values obtained during the liquidation period, weighted on the basis of the net weight of cane and substituted at the right side of the following equation:

$$F=\frac{R}{S-0.3(B+0.1fc)}$$

Whenever the "direct cane analysis" method is used, no determination for extraneous matter nor adjustments in the cane weight and yield shall be made.

A written description of the direct case analysis method and the core sampling procedures to be used therewith shall be submitted by the processor to the area office and shall be subject to approval of that office.

(C) Where the sugarcane delivered by producers is sampled by hand or machine and the juice is extracted by a laboratory hand mill, the yield of raw sugar may be determined in accordance with the formula provided under (A) above after the sample mill juice Brix and sucrose for each producer has been factored to a crusher juice basis. A written description of the sampling procedure to be used shall be submitted by the processor to the area office and shall be subject to approval of that office.

(D) Where sugarcane is handled in bulk, the procedures for sampling the deliveries of sugarcane by a producer shall be representative of all the deliveries of sugarcane of such producer. A written description of the sampling procedure shall be submitted by the processor to the area office and shall be subject to approval of that office.

(E) The sugar yield of sugarcane which is commingled while being loaded or transported from the Island of Vieques to the processor's mill shall be the total sugar produced from the barge load of sugarcane, determined by applying either formula (A) or (B) prescribed by this Schedule A to the sugarcane of each bargeload without segregating the cane of each producer; and the producer's share of such sugar shall be apportioned on the basis of the ratio of the net weight of each producer's sugarcane to the total weight of the bargeload of sugarcane. The sugarcane of each grower shall be weighed at scales on the Island of Vieques to determine gross weight. The net weight of commingled cane from the bargeload shall be determined at the mill in accordance with the applicable provisions of this determination, and the differences in gross and net weights shall be distributed among the growers who supplied the bargeload of cane in proportion to the tonnage delivered by each grower.

SCHEDULE B—ADMISSIBLE DEDUCTIONS FOR SELLING AND DELIVERY EXPENSES ON RAW SUGAR

Admissible deductions for selling and delivery expenses in connection with the payment for sugarcane provided in section 877.23 of the 1970–71 price determination are limited to the sum of the following expenses for each mill operated by a processor, net of any receipts which reduce such expenses:

(1) Freight from the mill directly to the bulk raw sugar loading terminal, including the cost of covering cars or trucks where necessary;

(2) The cost of receiving, handling, and loading aboard ship at the bulk terminal at the rates established by the Puerto Rico Public Service Commission and in effect at the time the sugar is delivered to the bulk sugar terminal facility;

(3) Ocean freight;

(4) Unloading at destination;

(5) Freight demurrage resulting from causes beyond the control of the shipper;

(6) Reclaiming, weighing, and loading at mill or where stored;

(7) Shore risk, marine and war risk insurance;

(8) Brokerage or commission and exchange;

(9) Weighing, testing, and sampling at destination.

When any of the necessary services included in items (1), (3), (4), (5), or (6)

above are furnished by the processor, costs incurred may include for each of the services rendered:

(1) Direct and immediate supervisory labor;

(2) Maintenance labor and supplies required for the facilities used;

(3) Taxes and insurance assessed or charged to the processor on such labor and a proportionate share of retirement and pension, bonuses, and vacation expenses properly allocable to such labor;

(4) Direct supplies; and

(5) Depreciation (at rates allowed by the taxing authority), property taxes, and property insurance on the facilities used.

Administrative expenses and interest shall be excluded from the computation of costs. In the event that facilities used in providing the necessary services are also used for other purposes by the processor, only that portion of the maintenance, depreciation, property taxes, and property insurance of such facilities properly apportionable to the necessary service shall be allowed.

The Director of the area office may permit the use of the lowest rate charged by a public utility or carrier for comparable service in lieu of the costs incurred by the processor in furnishing the necessary service in the event that the costs incurred therefor cannot be accurately determined.

In determining the f.o.b. mill price of raw sugar sold or processed in Puerto Rico, equivalent selling and delivery expenses as approved by the Director of the area office shall be computed as follows:

(1) If the processor delivers 33 percent or more of the total quantity of raw sugar produced by the mill to mainland refiners, the allowable per hundredweight selling and delivery expenses to be applied to such total quantity shall be the average of the admissible selling and delivery expenses as approved by the Director of the area office for that quantity of raw sugar produced by the mill which was delivered to mainland refiners.

(2) If the processor delivers less than 33 percent of the total quantity of raw sugar produced by the mill to mainland refiners, the allowable per hundredweight selling and delivery expenses to be applied to such total quantity shall be an amount equal to the average of the admissible selling and delivery expenses approved by the Director of the area office for all 1970–71 crop raw sugar produced in Puerto Rico which was delivered to mainland refiners; except that such average of all selling and delivery expenses shall be increased (or reduced as appropriate) by an amount representing the difference between the estimated per hundredweight inland transportation costs which would have been incurred by the processor had all such 1970–71 crop raw sugar been delivered to the bulk sugar terminal to which the area office determines the sugar could have been transported at the lowest inland transportation costs, and the average per hundredweight of all admissible inland transportation costs for all 1970–71 crop raw sugar that was delivered to the mainland. The average of the admissible selling and delivery expenses shall, as provided above, be increased when the estimated inland transportation costs are greater than such average, and be reduced when the estimated inland transportation costs are less than such average.

The statement as required by section 877.27 of the determination shall include the following certification:

CERTIFICATION

I, hereby certify that as a result of the audit performed on the books of Central _____ as of _____, the deductions as set forth herein are properly chargeable as selling and delivery expenses for sugar in accordance with the determination of fair and reasonable prices for the 1970–71 crop of Puerto Rican sugarcane.

SCHEDULE C—ADMISSIBLE DEDUCTIONS FOR SELLING AND DELIVERY EXPENSES FOR MOLASSES

Admissible deductions for selling and delivery expenses in connection with the molasses payment provided in section 877.24 of the 1970–71 price determination are limited to the sum of the following expenses actually incurred at each mill operated by a processor, net of any receipts which reduce such expenses:

(1) Operation of pumps to deliver molasses from mill tank to shipside or other delivery point;

(2) Freight incurred or which would have been incurred on direct shipment from tanks located at the mill to shipside, or to a waterfront tank facility, or to local buyers when such molasses is sold on a delivered price basis;

(3) Operation of tank barges, tugs, or other marine equipment used in deliverying molasses to shipside;

(4) Weighing and testing;

(5) Wharfage, including charges arising from utilization of waterfront facilities such as pipelines (including fees paid for right of way privileges), pumps, and tanks (a) to store molasses in anticipation of shipment; and (b) to deliver such molasses within the hold of the ship;

(6) Shore risk insurance (limited in coverage from mill to shipside);

(7) Freight demurrage resulting from causes beyond the control of the shipper;

(8) Brokerage paid to a bona fide broker.

When any of the necessary services included in items (1) through (8) above are furnished by the processor, costs incurred may include for each of the services rendered:

(1) Direct and immediate supervisory labor;

(2) Maintenance labor and supplies required for facilities used;

(3) Taxes and insurance assessed or charged to the processor on such labor and a proportionate share of retirement and pensions, bonuses and vacation expenses properly allocable to such labor;

(4) Fuel, energy or direct supplies; and

(5) Depreciation (at rates allowed by the taxing authorities), property taxes and property insurance on the facilities used.

Administrative expenses and interest shall be excluded from the computation of costs. In the event that facilities used in providing the necessary services are also used for other purposes by the processor, only that portion of the maintenance, depreciation, property taxes, and property insurance of such facilities, properly apportionable to the necessary service, shall be allowed.

The Director of the area office may permit the use of the lowest rate charged by a public utility or carrier for comparable service in lieu of the cost incurred by the processor in furnishing the necessary service in the event that the costs incurred therefor cannot be accurately determined.

The statement as required by § 877.27 of the determination shall include the following certification:

CERTIFICATION

I, hereby certify that, as the result of the audit performed on the books of Central _____ as of _____, the gross proceeds from the sales of molasses as herein stated are true and correct and the deductions set forth herein are properly chargeable as selling and delivery expenses for molasses in accordance with the determination of fair and reasonable prices for the 1970–71 crop of Puerto Rican sugarcane.

[FR Doc.71-4734 Filed 4-5-71;8:49 am]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Orange Reg. 67, Amdt. 8]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon available information, including an informal poll of the Growers Administrative Committee and the Shippers Advisory Committee and handlers of Murcott Honey oranges it is hereby found that the limitation of shipments of Murcott Honey oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of Murcott Honey oranges grown in Florida.

Order. In § 905.529 (Orange Reg. 67; 35 F.R. 18741, 19245, 19246; 36 F.R. 1522, 2860, 3194, 3460, 3884, and 5494), the provisions of paragraph (a)(2)(vii) are amended to read as follows:

§ 905.529 Orange Regulation 67.

(a) * * *

(2) * * *

(vii) Any Murcott Honey oranges, grown in the production area, which do not grade at least U.S. No. 1: *Provided,* That during the period April 5, 1971, through September 12, 1971, Murcott Honey oranges may be shipped if they grade at least U.S. No. 2; and

* * * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, April 1, 1971, to become effective April 5, 1971.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-4733 Filed 4-5-71;8:49 am]

[Navel Orange Reg. 231, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 35 F.R. 16359), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Navel oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* This provisions in paragraph (b)(1)(i), and (ii) of § 907.431 (Navel Orange Reg. 231, 36 F.R. 5575) during the period March 26, 1971, through April 1, 1971, are hereby fixed as follows:

§ 907.531 Navel Orange Regulation 231.

* * * * *

(b) *Order.* (1) * * *

(i) District 1: 994,000 Cartons;
(ii) District 2: 406,000 Cartons.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: April 1, 1971.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-4732 Filed 4-5-71;8:49 am]

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 1—INVESTMENT SECURITIES REGULATION

Securities Eligible for Underwriting and Limited or Unlimited Holding

The following new sections are added to Part 1 of Title 12:

Sec.
1.295 Stadium Authority of the City of Pittsburgh.
1.296 Special Assessment Bonds, Muskego, Wis.
1.297 Asia Development Bank.
1.298 University of Alaska Heating Corp.

AUTHORITY: §§ 1.295–1.298 issued under R.S. 324 et seq., as amended, paragraph Seventh of R.S. 5136, as amended; 12 U.S.C. 1 et seq., 24(7), unless otherwise noted.

§ 1.295 Stadium Authority of the City of Pittsburgh.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $35 million Stadium Authority of the City of Pittsburgh, Stadium Bonds, Series A, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Stadium Authority of the City of Pittsburgh is a body corporate and politic organized by the City of Pittsburgh pursuant to the Public Auditorium Authorities Law of the Commonwealth of Pennsylvania. The Authority is authorized by law to acquire, construct, improve, maintain and operate a public all purpose stadium and related facilities, to borrow money and to issue bonds. The law also authorizes the City to make annual grants from current revenues to the Authority to assist in defraying the costs of operation, maintenance, and debt service of the project and to enter into long-term agreements providing for the payment of such grants.

(2) The Authority has financed the construction of the stadium project by short-term borrowings in the principal amount of $35 million. These borrowings are evidenced by notes which mature on April 15, 1971. The proceeds of this bond issue will be used to repay the maturing notes.

(3) The City has entered into a long-term agreement to pay out of revenues of current and successive years an amount which, along with such other moneys as may be made available for such purposes, will be sufficient to pay all debt service requirements on the bonds. The City, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion, therefore, that the $35 million Stadium Authority of the City of Pittsburgh, Stadium Bonds, Series A, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Acting Comptroller's letter dated February 10, 1971.)

§ 1.296 Special Assessment Bonds, Muskego, Wis.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $715,000 Special Assessment B Bonds of the City of Muskego, Wis., for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) Under Wisconsin law, a municipality may issue area grouped special assessment bonds which are payable from the proceeds of all of the special assessments in a designated area. A municipality may also establish, either from its general fund or by the levy of an irrepealable and irrevocable general tax, a sinking fund for a particular bond issue in an amount not less than 15 percent of the special assessment installments due and collectible.

(2) The City of Muskego is issuing these area grouped special assessment bonds to anticipate the collection of deferred installments of special assessments for the installation of sanitary sewers. The City has established the sinking fund authorized by law and has unconditionally promised to pay into it such amounts as may be necessary in any year to purchase at tax sale all delinquent special assessments and to direct the City Treasurer to make such purchases.

(3) The City, which possesses general powers of taxation has, as authorized by the laws of Wisconsin, thus pledged its full faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $715,000 Special Assessment B Bonds of the City of Muskego, Wis., are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Acting Comptroller's letter dated Feb. 10, 1971.)

§ 1.297 Asian Development Bank.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the obligations of the Asian Development Bank for purchase, dealing in, underwriting and limited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Asian Development Bank is an international financial institution established in 1966 by international agreement among 31 countries in Europe, North America, Asia and the Far East. The Bank now has 35 members which have subscribed $1.004 billion of the Bank's $1.100 billion of authorized capital. One half of the subscribed capital ($502 million as of December 31, 1970) is in the form of "paid-in" capital and the other half remains "callable." The United States has con-

tributed $200 million to the capital of the Bank, $100 million of which is in paid-in capital and $100 million in callable capital.

(2) The Bank's main purpose is to meet Asian development needs by providing loans and technical assistance for projects in regional developing member countries, as well as for international or regional entities concerned with economic development. As of December 31, 1970, the Bank had approved 43 loans totalling $329.2 million. They include loans to industrial development banks in Pakistan, the Philippines, Singapore and Thailand, for highways in the Republic of China and South Korea, for tea factory modernization in Ceylon, for a water supply system and palm oil mills in Malaysia, for a petrochemical plant and fishing vessels in the Republic of China, for jute development in Nepal, and for cold storage and marketing facilities for fish, and transport and stevedoring facilities in South Korea. These loans are usually made for periods from 10 to 25 years; the Bank's recent loans bear interest at the rate of 7½ percent per annum.

(3) The Bank is authorized to borrow funds and thus far has marketed three issues of its debt obligations to raise additional funds for its ordinary lending operations. The first ($16.3 million) was marketed in Germany in 1969; the second ($5 million) and third ($16.6 million) were marketed in Austria and Japan, respectively, in 1970. It is contemplated that the Bank will shortly market an issue in the United States.

(c) *Ruling.* It is our conclusion that obligations issued by the Asian Development Bank for market in the United States are eligible for purchase by national banks. Under the provisions of 12 U.S.C. 24, specifically applying to obligations of the Bank, therefore, such obligations are eligible for purchase, dealing in, or underwriting by national banks, provided that no bank may hold them as a result of underwriting, dealing or purchasing for its own account in a total amount exceeding 10 percent of capital and surplus. For this purpose, obligations as to which a bank is under a commitment to purchase are deemed to be held by it. Under the provisions of 12 U.S.C. 335, this ruling is applicable to State member banks. (Comptroller's letter dated Mar. 19, 1971.)

§ 1.298 University of Alaska Heating Corp.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $230,000 University of Alaska Heating Corp. Bonds, 1969 Series, for purchase, dealing in, underwriting and limited holding by natural banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The University of Alaska Heating Corporation in a nonprofit corporation formed in 1962 in response to a concurrent resolution of the Legislature of the State of Alaska to finance the construction of a heating plant for the University of Alaska. The Corporation in 1962 issued $3,900,000 of its bonds (1962 series) to finance the construction of a heating plant project on land leased to the Corporation by the University. The completed project has been leased to and is operated by the University. The Corporation, in response to a 1969 concurrent resolution of the Legislature, is issuing these bonds to finance the construction of additions to the heating plant.

(2) The University of Alaska has promised in the amended lease rental agreement to pay annual lease rentals to the Corporation out of funds legally available for that purpose in amounts sufficient to meet annual interest and principal payments on these bonds and the 1962 Series bonds.

(c) *Ruling.* It is our conclusion that the $2,300,000 University of Alaska Heating Corporation Bonds, 1969 Series, are obligations issued by an agency of a State for university purposes under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and limited holding by national banks. (Comptroller's letter dated March 13, 1971.)

Dated: March 31, 1971.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[FR Doc.71-4703 Filed 4-5-71;8:48 am]

Title 21—FOOD AND DRUGS

Chapter III—Environmental Protection Agency

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Definitions and Interpretations

The Industry Committee on Citrus Additives and Pesticides, Inc., 953 West Foothill Boulevard, Claremont, CA 91711, has requested that for pesticide tolerance purposes tangelos be classified as tangerines. The U.S. Department of Agriculture agrees that for the purposes of pesticide regulations, tangerines should be defined to include tangelos and that the same tolerance should apply to both. The Environmental Protection Agency concurs. It is concluded that the definition and interpretation effected by this order will protect the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408, 68 Stat. 511 et seq.; 21 U.S.C. 346a) the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Commissioner or Acting Commissioner of the Pesticides Office of the Environmental Protection Agency (36 F.R. 1228), Part 420 is amended as follows:

1. Section 420.1(h) is amended by alphabetically inserting in the table a new item, as follows:

§ 420.1 Definitions and interpretations.

* * * * * * *

(h) * * *

A	B
* * *	* * *
Tangerines	Tangelos, tangerines.
* * *	* * *

* * * * * * *

2. To prevent duplication and overlapping, the raw agricultural commodity tangelo is deleted from §§ 420.103, 420.108, 420.111, 420.123, 420.129, 420.141, 420.156, 420.163, 420.171, and 420.174.

Since the amendment in this order is interpretive, nonrestrictive, and noncontroversial in nature, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (4-6-71).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: March 29, 1971.

R. E. JOHNSON,
Acting Commissioner,
Pesticides Office.

[FR Doc.71-4753 Filed 4-5-71;8:51 am]

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Carbofuran

A petition (PP 0F0898) was filed with the Food and Drug Administration, DHEW, by FMC Corp., Niagara Chemical Division, Middleport, NY 14105, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for residues of the insecticide carbofuran including its cholinesterase-inhibiting metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl *N*-methylcarbamate in or on the raw agricultural commodities alfalfa hay at

20 parts per million; alfalfa (fresh) at 5 parts per million; and in milk at 0.02 part per million (negligible residue).

Another petition (PP 0F0870) was filed with the Food and Drug Administration by FMC Corp., proposing establishment of a tolerance for combined residues of the insecticide carbofuran and its cholinesterase-inhibiting metabolite in or on the raw agricultural commodity peanuts at 0.1 part per million. FMC Corporation subsequently amended the petition by proposing an additional tolerance of 1 part per million for residues in or on peanut hulls.

The Reorganization Plan No. 3 of 1970 published in the FEDERAL REGISTER of October 6, 1970 (35 F.R. 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency, the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346, 346a, and 348). The functions vested in the Secretary of Agriculture and the Department of Agriculture under Section 408(1) of the Act were also transferred to the Administrator. Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which tolerances are being established and the Fish and Wildlife Service of the Department of Interior advised that it has no objection to these tolerances.

Based on consideration given data submitted in these petitions and other relevant material, it is concluded that:

1. Residues of the insecticide and its metabolite are not reasonably expected to transfer to eggs, meat, and poultry from the proposed and established uses. These uses are in the category specified in § 420.6(a)(3) for eggs, meat, and poultry.

2. The tolerances established by this order will protect the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated to the Commissioner or Acting Commissioner of the Pesticides Office of the Environmental Protection Agency (36 F.R. 1228), § 420.254 is amended to read as follows:

§ 420.254 Carbofuran; tolerances for residues.

Tolerances are established for combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl N-methylcarbamate) and its metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl N-methylcarbamate in or on the following raw agricultural commodities:

20 parts per million in or on alfalfa hay.

5 parts per million in or on alfalfa (fresh).

1 part per million in or on peanut hulls.

0.5 part per million in or on corn fodder and forage.

0.2 part per million in or on rice and rice straw.

0.1 part per million in or on corn grain, peanuts, and sugarcane.

0.02 part per million (negligible residue) in milk.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER, (4–6–71).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: March 29, 1971.

R. E. JOHNSON,
Acting Commissioner,
Pesticides Office.

[FR Doc. 71–4754 Filed 4–5–71; 8:51 am]

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Decachlorooctahydro-1,3,4-Metheno-2H-Cyclobuta[cd]Pentalen-2-One

A notice was published by the Food and Drug Administration in the FEDERAL REGISTER of November 4, 1970 (35 F.R. 16980), proposing a tolerance of 0.01 part per million for negligible residues of the insecticide decachlorooctahydro-1,3,4,-metheno - 2H-cyclobuta[cd]pentalen-2-one in or on bananas. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator (35 F.R. 16523), and the authority delegated by the Administrator to the Commissioner or Acting Commissioner of the Pesticide Office of the Environmental Protection Agency (36 F.R. 1228), Part 420 is amended to establish the proposed tolerance by adding a new section as follows:

§ 420.287 Decachlorooctahydro-1,3,4-metheno-2H-cyclobuta[cd]pentalen-2-one; tolerance for residues.

A tolerance of 0.01 part per million is established for negligible residues of the insecticide decachlorooctahydro-1,3,4,-metheno - 2H-cyclobuta[cd]pentalen-2-one in or on the raw agricultural commodity bananas.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (4–6–71).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: March 26, 1971.

R. E. JOHNSON,
Acting Commissioner,
Pesticides Office.

[FR Doc.71–4755 Filed 4–5–71;8:51 am]

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Ronnel

A petition (PP 9F0800) was filed by the Dow Chemical Co., Post Office Box 1706, Midland, MI 48640, proposing the establishment of tolerances for combined residues of the insecticide ronnel and its 2,4,5-trichlorophenol containing metabolites in the fat of cattle, goats, and sheep at 10 parts per million; in meat and meat byproducts of cattle, goats, and sheep at 4 parts per million; in fat of hogs at 3 parts per million; in meat and meat byproducts of hogs at 2 parts per million; in milk fat at 1.25 parts per million (reflecting negligible residues in whole milk); in eggs at 0.03 part per million; and in poultry at 0.01 part per million.

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which tolerances are being established and the Fish and Wildlife Service, U.S. Department of Interior, advised that it has no objection to these tolerances.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration given data submitted in the petition and other relevant material, it is concluded that the tolerances established by this order will protect the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), and under authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Commissioner or Acting Commissioner of the Pesticides Office of the Environmental Protection Agency (36 F.R. 1228), § 420.177 is revised to read as follows to establish the proposed tolerances:

§ 420.177 Ronnel; tolerances for residues.

Tolerances for residues of the insecticide ronnel (*O,O*-dimethyl *O*-(2,4,5-trichlorophenyl) phosphorothioate), including its 2,4,5-trichlorophenol containing metabolites, in or on raw agricultural commodities are established as follows:

10 parts per million in fat of cattle, goats, and sheep.

4 parts per million in meat and meat byproducts of cattle, goats, and sheep.

3 parts per million in fat of hogs.

2 parts per million in meat and meat byproducts of hogs.

1.25 part per million in milk fat (reflecting negligible residues in whole milk).

0.5 part per million on bananas (of which residue, zero shall be in the pulp after peel is removed and discarded).

0.03 part per million in eggs.

0.01 part per million in meat, fat, and meat byproducts of poultry.

(See also § 121.209).

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (4–6–71).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: March 26, 1971.

R. E. JOHNSON,
Acting Commissioner,
Pesticides Office.

[FR Doc. 71-4756 Filed 4-5-71; 8:51 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 208—FLOOD CONTROL REGULATIONS

Glendo Dam and Reservoir, North Platte River, Platte County, Wyo.

Pursuant to the applicable provisions of sections 7 and 9 of the Act of Congress approved December 22, 1944 (58 Stat. 890, 891; 33 U.S.C. 709), the following regulations are hereby prescribed to govern the use of storage capacity for flood control purposes in the Glendo Reservoir on the North Platte River, Platte County, Wyo., and the operation of the Glendo Dam for flood control purposes.

§ 208.52 Glendo Dam and Reservoir, North Platte River, Platte County, Wyo.

The Bureau of Reclamation, Department of Interior, represented by its appropriate Project Manager, hereinafter referred to as the Project Manager, shall operate Glendo Dam and Reservoir in the interest of flood control in accordance with instructions received from the District Engineer, Corps of Engineers, Department of the Army, in charge of the locality, hereinafter referred to as the District Engineer, as follows:

(a) Operation of the reservoir while the water surface is between elevations 4,635 feet m.s.l. and 4,653 feet m.s.l. (presently amounting to 271,889 acre-feet) shall be construed as flood control operation and releases shall be determined by the District Engineer, subject to minimum releases necessary for irrigation and other downstream conservation requirements.

(b) Flood Control releases from Glendo Dam shall be scheduled as required to pass the Alcova Reservoir outflows together with that portion of the incremental flow originating between Alcova and Glendo Reservoirs which the District Engineer considers necessary, based on known hydrologic conditions at the time, with the objective of prevention or reduction of flood damages along the North Platte River in Wyoming and Nebraska from Glendo Dam to Lake McConaughy. Storage accumulated in the flood control operation of Glendo Reservoir shall be evacuated as rapidly as practicable consistent with downstream limitations.

(c) Maximum releases shall not exceed 10,000 c.f.s. while the reservoir is between elevation 4,635 feet and 4,653 feet unless otherwise directed by the District Engineer.

(d) Oral instructions from the District Engineer to the Project Manager regarding flood control operations shall be confirmed in writing under the date of the day issued.

(e) The discharge characteristics of the outlet works (having a capacity of 12,130 c.f.s. with reservoir level at elevation 4,653) shall be maintained in accordance with the construction plans (Bureau of Reclamation Specification No. DC–4255 as modified by the as-built drawings).

(f) Proposed schedules of irrigation releases and storage changes, if available, and current operating data shall be provided to the District Engineer by the Project Manager. These data shall be tabulated daily and furnished periodically as required, and shall include such items as: reservoir elevation, reservoir storage, inflow, discharge, and pertinent available hydrologic data.

(g) Whenever the reservoir level reaches or exceeds elevation 4,635 or when flood discharges appear imminent, the Project Manager shall report at once to the District Engineer by telephone, telegraph, or radio, and as requested thereafter until the reservoir level falls to elevation 4,635 or below, and flood discharge ceases.

(h) Nothing in the regulations in this section shall be construed to require that releases shall be made at rates or in a manner inconsistent with requirements for protecting the dam and reservoir from major damage or inconsistent with safe routing of the inflow spillway design flood.

(i) Nothing in the regulations in this section shall be construed to restrict releases necessary for irrigation.

(j) All elevations stated in this section are at the Glendo Dam and are referred to a datum giving 4,653 feet m.s.l. as the elevation of the spillway crest.

(Regs., Mar. 9, 1971; secs. 7 and 9, 58 Stat. 890, 891, 58 Stat. 891, 33 U.S.C. 709)

For the Adjutant General.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.71-4674 Filed 4-5-71;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101–26—PROCUREMENT SOURCES AND PROGRAMS

Revised Policy on Procurement of Correspondence Filing Cabinets From GSA

This amendment eliminates the requirement for (1) submission of letters to the appropriate GSA Regional Administrator requesting approval to obtain correspondence filing cabinets from GSA supply distribution facilities and (2) citation of a clearance document number on FEDSTRIP/MILSTRIP requisition for filing cabinets submitted to GSA. Section 101–26.308, as revised, requires agencies to request approval from the appropriate Regional Director, National Archives and Records Service,

stating that actions prescribed in § 101–25.302–2 have been taken but have not produced the needed equipment.

The table of contents for Part 101–26 is amended as follows:

Sec.
101–26.308–1 [Deleted]
101–26.308–2 [Deleted]

Subpart 101–26.3—Procurement of GSA Stock Items

Section 101–26.308 is revised and §§ 101–26.308–1 and 101–26.308–2 are deleted as follows:

§ 101–26.308 Obtaining filing cabinets.

Prior to submission of a requisition to GSA for correspondence filing cabinets for use in the 50 States and the District of Columbia, agencies shall request approval from the appropriate Regional Director, National Archives and Records Service (except agencies in the Washington, D.C., area shall submit requests to the Deputy Assistant Archivist (NC), General Services Administration, Washington, DC 20408), specifying the stock numbers and quantities required by consignee point(s) and stating that the actions prescribed in § 101–25.302–2 of this chapter have been taken but have not produced the needed filing cabinets. (This does not apply when filing cabinets are for the use of grantees and contractors authorized to use GSA supply sources.) When approval of the request for new filing cabinets is received from GSA, requirements for the needed cabinets shall be submitted in FEDSTRIP/MILSTRIP format to the GSA regional office serving the particular geographical area of the consignee. It is not necessary for agencies to furnish evidence of approval of the needed filing cabinets when submitting requisitions to GSA; however, the approved request shall be retained in the appropriate agency files.

§§ 101–26.308–1, 101–26.308–2 [Deleted]

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (4–6–71).

Dated: March 30, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71–4688 Filed 4–5–71;8:46 am]

PART 101–32—GOVERNMENT-WIDE AUTOMATED DATA MANAGEMENT SERVICES

Space Requirements for ADP Equipment and ADP Records Management

This amendment provides cross-references in Part 101–32 to the provisions of Subpart 101–20.1 for space requirements for ADP equipment and Subparts 101–11.2 and 101–11.9 for ADP records management.

The table of contents for Part 101–32 is amended by the addition of new Subparts 101–32.9 and 101–32.10 and by reserving Subparts 101–32.11–101–32.46 as follows:

Subpart 101–32.9—Space Requirements for ADP Equipment

Sec.
101–32.900 Scope of subpart.
101–32.901 Space requirements for ADP equipment.

Subpart 101–32.10—ADP Records Management

Sec.
101–32.1000 Scope of subpart.
101–32.1001 ADP records management function.
101–32.1002 Source data automation in paperwork systems.

AUTHORITY: The provisions of Subparts 101–32.9 and 101–32.10 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 101–32.4—Procurement and Contracting

Section 101–32.400 is revised to read as follows:

§ 101–32.400 Scope of subpart.

This subpart sets forth policies and procedures governing the procurement of all automatic data processing equipment (ADPE), software, maintenance services, and supplies by Federal agencies. Other parts of the FPMR apply as follows:

(a) The provisions of Part 101–35 are applicable to telecommunications directly or indirectly associated with ADPE, and

(b) Part 101–20 relates to the information which must be submitted to GSA relative to space requirements for ADPE.

Subpart 101–32.9 is added to read as follows:

Subpart 101–32.9—Space Requirements for ADP Equipment

§ 101–32.900 Scope of subpart.

This subpart contains a cross-reference to Subpart 101–20.1, Assignment of Space, with regard to submission of information to GSA on space requirements for automatic data processing equipment (ADPE).

§ 101–32.901 Space requirements for ADP equipment.

Information on space requirements in connection with ADPE shall be submitted to GSA in accordance with § 101–20.102.5.

Subpart 101–32.10 is added to read as follows:

Subpart 101–32.10—ADP Records Management

§ 101–32.1000 Scope of subpart.

This subpart contains cross-references to pertinent sections of Part 101–11, Records Management, which relate to ADP records management and source data automation.

§ 101–32.1001 ADP records management function.

The regulations relating to the objectives, responsibilities, requirements, and implementation of this function are located in § 101–11.210.

§ 101–32.1002 Source data automation in paperwork systems.

The regulations relating to the definition, criteria for use, application of, and the need for source data automation can be found in Subpart 101–11.9.

Subparts 101–32.11—101–32.46 [Reserved]

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (4–6–71).

Dated: March 30, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71–4689 Filed 4–5–71;8:46 am]

Chapter 105—General Services Administration

SUBCHAPTER A—GENERAL

PART 105–50—PROVISION OF SPECIAL OR TECHNICAL SERVICES TO STATE AND LOCAL UNITS OF GOVERNMENT

The following regulations implement the provisions of title III of the Intergovernmental Cooperation Act of 1968 whereby procedural arrangements and principles governing reimbursement are established for special or technical services the General Services Administration may provide, on request, to State and local units of government.

Chapter 105 is amended by adding new Part 105–50, as follows:

Sec.
105–50.000 Scope of part.
105–50.001 Definitions.
105–50.001–1 State.
105–50.001–2 Political subdivision or local government.
105–50.001–3 Unit of general local government.
105–50.001–4 Special-purpose unit of local government.
105–50.001–5 Specialized or technical services.
105–50.001–6 GSA.

Subpart 105–50.1—General Provisions

105–50.101 Purpose.
105–50.102 Applicability.
105–50.103 Policy.
105–50.104 Limitations.
105–50.105 Central coordinations.
105–50.106 GSA response to requests.

Subpart 105–50.2—Services Available From General Services Administration

105–50.201 Agencywide mission.
105–50.202 Specific services.
105–50.202–1 Copies of statistical or other studies.
105.50.202–2 Preparation of or assistance in the conduct of statistical or other studies.
105–50.202–3 Training.
105–50.202–4 Technical assistance incident to Federal surplus personal property.
105–50.202–5 Data processing services.
105–50.202–6 Communications services.
105–50.202–7 Technical information and advice.

Subpart 105–50.3—Principles Governing Reimbursements to GSA

Sec.
105–50.301 Established fees.
105–50.302 Special fee schedules.
105–50.303 Cost basis in lieu of fees.
105–50.304 Services provided through revolving funds.
105–50.305 Exemptions.

Subpart 105–50.4—Reports

105–50.401 Reports submitted to Congress.
105–50.402 Reports submitted to the Office of Management and Budget.

AUTHORITY: The provisions of this Part 105–50 are issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and sec. 302, 82 Stat. 1102; 42 U.S.C. 4222.

§ 105–50.000 Scope of part.

This part prescribes rules and procedures governing the provision of special or technical services to State and local units of government by the several organizational elements of GSA. This part also prescribes principles governing reimbursements for such services.

§ 105–50.001 Definitions.

The following definitions are established for terms used in this part.

§ 105–50.001–1 State.

"State" means any of the several States of the United States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State.

§ 105–50.001–2 Political subdivision or local government.

"Political subdivision" or "local government" means a local unit of government, including specifically a county, municipality, city, town, township, or a school or other special district created by or pursuant to State law.

§ 105–50.001–3 Unit of general local government.

"Unit of general local government" means any city, county, town, parish, village, or other general purpose political subdivision of a State.

§ 105–50.001–4 Special-purpose unit of local government.

"Special-purpose unit of local government" means any special district, public-purpose corporation, or other strictly limited-purpose political subdivision of a State, but shall not include a school district.

§ 105–50.001–5 Specialized or technical services.

"Specialized or technical services" means statistical and other studies and compilations, development projects, technical tests and evaluations, technical information, training activities, surveys, reports, documents, and any other similar service functions which any department or agency of the executive branch of the Federal Government is especially equipped and authorized by law to perform.

§ 105–50.001–6 GSA.

"GSA" means the General Services Administration.

Subpart 105–50.1—General Provisions

§ 105–50.101 Purpose.

(a) This Part 105–50 implements the provisions of title III of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1102, 42 U.S.C. 4421–4225), the purpose of which is stated as follows:

> It is the purpose of this title to encourage intergovernmental cooperation in the conduct of specialized or technical services and provision of facilities essential to the administration of State or local governmental activities, many of which are nationwide in scope and financed in part by Federal funds; to enable State or local governments to avoid unnecessary duplication of special service functions; and to authorize all departments and agencies of the executive branch of the Federal Government which do not have such authority to provide reimbursable specialized or technical services to State and local governments.

(b) This part is consistent with the rules and regulations promulgated by the then Director, Bureau of the Budget (now Office of Management and Budget), in Bureau of the Budget Circular No. A–97, dated August 29, 1969, issued pursuant to section 302 of the cited Act (42 U.S.C. 4222).

§ 105–50.102 Applicability.

This part is applicable to all organizational elements of GSA insofar as the services authorized to be performed in Subpart 105–50.2, fall within their designated functional areas.

§ 105–50.103 Policy.

It is the policy of GSA to cooperate to the maximum extent possible with State and local units of government in providing the specialized or technical services authorized within the limitations set forth in § 105–50.104.

§ 105–50.104 Limitations.

The specialized or technical services provided under this part may be provided, in the discretion of the Administrator of General Services, only under the following conditions:

(a) Such services will be provided only to the States, political subdivisions thereof, and combinations or associations of such governments or their agencies and instrumentalities.

(b) Such services will be provided only upon the written request of a State or political subdivision thereof. Requests normally will be made by the chief executives of such entities and will be addressed to the Administrator of General Services.

(c) Such services will not be provided unless GSA is providing similar services for its own use under the policies set forth in Bureau of the Budget Circular No. A–76, "Policies for acquiring commercial or industrial products and services for Government use" (Revised August 30, 1967). In addition, in accordance with the policies set forth in Circular No. A–76, the requesting entity must certify that such services cannot be procured reasonably and expeditiously through ordinary business channels.

(d) Such services will not be provided if they require any additions of staff or involve outlays for additional equipment or other facilities solely for the purpose of providing such srevices, except where the costs thereof are charged to the user of such services. Further, no staff additions may be made which impede the implementation of, or adherence to, the employment ceilings contained in Office of Management and Budget allowance letters.

(e) Such services will be provided only upon payment or provision for reimbursement, by the unit of government making the request, of salaries and all other identifiable direct and indirect costs of performing such services. For cost determination purposes, GSA will be guided by the policies set forth in Bureau of the Budget Circular No. A–25, "User Charges" (September 23, 1959).

§ 105–50.105 Central coordination.

All requests for information or services, except training, shall be addressed to the General Services Administration (ALI), Washington, DC 20405. The Director of Public Affairs shall serve as a central coordinator and shall assign the request to the appropriate organizational element of GSA for expeditious handling. Requests for participation in regularly scheduled offerings of the GSA Interagency Training Program shall be submitted directly to the General Services Administration (BPT), Washington, DC 20405.

§ 105–50.106 GSA response to requests.

Direct response to each request forwarded for attention of the Director of Public Affairs shall be made by the applicable head of service or staff office in GSA. He shall outline the service to be provided and the fee or reimbursement required. Any special conditions as to time and priority, etc., shall be stated. Written acceptance by the authorized State or local government entity shall constitute a binding agreement. Requests for training shall be responded to by the Coordinator, Interagency Training.

Subpart 105–50.2—Services Available From General Services Administration

§ 105–50.201 Agencywide mission.

(a) In its role as a central property management agency, GSA constructs, leases, operates, and maintains office and other space; procures and distributes supplies; coordinates and provides for the economic and efficient purchase, lease, sharing, and maintenance of automatic data processing equipment by Federal agencies; manages stockpiles of materials maintained for use in national emergencies; transfers excess real and personal property among Federal agencies for further use; disposes of surplus real and personal property, by donation or otherwise, as well as materials excess to stockpile requirements; operates centralized data processing centers and

telecommunications and motor pool systems; operates the National Archives and Presidential libraries; provides a variety of records management services, including the operation of centers for storing and administering records, as well as other common services.

(b) Special or technical services may be provided by many organizational elements of GSA, with respect to their functional areas, but the requesting State or local agency needs only to know that the service desired is related to one or more of the functional areas described above and direct its request as provided for under § 105–50.105.

§ 105–50.202 Specific services.

Within the functional areas identified in § 105–50.201, GSA can provide the services hereinafter described.

§ 105–50.202–1 Copies of statistical or other studies.

This material includes a copy of any existing statistical or other studies and compilations, results of technical tests and evaluations, technical information, surveys, reports, and documents, and any such materials which may be developed or prepared in the future to meet the needs of the Federal Government or to carry out normal program responsibilities of GSA.

§ 105–50.202–2 Preparation of or assistance in the conduct of statistical or other studies.

(a) This service includes preparation of statistical or other studies and compilations, technical tests and evaluations, technical information, surveys, reports, and documents and assistance in the conduct of such activities and in the preparation of such materials, provided they are of a type similar to those which GSA is authorized by law to conduct or prepare.

(b) Specific areas in which GSA can conduct or participate in the conduct of studies include:

(1) Space management, including assignment and utilization;

(2) Supply management, including laboratory tests and evaluations;

(3) Management of motor vehicles;

(4) Records management; and

(5) Automatic data processing systems.

§ 105–50.202–3 Training.

(a) This training consists of the type which GSA is authorized by law to conduct for Federal personnel and others or which is similar to such training.

(b) Descriptions of the specific training courses conducted by GSA are published annually by the U.S. Civil Service Commission in its bulletin on Interagency Training Programs, copies of which may be obtained from the Commission.

§ 105–50.202–4 Technical assistance-incident to Federal surplus personal property.

Technical assistance in the screening and selection of surplus personal property under existing law, provided such aid primarily strengthens the ability of the recipient in developing its own capacity to prepare proposals, will be provided.

§ 105–50.202–5 Data processing services.

GSA will develop ADP logistical feasibility studies, software, systems analyses, and programing. GSA will also assist in securing data processing services on a temporary, short term basis, from other Federal facilities or GSA Federal Data Processing Centers, to the extent that computer capacity is available.

§ 105–50.202–6 Communications services.

GSA will continue to make its bulk rate circuit ordering services available for use by State and local governments under conditions whereby such governments will be billed directly by the contractors. In addition, certain activities, such as surplus property agencies which have frequent communications with Federal agencies, will be given access to the Federal Telecommunications System switchboards.

§ 105–50.202–7 Technical information and advice.

GSA will provide technical information, personnel management systems services, and technical advice on improving logistical and management services which GSA normally provides for itself or others under existing authorities.

Subpart 105–50.3—Principles Governing Reimbursements to GSA

§ 105–50.301 Established fees.

Where there is an established schedule of fees for services to other Government agencies or the public, such schedule shall be used as the basis for reimbursement for like services furnished State and local government.

§ 105–50.302 Special fee schedules.

Where there is no established schedule of fees for types of service which are ordinarily reimbursed on a fee basis, such schedules may be developed and promulgated in conjunction with the Office of Administration. The fees so established shall cover all costs, both direct and indirect, determined or estimated from the best available records in GSA. Periodically, fees shall be reviewed for adequacy of recovery and adjusted as necessary.

§ 105–50.308 Cost basis in lieu of fees.

Where the cost of services is to be recovered on other than a fee basis, upon receipt of a request from a State or local government for such services, a written reply shall be prepared by the service or staff office receiving the request stating the basis for reimbursement for the services to be performed. The proposal shall be based on an estimate of all direct costs, such as salaries of personnel involved, plus personnel benefits, travel and other related expenses; and such indirect costs as management, supervisory, and staff support expenses. An appropriate surcharge may be developed to recover these indirect costs. The terms thereof shall be concurred in by the Assistant Administrator for Administration. Acceptance in writing by the requestor shall constitute a binding agreement between GSA and the requesting governmental unit.

§ 105–50.304 Services provided through revolving funds.

Where the service furnished is of the type which GSA is now billing through revolving funds, reimbursement shall be obtained from State and local governments on the same basis; i.e., the same pricing method, billing forms, and billing support shall be used.

§ 105–50.305 Exemptions.

Single copies of existing reports covering studies and statistical compilations, and other data or publications for which there is no established schedule of fees, shall be furnished without charge unless significant expense is incurred in reproducing the material, in which instance the actual cost thereof shall be charged.

Subpart 105–50.4—Reports

§ 105–50.401 Reports submitted to Congress.

The Administrator of General Services will furnish annually to the respective Committees on Government Operations of the Senate and House of Representatives a summary report on the scope of the services provided under title III of the Act and this part. Such reports will be prepared as of the end of each calendar year and will indicate the nature of the services rendered, the names of the States and political subdivisions involved, where practical, and the cost of the work.

§ 105–50.402 Reports submitted to the Office of Management and Budget.

Copies of the foregoing reports will be submitted to the Office of Management and Budget not later than March 30 of each year.

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (4–6–71).

Dated: March 30, 1971.

ROBERT L. KUNZIG,
Administrator.

[FR Doc.71–4730 Filed 4–5–71;8:49 am]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER F—QUARANTINE, INSPECTION, LICENSING

PART 73—BIOLOGICAL PRODUCTS

Subpart B—Additional Standards for Viral Vaccines

SMALLPOX VACCINE

On April 16, 1970, a notice of proposed rule making was published in the FEDERAL

REGISTER (35 F.R. 6186–6188) proposing to amend Part 73 of the Public Health Service regulations by prescribing standards of safety, purity, and potency for Smallpox Vaccine.

Views and arguments respecting the proposed standards were invited to be submitted within 30 days after publication of the notice in the FEDERAL REGISTER and notice was given of intention to make any amendments that were adopted effective 60 days after publication in the FEDERAL REGISTER.

After consideration of all comments submitted, the following amendments to Part 73 of the Public Health Service Regulations are hereby adopted to become effective 60 days after publication in the FEDERAL REGISTER. Section designations have been changed to conform to the recodification of Part 73 published in the FEDERAL REGISTER on September 2, 1970 (35 F.R. 13922–13961).

1. Part 73 is amended by adding to the table of contents after "§ 73.1126 Equivalent Methods.", the following:

SMALLPOX VACCINE

Sec.
73.1140 The product.
73.1141 Reference vaccine.
73.1142 Production.
73.1143 Tests for safety.
73.1144 Potency test.
73.1145 General requirements.
73.1146 Equivalent methods.

§ 73.501 [Amended]

2. Section 73.501(f)(5) is deleted.

3. Subpart B of Part 73 is amended by adding the following immediately after § 73.1126:

SMALLPOX VACCINE

§ 73.1140 The product.

(a) *Proper name and definition.* The proper name of this product shall be Smallpox Vaccine, which shall be a preparation of live vaccinia virus obtained from inoculated calves or chicken embryos.

(b) *Strains of virus.* The strain of seed virus used in the manufacture of Smallpox Vaccine shall be identified by historical records including origin and manipulation, shall be sterile when tested by the procedure prescribed in § 73.730 and shall be dermatropic according to the test prescribed in § 73.1144(a). In addition, any new strain shall be shown not to produce a reactivity in man exceeding that produced by the Reference Smallpox Vaccine.

§ 73.1141 Reference vaccine.

Reference Smallpox Vaccine and reconstitution fluid shall be obtained from the Division of Biologics Standards and shall be used in all tests for determining the potency of Smallpox Vaccine.

§ 73.1142 Production.

Vaccinia virus used for the manufacture of vaccine shall be obtained from vesicles on the skin of an inoculated calf or from inoculated chorioallantoic membranes of chicken embryos, as set forth below:

(a) *Virus from calves*—(1) *Quarantine.* Only calves which, prior to being placed in quarantine have reacted negatively to tuberculin, were afebrile and free of ectoparasites, and which shall have met all other applicable quarantine requirements of § 73.501(f)(2)(i), shall be used for vaccinia virus production. The quarantine period shall be at least 14 days. During the last 7 days of the quarantine period daily morning and afternoon rectal temperatures shall be taken and calves that do not remain afebrile during that period shall not be used for virus production.

(2) *Inoculation.* A larger area of the calf than will be used for production purposes shall be prepared in a manner comparable to that appropriate for aseptic surgery, except that the area to be inoculated must be washed free of all antiseptics that may have a deleterious effect on virus propagation. The instrument and method used for scarification must produce a uniform penetration into the epidermis but must not extend through into the corium.

(3) *Incubation.* The inoculated calf shall remain in the incubation room confined to its stall and daily morning and afternoon rectal temperatures shall be taken to determine that only the expected febrile condition occurs. If any signs of disease other than vesiculation at the inoculation site occur, the virus from that calf shall not be used for vaccine manufacture.

(4) *Harvesting.* Before harvesting, the calf shall be anesthetized and killed by exsanguination. Prior to harvesting, the inoculated area shall be thoroughly cleansed by aseptic techniques. Only the vesicular material shall be harvested.

(5) *Necropsy.* A necropsy shall be made of each production calf. The harvested material shall not be used from any animal suspected of having an infection other than vaccinia.

(b) *Virus from embryonated chicken eggs*—(1) *Eggs for production.* Embryonated chicken eggs used for propagation of vaccinia virus shall be derived from flocks found to be free of, and continuously monitored for freedom from *Salmonella pullorum*, Mycoplasma species, avian tuberculosis, fowl pox, Newcastle disease virus, Rous sarcoma virus, avian leucosis complex of viruses, and other agents pathogenic for chickens, or appropriate tests shall be performed to demonstrate freedom of the vaccine from such agents.

(2) *Harvesting.* Aseptic techniques shall be used in harvesting the chorioallantoic membranes exhibiting vesicles characteristic of vaccinia infection.

§ 73.1143 Tests for safety.

(a) *Clostridium tetani.* A 10 ml. sample representative of the homogenized viral harvest or pool of several viral harvests shall be tested for the presence of *Clostridium tetani* in the following manner: Prior to the addition of preservatives other than glycerin, the test sample shall be inoculated into freshly heated Fluid Thioglycollate Medium or Smith fermentation tubes containing freshly heated Thioglycollate Broth Medium using a ratio of inoculum to culture medium sufficient for optimal bacterial growth. The test vessels shall be incubated at 35° to 37° C. and observed daily for at least 9 days for evidence of bacterial growth. Within 24–48 hours of an indication that there may be anaerobic growth, 1.0 ml. samples from each test vessel showing growth shall be injected subcutaneously into each of at least three mice, each weighing not more than 20 grams, or into each of at least three guinea pigs, each weighing not more than 350 grams, or into both such groups of mice and guinea pigs. The animals shall be observed daily for 6 days for signs of tetanus. If the animals show no signs of tetanus, additional groups of the same types and numbers of animals shall be injected 9 days after the original planting, with 1.0 ml. samples from each test vessel showing growth. The animals shall be observed daily for 6 days for signs of tetanus. If any animals die within 3 days without having shown signs of tetanus, the test shall be repeated within 18 hours of the deaths, with 0.1 ml. samples of the culture from which that animal was inoculated. Samples from the culture shall be injected into each of three additional test animals of the same species and the animals observed daily for 6 days. If there is any evidence of the presence of *Clostridium tetani*, the viral harvest may not be used in the manufacture of Smallpox Vaccine.

(b) *Anaerobes.* Prior to the addition of preservatives other than glycerin, a 10 ml. sample representative of the homogenized viral harvest or pool of viral harvests shall be inoculated into freshly heated Fluid Thioglycollate Medium or Smith fermentation tubes containing freshly heated Thioglycollate Broth Medium using a ratio of inoculum to culture medium sufficient for optimal bacterial growth. The test vessels shall be held at 65° C. for one hour, then incubated at 35° to 37° C. and observed daily for 10 days for evidence of bacterial growth. Within 24–48 hours of the first appearance of anaerobic growth, 1.0 ml. samples from each vsssel showing growth shall be inoculated subcutaneously into each of at least three mice weighing not more than 20 grams and three guinea pigs weighing not more than 350 grams. Additional groups of animals shall be inoculated 9 days after the original planting if growth appears and provided the first set of test animals is negative. All test animals shall be observed daily for at least 6 days. If there is any evidence of the presence of heat resistant pathogenic anaerobes, the viral harvest may not be used in the manufacture of Smallpox vaccine.

(c) *Coliform organisms.* A 5.0 ml. sample of bulk vaccine shall be tested for the presence of coliform organisms by the method published by the American Public Health Association, Inc., in "Standard Methods for the Examination of Water and Wastewater" (12th edition, 1965), section entitled "Test for Presence of Members of Coliform Group," pages 594–609, and any amendments or revisions thereof, which section is hereby incorporated by reference and deemed published herein. Said publication is avail-

able at most medical and public libraries and copies of the pertinent section will be provided to any manufacturer affected by the provisions of this part upon request to the Director, Division of Biologics Standards, or to the appropriate Information Center Officer listed in 45 CFR Part 5. In addition, an official historic file of the material incorporated by reference is maintained in the Office of the Director, Division of Biologics Standards. A method different than that contained in the above cited section may be used to test for the presence of coliform organisms upon a showing that it is of equal or greater sensitivity. The ratio of the volume of inoculum to the volume of culture medium shall be such as will dilute the preservative to a level that does not inhibit growth of contaminating organisms. The vaccine is satisfactory if there is no evidence of coliform organisms.

(d) *Hemolytic streptococci and coagulase-positive staphylococci.* Each of three 1.0 ml. samples of bulk vaccine shall be spread uniformly on the surface of separate blood agar plates. The plates shall be incubated for 48 hours at 35° to 37° C. The vaccine is satisfactory if there is no evidence of the presence of either hemolytic streptococci or coagulase-positive staphylococci.

(e) *Viable bacteria*—(1) *Vaccine intended for multiple pressure administration.* Samples of each lot of both bulk and final container vaccine shall be tested for viable bacteria by a procedure designed to detect both aerobic and anaerobic growth through a period of 7 days. At least three 1.0 ml. samples of bulk vaccine and three 0.2 ml. samples of vaccine derived from not less than three final containers or dilutions thereof shall be inoculated into a volume of culture medium sufficient for optimal bacterial growth. The vaccine is satisfactory if it contains no more than 200 viable organisms per ml.

(2) *Vaccine intended for jet injection.* Samples of each lot of both bulk and final container vaccine shall be tested for viable bacteria in Fluid Thioglycollate Medium prepared in accordance with § 73.730(e)(1)(i) for at least a 7-day test period. A sample of at least 10.0 ml. of bulk vaccine and 1.0 ml. from each of at least 20 final containers shall be tested. The ratio of the volume of the inoculum to the volume of culture medium shall be such as will dilute the preservative in the inoculum to a level that does not inhibit growth of contaminating micro-organisms. The vaccine is satisfactory if it contains no more than one organism per 100 doses of vaccine.

(f) *Sterile vaccine.* If any lot of smallpox Vaccine meets the sterility requirements prescribed in § 73.730 the tests prescribed in paragraphs (b), (c), (d), and (e) of this section need not be performed.

§ 73.1144 Potency test.

Each filling of Smallpox Vaccine shall be tested for potency either by the "rabbit scarification" method or by the "pock count" method as follows:

(a) *Rabbit scarification*—(1) *Reconstitution of reference vaccine.* The Reference Smallpox Vaccine shall be reconstituted with the reconstitution fluid furnished by the Division of Biologics Standards with the reference vaccine, and shall be used immediately after reconstitution.

(2) *Dilutions.* Dilutions shall be made starting with no less than 0.5 ml. each of the test vaccine and of the reference vaccine, including dilutions 1: 3,000, 1: 9,000, and 1: 27,000. The same diluent shall be used for all the dilutions of both vaccines. The sample for vaccine in capillary tubes shall be obtained by pooling the contents of no less than 50 capillaries into a sterile container.

(3) *Preparation of test animals.* At least two rabbits with skin free of blemishes shall be used. The skin of the areas to be scarified must be free of hair, abrasions and virucidal and virustatic chemicals. Test sites measuring 2.5 x 5.0 cm. shall be marked off on the denuded skin of each rabbit without stretching the skin. All test sites shall be sacrificed uniformly.

(4) *Inoculation of test animals.* Immediately following thorough mixing, 0.2 ml. of each dilution of the test vaccine and of the reference shall be applied to the skin of each rabbit and rubbed into the appropriate scarified test area. After completion of all inoculations for each animal, the site shall be air dried with cool air and the animal then returned to its cage.

(5) *Recording the results.* The rabbits shall be observed daily. The reading shall be recorded at the height of reaction and such reading shall be used to calculate the maximum degree of reactivity for each dilution, which shall be determined by calculating the average percentage reaction of at least two nonrefractive animals used in testing each lot. The arithmetic mean of the average reactions occurring at the 1:3,00, 1:9,000, and 1:27,000 dilutions shall be computed and used to determine the potency ratio between the test vaccine and the reference.

(6) *Potency requirements*—(i) *Vaccine intended for multiple pressure administration.* Vaccine intended for multiple pressure administration shall have a minimum potency ratio of 0.7 of the reference vaccine.

(ii) *Vaccine intended for jet injection.* One human dose of vaccine intended for administration by jet injector shall have a minimum potency ratio of 0.7 times that of 0.1 ml. of the reference vaccine, diluted 1:30.

(iii) *Heated liquid vaccine.* Samples of liquid vaccine from final containers taken at random shall be incubated at 35° to 37° C. for at least 18 hours, after which a 1:1,000 dilution of the heated sample and a 1:3,000 dilution of an unheated sample from the same lot shall be tested in parallel using the same rabbit, as prescribed in this paragraph. The vaccine is satisfactory if the potency of the heated sample is at least equal to that of the unheated sample.

(iv) *Heated dried vaccine.* Samples of dried vaccine from final containers taken at random shall be incubated at 35° to 37° C. for 30 days, after which a 1:1,000 dilution of the heated sample and a 1:3,000 dilution of an unheated sample from the same lot shall be tested in parallel using the same rabbit, as prescribed in this paragraph. The vaccine is satisfactory if the potency of the heated sample is at least equal to that of the unheated sample.

(b) *Pock counting in embryonated chicken eggs*—(1) *Dilutions.* Dilutions shall be made starting with no less than 0.5 ml. of the test vaccine and of the reference vaccine. The same diluent shall be used for all dilutions of both vaccines. The sample of vaccine in capillary tubes shall be obtained by pooling the contents of no less than 50 capillaries into a sterile vessel.

(2) *Inoculation of embryonated chicken eggs.* The chorioallantoic membranes of each of at least five embryonated chicken eggs shall be inoculated with 0.2 ml. for each virus dilution of the test vaccine and the reference vaccine, after which the eggs shall be incubated at 37° C. for 48 hours.

(3) *Estimation of potency.* Only membranes from living embryos shall be removed and the number of specific lesions thereon shall be counted and recorded. The number of pock forming units in 1.0 ml. of vaccine shall be calculated from the number of lesions, the dilution factor and the volume used, to determine the titer of the undiluted vaccine. The accuracy of the titration shall be confirmed in each test by performing simultaneously the same type of titration with the reference vaccine which shall demonstrate its assigned titer.

(4) *Potency requirements*—(i) *Vaccine intended for multiple pressure administration.* Vaccine intended for multiple pressure administration shall have a titer at least equivalent to the reference vaccine.

(ii) *Vaccine intended for jet injection.* Vaccine intended for administration by jet injector shall have a number of pock forming units in one human dose at least equivalent to that contained in 0.1 ml. of the reference vaccine diluted 1:30.

(iii) *Heated liquid vaccine.* Samples of liquid vaccine from final containers taken at random shall be incubated at 35° to 37° C. for at least 18 hours, after which the heated sample shall be tested in parallel with a sample of unheated vaccine of the same lot, as prescribed in this paragraph. The vaccine is satisfactory if the heated sample retains at least one tenth of the potency of the unheated sample.

(iv) *Heated dried vaccine.* Samples of dried vaccine from final containers taken at random shall be incubated at 35° to 37° C. for 30 days, after which the heated sample shall be tested in parallel with a sample of unheated vaccine of the same lot, as prescribed in this paragraph. The vaccine is satisfactory if the heated sample retains at least one-tenth of the potency of the unheated sample.

§ 73.1145 General requirements.

(a) *General safety.* Each lot of vaccine shall be tested for safety as pre-

scribed in § 73.720 and shall meet the safety requirements of that section, except that for liquid Smallpox Vaccine distributed in capillaries, the test may be performed with a sample of bulk vaccine taken at the time of filling into final containers.

(b) *Preservative.* A preservative that meets the requirements of § 73.790 may be used, provided that if the preservative is phenol, its concentration shall not exceed 0.5 percent.

(c) *Labeling.* In addition to complying with all other applicable labeling provisions of this part the package label shall bear the following:

(1) *Vaccine intended for jet injection.* (i) A conspicuous statement that the vaccine is intended for administration by jet injector.

(ii) A statement that the vaccine has been shown by appropriate test methods to contain not more than one organism per 100 doses or reference to an enclosed circular that contains such information, except that such a statement is not required for vaccine which meets the sterility requirements of § 73.730.

(2) *Vaccine intended for multiple pressure administration.* A statement that the vaccine has been shown by appropriate test methods to contain not more than 200 organisms per ml. or reference to an enclosed circular that contains such information, except that such a statement is not required for vaccine which meets the sterility requirements of § 73.730.

(d) *Samples; protocols; official release.* (1) For each lot of vaccine the following shall be submitted to the Director, Division of Biologics Standards, National Institutes of Health, Bethesda, Maryland 20014:

(i) A protocol which consists of a summary of the history of manufacture of each filling including all results of each test for which test results are requested by the Director, Division of Biologics Standards.

(ii) Three hundred capillaries from the first filling of a lot of liquid vaccine, and 200 capillaries from each subsequent filling.

(iii) Two 10 ml. samples of bulk liquid vaccine to be submitted along with the capillaries from the first filling and taken from the same vessel from which such capillaries were filled.

(iv) A sample from each drying, consisting of no less than the equivalent of 30 ml. of reconstituted vaccine, packaged in final containers, but in no event less than six filled final containers.

(2) Smallpox Vaccine shall not be issued by the manufacturer until notification of official release of the lot is received from the Director, Division of Biologics Standards.

§ 73.1146 Equivalent methods.

Modification of any particular manufacturing method or procedure or the conditions under which it is conducted as set forth in the additional standards relating to smallpox vaccine (§§ 73.1140 to 73.1145, inclusive) shall be permitted whenever the manufacturer presents evidence that demonstrates the modification will provide equal or greater assurances of the safety, purity, and potency of the vaccine as the assurances provided by such standards, and the Director, National Institutes of Health, so finds and makes such finding a matter of official record.

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216. Sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262)

Dated: March 30, 1971.

ROBERT Q. MARSTON,
Director,
National Institutes of Health.

NOTE: Incorporation by reference provisions in § 73.1143(c) approved by the Director of the Federal Register on April 5, 1971.

[FR Doc. 71-4682 Filed 4-5-71; 8:46 am]

PART 73—BIOLOGICAL PRODUCTS

Subpart D—Additional Standards for Blood and Blood Products

WHOLE BLOOD (HUMAN)

On October 22, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 16479-16480) proposing to amend Part 73 of the Public Health Service regulations by prescribing specific standards of safety, purity, and potency for whole blood (human) from which antihemophilic factor has been removed in accordance with the Additional Standards for Cryoprecipitated Antihemophilic Factor (Human).

Views and arguments respecting the proposed standards were invited to be submitted within 30 days after publication of the notice in the FEDERAL REGISTER.

After consideration of all comments submitted the following amendments to Part 73 of the Public Health Service Regulations are hereby adopted to become effective 30 days after publication in the FEDERAL REGISTER.

1. Part 73 is amended by adding to the table of contents immediately after "73.3005 Labeling." the following:

Sec.
73.3006 Modifications of whole blood (human).

2. Section 73.3005 is amended by revising the first sentence up to the colon and by adding a new paragraph (f), to read as follows:

§ 73.3005 Labeling.

In addition to all other applicable labeling requirements, the following, except as prescribed in paragraphs (e) and (f) of this section, shall appear on the label of each container:

* * * * *

(f) *Whole blood (human), modified.* The label on each container of blood that is issued pursuant to the provisions of § 73.3006 shall bear, in addition to the other applicable labeling requirements, the following:

(1) Immediately following and in no less prominence than the proper name, the word "Modified."

(2) A prominent statement indicating that antihemophilic factor has been removed by cryoprecipitation. Such statement may appear on a separate label affixed to the container.

(3) Instructions not to use the unit of blood for patients requiring antihemophilic factor.

3. Subpart D, the additional standards for whole blood (human) is amended by adding a new § 73.3006 immediately after § 73.3005 as follows:

§ 73.3006 Modifications of whole blood (human).

Upon approval by the Director, Division of Biologics Standards, of an amendment to the product license application for whole blood (human), a manufacturer may prepare whole blood (human) from which the antihemophilic factor has been removed, provided the whole blood (human) meets the applicable requirements of this part and the following conditions are met:

(a) The antihemophilic factor shall be removed in accordance with paragraphs (a), (b), and (c) of § 73.3041.

(b) Although the closed system between the red blood cells and plasma shall be maintained, the red blood cells shall be maintained between 1 and 6° C. at all times, including that time when the plasma is being frozen for removal of the antihemophilic factor.

(c) If containers for pilot samples are detached from the blood container during removal of the antihemophilic factor the pilot samples shall be reattached to the unit of whole blood (human), modified, as soon as the plasma is returned to the red blood cells. The reattachement of the pilot samples shall be in a tamperproof manner that will conspicuously indicate removal and reattachment.

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216; sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262)

Dated: March 30, 1971.

ROBERT Q. MARSTON,
Director,
National Institutes of Health.

[FR Doc.71-4681 Filed 4-5-71;8:46 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5034]

[Idaho 3628]

IDAHO

Partial Revocation of Public Water Reserve

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. The Executive order of April 17, 1926, creating Public Water Reserve No. 107, is hereby revoked so far as it affects the following described land:

BOISE MERIDIAN

T. 5 S., R. 40 E.,
Sec. 2, lot 4;
Sec. 5, lots 3 and 4;
Sec. 6, lots 1 and 2;
Sec. 9, NE¼NE¼.

The area described contains 243.28 acres in Caribou County.

The land is located north of the Blackfoot River and south of the Caribou-Bingham County line about 26 miles north and a little west of Soda Springs, Idaho. Topography is rolling to steep foothills. Vegetation is big sagebrush with patches of quaking aspen, willow, bitterbrush, buckbrush, and snowberry, with an understory of grass and forbs. Soils are generally shallow, intermingled with rock outcropping on ridges.

2. At 10 a.m. on May 4, 1971, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on May 4, 1971, shall be considered as simultaneosly filed at that time. Those received thereafter shall be considered in the order of filing.

3. The land will be open to location for nonmetalliferous minerals at 10 a.m. on May 4, 1971. It has been open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws for metalliferous minerals.

Inquiries concerning the land should be addressed to the Manager, Land Office, Bureau of Land Management, Boise, Idaho.

HARRISON LOESH,
Assistant Secretary of the Interior.

MARCH 29, 1971.

[FR Doc.71-4691 Filed 4-5-71;8:46 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 15657, RM-524; FCC 71-314]

PART 1—PRACTICE AND PROCEDURE

PART 15—RADIO FREQUENCY DEVICES

Operation of Radio Door Controls; Second Report and Order

1. This proceeding was instituted with a Notice of Proposed Rule Making issued on October 14, 1964[1] in response to a petition[2] submitted by the Door Operator and Remote Control Manufacturers Association (DORCMA). DORCMA pointed out that the duty cycle limitation in the then current rules, could be the cause of serious garage door accidents, and for the sake of safe operation, strongly urged the Commission to exempt the transmitter of the radio control from this timing restriction.[3] Anticipating the argument that these controls are a source of harmful interference, DORCMA argued that no interference had been experienced from the operation of the transmitter which is pulsed on very briefly only a few times a day. DORCMA conceded that when harmful interference is experienced from these controls, this is invariably due to emission of RF energy from the receiver part of the control. According to DORCMA, some of its members have recognized this situation and were already making radio controls with a lower level of receiver emission than was required by the Commission. DORCMA suggested that the Commission include such tighter emission limits (about 6 dB below the level permitted by § 15.63) in the rules applicable to the receiver part of the radio control.

2. Taking into cognizance possible safety hazards in connection with operation of radio door controls, the Commission proposed to grant in part the DORCMA request, and proffered regulations omitting the duty cycle limitation applicable to the transmitter portion of such controls operated above 70 MHz. Bearing in mind the complaints that had been received of interference to aeronautical communications, the Commission simultaneously proposed more stringent technical standards for these devices in order to further reduce the probability of interference. Accordingly, the Commission proposed to reduce by about 10 dB, the allowable level of RF energy emitted from both the transmitter and receiver portions of the control, and to require that both parts of the device be certificated to the Commission with a detailed report of measurements. In addition, the Commission proposed to prohibit operation of such controls on frequencies allocated to the aeronautical service for radionavigation and safety communication. The Commission also proposed a requirement for labeling the control with certain cautionary information[4] to assure that the user would be notified about the danger of harmful interference to licensed radiocommunications, and would be informed that the rules afforded no protection against interference to the operation of the control.

3. Manufacturers of radio controls for door openers who responded to the Commission's notice supported individual points in DORCMA's argument and urged favorable action on the petition. Certain manufacturers voiced concern about the lack of uniform measurement procedure for door control devices, and suggested that a standardized procedure be developed as the guide for determining compliance with the proposed rules. Most manufacturers of door controls expressed disapproval of the Commission's proposed prohibition against operation on certain frequency bands, whereas certain users and manufacturers of radio communications equipment urged that additional bands be excluded. Presenting evidence to exonerate the transmitter part of their product, manufacturers of door controls requested that the allowable level of emission for the control transmitter not be revised downward, and urged that the emission limits for the receiver be set at those suggested by DORCMA. In addition, these manufacturers objected to the proposed cautionary labeling with respect to interference.

4. A first report and order in this proceeding was adopted on July 21, 1965.[5] This order exempted radio controls for door openers from the duty cycle limitation, as DORCMA requested in its petition, to promote safe operation of such controls. Satisfied by DORCMA's argument and the record of experience showing that interference stems almost exclusively from the control receiver, the Commission withdrew its proposed reduction on transmitter emission. However, to safeguard against harmful interference to the aeronautical service, the rules adopted in the first report and order required that such controls be so designed and operated that radiation from neither the transmitter part nor the receiver part of the control would fall on the aeronautical radionavigation and safety frequencies. To remove the likelihood of unintentional continuous operation of a door control transmitter, the Commission imposed a requirement that the transmitter component be activated only by a switch spring-loaded to return to the normally off position, when released.

5. The comments filed in response to the October 1964 Notice of Proposed Rule Making had questioned the advisability of establishing strict limits for these devices in the absence of a standard measurement procedure to be used to determine compliance. The Commission accordingly, in its first report and order, deferred action on the question of revised limits for receivers and called on industry to develop a standard measurement procedure. Such a procedure has now been developed by Commission engineers working with DORCMA and has been published as FCC Technical Division Report, T-7001, dated October 1, 1970. This report sets out a standard procedure for measuring the emission of RF energy (by radiation) from the transmitter and the

[1] 29 F.R. 14409, Oct. 20, 1964.
[2] RM-524, filed Nov. 1, 1963.

[3] Section 15.211(a)(3) provides that a low power communication device operating above 70 MHz must be provided with circuitry which will automatically limit transmission to a duration of 1 second followed by a silent period of 30 seconds. Operation during the silent period is precluded for any purpose whatsoever including operation to prevent an accident in a situation of impending danger.

[4] The rules proposed in the notice of proposed rule making would have required that the control bear a label reading:

"Operation of this device is subject to the condition that no harmful interference is caused and that any interference received, including undesired operation of this device, must be accepted."

[5] 30 F.R. 9315, July 27, 1965.

receiver parts of the radio control under open field conditions.

6. During the development of this measurement procedure DORCMA raised the question that the open field measurement procedure for the transmitter part of the control did not reflect a realistic operating condition. Since the transmitter is nearly always operated in an automobile which provides a certain amount of shielding DORCMA argued that measurement of the transmitter under open field conditions penalized the transmitter whose operation was already marginal. DORCMA accordingly argued that a 15 dB adjustment factor be included in the measurement procedure to take account of the difference between use operation.[6] This argument is not accepted. The Commission does not regard the measurement procedure as the appropriate place for such an adjustment factor, and no such factor is included in Report T-7001.

7. However, the Commission concedes the validity of DORCMA's contention that an open field measurement does not represent the interference potential of the transmitter output, which under normal operation is subject to the shielding effect of the vehicle. Accordingly the Commission has increased by about 8 dB, the allowed level of emission of RF energy from the transmitter part of the control when measured under open field conditions. In this connection, the Commission cannot accept DORCMA's request for a 15 dB increase. While DORCMA interprets its data to say that on the average the vehicle attenuation is 15 dB, this data must also be interpreted to say that about 50 percent of the vehicles exhibit less than 15 dB of attenuation. The 8 dB increase granted herein represents the attenuation observed in at least 90 percent of the vehicles, and in the Commission's opinion represents an acceptable compromise. This increase is granted by setting out in § 15.215 a new table of permissible emission levels for the transmitter part of the control. At the same time the Commission has collected the technical regulations dealing with the transmitter part of the control into a single section, § 15.215, for the purpose of clarification and simplification.

8. With the publication of a measurement standard, the final objection to adopting stricter emission limits for the receiver part of the control has been removed. The Commission believes that the 5 years of pendency of this proceeding, has given industry ample opportunity to design and develop radio controls for door openers which can meet the receiver emission limits originally proposed. These limits proposed that the emission of RF energy from the receiver be suppressed approximately 10 dB below the level permitted for receivers by Subsion of RF energy from the receiver part part C of Part 15. Moreover, during informal discussions with individual manufacturers, the Commission has ascertained that suppression to this level of emission can be achieved within the economic framework of this industry. Accordingly, the Commission is adopting its proposal for a stricter limit on emisof the radio control for a door opener. The specific limits to be met are set out in § 15.63(d).

9. Under authority granted by § 302 of the Communications Act of 1934, as amended (47 U.S.C. 302), and pursuant to the marketing regulations adopted on May 13, 1970 [7] we are revising and updating the certification procedure proposed in our notice of this proceeding, and making it mandatory on manufacturers of radio controls for door openers to apply for certification of each of the transmitter part and receiver parts of the radio control. Attention is invited to the fact that these marketing regulations prohibit the sale or distribution of such devices prior to the receipt of certification.

10. The Commission had proposed that users, who have little or no knowledge of interference problems, be made aware of the sufferance status of Part 15 devices. Notwithstanding the objections raised to this proposal, which were based almost entirely on anticipated loss of sales, the Commission is convinced that such a notice is required by the public interest. Accordingly a regulation is adopted, requiring the manufacturer of a radio control to be operated under these rules, to attach a label to the device warning the purchaser thereof that the device must be operated so as not to cause interference to any authorized radio service and that he must accept any interference that the device may receive.

11. Pursuant to our policy to impose fees on all applications for equipment certification,[8] § 1.1120 of Part 1 is amended to add a fee schedule for certification of the transmitter part of a radio control for a door opener. The receiver part of such a control is presently included in the fee schedule in § 1.1120.

12. In view of the foregoing and pursuant to the authority contained in §§ 4(i), 302, and 303(r) of the Communications Act of 1934, as amended: *It is ordered,* That, effective May 7, 1971, Parts 1 and 15 are amended in the manner set forth below. This proceeding is hereby terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082, sec. 302, 82 Stat., 290; 47 U.S.C. 154, 302, 303)

Adopted: March 24, 1971.

Released: March 30, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[9]
[SEAL] BEN F. WAPLE,
Secretary.

Parts 1 and 15 of Chapter I, Title 47, of the Code of Federal Regulations are amended as follows:

1. In § 1.1120, the fee schedule under "Certification" is amended by adding a new item 5 to read as follows:

§ 1.1120 Schedule of fees for equipment approval, acceptance, or certification.

* * * * *

CERTIFICATION

Item	Filing fee	Grant fee
* * *	* * *	* * *
f Application for certification of a radio control transmitter for a door opener under Part 15	$5	$20

2. In § 15.63, paragraph (d) is added to read as follows:

§ 15.63 Radiation interference limits.

* * * * *

(d) Notwithstanding the provisions of paragraph (a) of this section and subject to the prohibition against emissions on the frequencies listed in § 15.215(c), the level of emission of RF energy from the receiver used with a radio control for a door opener shall not exceed the values listed below when measured in accordance with the procedures laid down in FCC Technical Division Report, T-7001, dated October 1, 1970.

Frequency (MHz)	*Field strength at 100 ft. (μV/m)*
Over 25 up to and including 70	32.
Over 70 up to and including 200	50.
200–1,500	50–500 (linear variation).
Over 1,500	500.

3. Section 15.211 is amended by deleting subparagraphs (5) and (6) from paragraph (a) and by amending the introductory text of paragraph (a) to read as follows:

§ 15.211 Operation above 70 MHz.

(a) Except for telemetering devices and wireless microphones operated in accordance with §§ 15.212 and 15.213, and radio controls for door openers operating in accordance with § 15.215, a low power communication device manufactured on or after July 15, 1963, may be operated on frequencies above 70 MHz, provided it complies with all of the following conditions:

* * * * *

4. Section 15.215 is added to read as follows:

§ 15.215 Provisions for a radio control transmitter for a door opener.

(a) A low power communication device used for the radio control of a door opener may operate on any frequency above 70 MHz subject to the provisions of this section.

(b) The device may be used only for the purposes of opening or closing a door and may not be used for voice transmission or the transmission of any other type of message.

[6] DORCMA submitted data to show that measurements of the transmitter under open field conditions averaged about 15 dB higher than measurements made with the transmitter in an automobile.

[7] See report and order in Docket No. 18426, adopted May 13, 1970, (35 F.R. 7894, May 22, 1970).

[8] The matter of fees for equipment authorization is discussed in the report and order in Docket No. 18802, adopted July 1, 1970 (35 F.R. 10988, July 8, 1970).

[9] Commissioner Burch, Chairman, and H. Rex Lee, concurring in the result.

(c) Emission of RF energy from the transmitter, as well as from the receiver part of the control, shall not fall within any of the bands listed below:

MHz	MHz	GHz
73–75.4	608–614	10.68–10.70
108–118	960–1215	15.35–15.4
121.4–121.6	1400–1427	19.3–19.4
242.8–243.2	1535–1670	31.3–31.5
265–285	2690–2700	88–90
328.6–335.4	4200–4400	
404–406	4990–5250	

(d) Subject to the limitation in paragraph (c) of this section, emission of RF energy from the transmitter shall not exceed the levels given below when measured under open field conditions as prescribed in FCC Technical Division Report T–7001 dated October 1, 1970.

Frequency (MHz)	Field strength at 100 ft. ($\mu V/m$)
70–130	125.
130–174	125–375 (linear variation).
174–260	375.
260–470	375–1250 (linear variation).
Over 470	1250.

(e) The transmitter part of the control shall be activated only by a switch which will automatically deactivate the transmitter when released. The switch shall be of such quality to insure reliable operation for the expected life of the transmitter.

(f) The transmitter part of the radio control must be certificated pursuant to §§ 15.260–15.266.

(g) The receiver part of the radio control shall be separately certificated pursuant to Subpart C of this part.

5. Sections 15.260–15.274 are added to read as follows:

§ 15.260 Application for certification of a radio control transmitter for a door opener.

The application for certification of a radio control transmitter for a door opener shall contain the following information.

(a) The full name of the applicant.

(b) Mailing address.

(c) Name and title of responsible individual to be contacted for information concerning the application.

(d) Trade name(s) under which the device will be sold.

(e) Model number (or other positive identification) of each of the receiver and transmitter parts of the device.

(f) An expository statement describing how the device operates. This statement should include a block diagram, a circuit diagram, a description of the circuitry in the device, and a description of the antenna used with the device.

(g) Photographs of the device: Such photographs shall be 8" x 10", and shall clearly show the construction and circuit layout of the device. At least one exterior view shall be furnished showing the antenna and the controls available to the user. A sufficient number of views of the interior shall be furnished to define component placement and chassis assembly.

(h) A description of the installation and operating conditions that must be observed to insure the device will comply with the requirements of this part.

(i) A report of measurements pursuant to §§ 15.264–15.266.

(j) A copy of the installation and operating instructions furnished to the user. A draft copy of such instructions may be submitted with the application, provided a copy of the actual document to be furnished to the user is submitted within 45 days after certification is granted.

§ 15.262 Who may sign the application.

Each application, including amendments thereto, and related statements of fact required by the Commission, shall be personally signed by the applicant if the applicant is an individual; by one of the partners if the applicant is a partnership; by an officer if the applicant is a corporation; or by a member who is an officer if the applicant is an unincorporated association: *Provided, however,* That it will be sufficient if the application is signed by the head of an entity's engineering, technical, production, etc., department, with an indication of that representative's title, such as plant manager, etc.

§ 15.264 Report of measurements for certification of a radio control transmitter for a door opener.

The report of measurements shall be personally signed by the person who performed or supervised the tests who shall attest to the accuracy of the data and shall attach a brief statement of his qualifications. The report shall include the following information for both the transmitter and receiver parts of the device:

(a) Identification of the unit that was tested. Give name of manufacturer, model number, serial number, all the trade names and model numbers under which the unit will be distributed.

(b) The measurement procedure that was used. If the procedure laid down in FCC Technical Division Report T–7001, dated October 1, 1970, was not used, the actual procedure that was used must be described in detail.

(c) A list of the measuring equipment that was used, identified by manufacturer and model number.

(d) The latest calibration date of the measuring equipment and the standard against which such equipment was calibrated.

(e) A tabulation of the data that was obtained. The data shall show the actual meter reading, the computed value of the field strength, and shall include representative calculations showing how the field strength was determined from the meter source of such factor.

(f) A graphical display of the data. This may be a polar plot of field strength measured around the device.

(g) Date the measurements were made.

§ 15.266 Frequency range of transmitter measurements.

For devices operating below 500 MHz, the spectrum shall be scanned from the lowest frequency generated in the device up to 1000 MHz. For equipments operating on 500 MHz or higher, the spectrum shall be scanned from the lowest frequency generated in the device to 10 GHz. Measurements shall be made of all significant emissions observed. Emissions more than 20 dB below the permitted level need not be reported.

§ 15.268 Identification of a certificated radio control for a door opener.

(a) Each receiver part and transmitter part of a certificated radio control for a door opener shall bear an identification plate with the following information:

(1) The name of the grantee of certification or the trade name under which it will be distributed as given in the application for certification.

(2) The model number as given in the application for certification.

(3) The following statement:

"This device complies with FCC Rules Part 15. Operation is subject to the condition that (1) no harmful interference is caused, and (2) any interference that is received, including interference that causes undesired operation, must be tolerated.

(Name of Grantee)"

(b) The identification plate shall be permanently attached to the device and shall be readily visible to the prospective purchaser and user.

§ 15.270 Changes in a certificated radio control for a door opener.

No changes may be made in a certificated radio control for a door opener which alter the characteristics of the device that are required to be reported. If such changes are made, a new application for certification shall be filed.

§ 15.272 FCC Inspection.

Upon the request of the Commission, each grantee of certification shall be required, where practicable, to permit inspection of:

(a) Any device for which certification has been granted;

(b) The grantee's quality control procedures, inspection, and test data, and materials, and testing devices.

(c) The manufacturing plant and facilities; and

(d) The technical data files on that article.

§ 15.274 Interference from a radio control for a door opener.

(a) Operation of a radio control for a door opener is subject to the general conditions of operation set out in §§ 15.3 and 15.222.

(b) The operator of a radio control for a door opener who is advised that his device is causing harmful interference to an authorized radio service shall promptly stop operating the device, and he shall not resume operation until the condition causing the harmful interference has been eliminated.

[FR Doc.71–4634 Filed 4–5–71;8:45 am]

[Docket No. 189127; FCC 71-322]

PART 73—RADIO BROADCAST SERVICES

Limitation of Television Stations' Access to Programs of More Than One National Network

First Report and Order. In the matter of amendment of § 73.658 of the Commission's rules to limit television stations' access to the programs of more than one national network. (Petition of Triangle Telecasters, Inc., WRDU–TV, Durham, N.C.), Docket No. 18927, RM–1525.

Background. 1. This proceeding, begun by notice of inquiry and notice of proposed rule making adopted July 22, 1970 (released July 24, 1970, FCC 70–801, 35 F.R. 12133), concerns possible limitations on the extent to which television stations may telecast the programs of more than one of the three national networks. Sometimes called the "one network per station" proceeding, it was prompted by the petition listed in the caption, filed by Triangle Telecasters, Inc. (Triangle), the licensee of UHF Station WRDU–TV, Durham, N.C. (having authority to identify itself also with Raleigh, N.C.). The Raleigh-Durham market is one of two markets having two VHF and one UHF stations in which the UHF station does not have a regular affiliation with one of the three networks; the other, at the time of the notice, was Augusta, Ga., where UHF station WATU was then operating but went silent in November 1970. In numerous other such two-VHF-plus-UHF markets, where problems of the same nature existed in earlier years, the UHF station has by now obtained a regular affiliation. These include Jacksonville, Fla., Charlotte, N.C., Dayton, Ohio, and Knoxville, Tenn., and, more recently, Birmingham, Ala., Lubbock, Tex., Jackson, Miss., and Savannah and possibly Columbus, Ga.[1]

2. Essentially, the complaint by Triangle is that it is unfair, and highly detrimental to the Commission's key objective of fostering UHF development, for one or both of the VHF stations in the market to be able to pick and choose between the program fare of two networks, leaving the UHF station (already at a handicap vis-a-vis its VHF competitors) with only the remains of the network offerings, and even that often subject to recapture if and when the VHF chooses to clear for it. Triangle and other parties urge that the VHF stations in these situations should be limited, essentially, to one network affiliation and programing. The notice expressed the view that a problem warranting Commission action may exist, although stating that we had not decided, even tentatively, that Commission action is warranted; and accordingly instituted an Inquiry concerning numerous questions. It was also stated that rules might be adopted, if warranted in light of the comments filed, without further proceedings.

3. The notice invited comments on approaches to dealing with the problem if action is warranted, including: (1) the rules proposed by Triangle, which would essentially limit VHF stations in these situations to one "primary affiliation" or "primary right of first refusal"; or (2) an alternative approach first urged in an earlier proceeding by the license of a Charlotte, N.C., UHF station: limiting a station to taking, from a "second" network, no more than 25 percent of the amount of programing it takes from its primary network.

4. The Notice discussed the problem primarily in terms of the two-VHF-one-UHF situation presented in Raleigh-Durham and Augusta. However, it was asked whether other types of situations warranted similar consideration, and in the comments herein it was urged that a restriction on VHF station access to multinetwork programing be applied in two other types of cases: (1) the Anchorage, Alaska market where there are three VHF stations authorized but one of them had not been able to obtain a network affiliation; and (2) a market (Dothan, Ala.) where there has long been one VHF station and where a UHF station commenced operation (WHDN Dothan, commenced operation in August 1970). The Dothan market is one penetrated by numerous outside signals, as discussed below.

Comments filed. 5. Formal initial comments were filed in response to the notice herein by 13 parties, including the three national television networks; the UHF licensees in Durham and Augusta; three of the four VHF stations in these markets (all but WRAL–TV, Raleigh); U.S. Communications Corporation, the licensee of numerous independent UHF stations in large markets; the licensee of the San Diego UHF station now presently seeking the ABC affiliation in that market and opposing the continuation of ABC's use of the Tijuana, Mex. VHF station as its affiliate; the Dothan, Ala., UHF licensee; the licensee of the Anchorage, Alaska VHF station which did not have a network affiliation; and the licensee of the VHF station in Grand Junction, Montrose and Durango, Colo. Reply comments were filed by ABC, Triangle, Capital Cities (Durham VHF), the Dothan UHF licensee, one of the Anchorage VHF stations with a network affiliation, and a party interested in acquiring the Augusta UHF station.[2] Reply comments were also filed by a group of UHF stations in small, assertedly "overshadowed" markets, seeking not restrictions on VHF access to network programs but increased access by such UHF stations; these, which are outside of the present scope of this matter, are discussed below.

6. In addition, a large volume of letters was received, generally supporting the adoption of rules designed to restrict the VHF stations to one network and thus make the third network's programs more generally available in the market. The majority of these came from viewers in the Augusta area, apparently inspired in part by a newspaper advertisement run by the UHF station. There were a smaller number of letters to the same affect from viewers in the Raleigh-Durham area, and a letter from a citizen of Anchorage urging the same type of restriction there (filed with the Sourdough comments). One letter opposed any rules in this area as beyond the proper scope of the Commission's authority (written by the general manager of the Evansville, Ind. VHF station).

7. *Comments favoring restrictions on access to two networks.* The six parties mentioned above who are chiefly identified with UHF (including the potential assignee of the Augusta station) all supported and urged the adoption of regulations in this field, designed to limit VHF access to the programs of more than one network and thus make the programs of the third network more readily available to the UHF station in the market. The case for the rule is summarized, perhaps as well as anywhere, in the reply of General Broadcasting Co., interested in acquiring the Augusta UHF station:

> Favoring adoption of the proposed rule are the public interest in the fullest access to network programs, access at the most convenient times, and utilization of the potential of UHF. The sole consideration weighing against adoption is the network's short-term

[1] Except for Birmingham (CBS) and Columbus (where NBC appears to have a UHF affiliation) the UHF stations in these markets are ABC affiliates. The Raleigh and Durham VHF station (WRAL–TV and WTVD respectively) have primary ABC and CBS affiliations; WTVD also has an NBC agreement giving it "first call" on NBC programs. CBS has secondary agreements with WRAL–TV and WRDU–TV (UHF), as does NBC with WRDU–TV. In Augusta, the VHF stations are also primary ABC and CBS affiliates respectively; NBC has secondary agreements with both. WATU had a secondary agreement with CBS and per-program agreements with NBC.

[2] The names of the commenting parties are: American Broadcasting Co., Inc. (ABC); Columbia Broadcasting System, Inc. (CBS); National Broadcasting Co., Inc. (NBC); Triangle Telecasters, Inc. (Triangle, the Durham UHF licensee); Augusta Telecasters, Inc. (Augusta Telecasters, the Augusta UHF licensee); Capital Cities Broadcasting Corp. (Capital Cities, licensee of the Durham VHF Station WTVD); Fuqua National, Inc. (WJBF, licensee of the Augusta ABC-affiliated VHF station); Rust Craft Broadcasting Co. (Rust Craft, licensee of the Augusta CBS and NBC-affiliated VHF station); U.S. Communications Corporation; Western Telecasters, Inc. (San Diego UHF); Southeastern Alabama Broadcasting Co., Inc. (WDHN, the licensee of the Dothan UHF station); Sourdough Broadcasters, Inc. (KHAR–TV, the licensee of the Anchorage independent station); XYZ TV, Inc., the licensee of Grand Junction and other Colorado stations; Northern Television Inc. (another Anchorage VHF licensee); General Broadcasting Co. (interested in the Augusta UHF station); and the group of 4 small-market licensees discussed below.

interest in not having an inducement to grant primary affiliation. Thus, the necessity for the proposed rule appears clear.

8. All of these parties except WDHN (Dothan) are concerned primarily with markets having three (or more) stations, particularly the two-VHF-one-UHF situation. It is urged that in such circumstances, the public interest requires that the VHF stations be limited to one network per station, rather than the present situation in Raleigh-Durham and (until recently) Augusta, where one (or both) of the VHF stations can have access to the programs of two of the three networks. The station so benefitted, it is said, can choose the programs from the two schedules which it wishes to present, for example during prime hours, and can have the other network's programs available for other times, when it presents them on a delayed-broadcast basis, or it may not present at all, in which case they are lost to the public in the market. In any case, it is said, the public loses: the VHF station so favorably situated may not present the programs from the "second" network, in which case they may be lost; or, if they are presented on a delayed basis, they are presented at times other than those at which they are scheduled by the networks, often inconvenient to viewers and sometimes with a delay of several days or even weeks compared to their live broadcast. It is said that the networks themselves do not benefit from such a situation; their efforts to get clearance on a secondary basis on the VHF, rather than making a regular primary affiliation arrangement with the UHF, are said to be short-sighted. They may gain some short-range advantage in the greater circulation which the VHF can now deliver as compared to the UHF, but at the expense of having a regular primary affiliate which, with the benefit of the more popular network programing, can develop into a truly competitive outlet in the market. It is asserted that the networks, in these respects, put the UHF station in an impossible position: they refuse to enter into a regular affiliation with it because, allegedly, it cannot deliver the audience; yet at the same time they refuse to make available to the UHF station the attractive programing with which it can bulid up an audience, and, to the extent necessary, persuade viewers to convert their sets to UHF capability in order to receive it. It is said that even the short-term gain in circulation may not be much, if the program is scheduled in prime time on the network and would be so presented on the UHF, but the favored VHF station presents it at a less desirable hour. The resulting pattern of network program availability, it is said, works doubly and unfairly to the advantage of the VHF station and the disadvantage of the UHF. The former has the best of the programing available to it, and can use its two-network position to present programs delayed during nonnetwork periods and thus save the costs of buying nonnetwork material; the UHF station has available to it only the less desirable network programing which the VHF station does not want (and with which the UHF station cannot hope to build an audience), and it must buy expensive (and less population) nonnetwork material to supplement these meager leftovers from the network schedules.[3]

9. Therefore, it is said, Commission action is needed to persuade the networks to affiliate on a regular basis with UHF stations in these situations, in order to implement the policy of fostering UHF to which we have attached high importance over the last decade. It is asserted that voluntary action is not enough in these cases even though it has worked in a number of other situations, and therefore the Commission must intervene, to eliminate the restraints on effective competition which these situations present with respect to network programing. It is said that this is necessary if our objective is to be fulfilled and UHF is to develop into a truly competitive service as required for a truly adequate national television system, with greater opportunity for diversity of broadcast voices and the development of local outlets.[4]

10. Some of these parties particularly attack two of the practices which occur in these situations: delayed broadcast of some of the network programs, and recapture of a program by a VHF station, on very short notice, when it is being presented by the UHF station. The arguments with respect to the first have been referred to above.[5] As to recapture, it is alleged that this creates havoc with a UHF station, which must go to some lengths to promote a network program and audience interest in it, and then loses all of its work when the VHF recaptures the programing and gains the benefit of the UHF station's effort. The instability of viewing schedule thus involved is said to be confusing to the public and harmful to the UHF station in trying to create an established position, as well as in requiring it to have available on short notice, nonnetwork programing to fill the void.

11. As to the matter of recapture, in the oral argument in Docket 16041 held in April 1970, and comments filed at that time, ABC and CBS indicated that they had adopted or were about to adopt a policy under which a program placed on a nonaffiliate would be recapturable on 28 days' notice, but only after it had had a minimum of 13 weeks run on that station, thereby assuring at least a measure of stability. The notice herein inquired as to whether such a policy might not largely resolve the problems mentioned by Triangle, which usually involved recapture. In its comments here (filed September 15, 1970), NBC states that it too has adopted such a policy. However, in a late-filed pleading filed in December 1970, Triangle mentioned two instances of recapture by CBS of programs carried on WRDU–TV, so that they might be shown on WTVD; and one of these was on only 10 days' notice ("Mannix", terminated on WRDU–TV December 16).

12. *"Specials"*. The Triangle comments herein, in addition to incorporating by reference the petition for rule making and responsive pleading, dealt largely with the matter of "special" programs presented by the networks on a one-time basis. It is asserted that during a week in September 1970, CBS and NBC offered numerous "specials", which preempted regular programing; and WTVD carried all of them, from both networks.[6] This, it is said, works to WRDU–TV's and the public's disadvantage in a number of ways: WRDU has no opportunity to present these highly promoted and attractive programs, which affects its public image and position in the fall ratings; audience confusion results from the fact that the network's advance publicity for these programs, during regular time, is carried on WRDU (which has no way to delete it) even though it will not be able to carry the programs; the regular programing of the other network, which WTVD gives up in order to present the "special", is not available to WRDU, and neither is the special program itself, so that it must fill the time with costly nonnetwork material; and WTVD may choose to present the "special" on a delayed basis, in competition with the programing of the same network when it is running on WRDU. All of these consequences are described as undesirable, and it is said that they will increase if the use of special programs increases, as NBC has stated it intends to do. It is also pointed out that no re-

[3] Triangle in its comments quote the testimony of an official of VHF Station WBTW, Florence, S.C., in a hearing on its application to increase facilities (Docket 18650), pointing out the advantages to a station of being able to present programs from both networks and thus have a highly popular schedule and save nonnetwork program costs; and also as to the situation of Triangle's Station WRDU: "They need audience to get network programing and they need the programing in order to get the audience and it is a tough situation," (Docket 18650, Tr. 405.)

[4] Some of the parties opposing a Commission rule say that it is unnecessary because of the small number of situations involved. It is said in the comments of some of the proponents that this is all the more reason to adopt a rule: with only a few situations involved, no network will be seriously hurt nationally, even with respect to comparative audiences in the short run.

[5] It is urged that delayed broadcast may result in not only no circulation gain for the network (delayed, off-time VHF as compared to prime-time UHF) but also an advertising message reaching a different audience from that which it is intended to reach on the network.

[6] Triangle's comments listed 14 such specials. However, in reply comments Capital Cities pointed out that four of these were actually from Hughes Network and other sources besides the three national networks; and five others were special programs presented by the network during times when the regular programing was carried entirely by WTVD. Two others were "one-shot" sports programs scheduled and cleared long in advance. Of the remaining three programs, two were presented by the network in program time normally run by both WTVD and WRDU; and only one occurred in time normally carried only by WRDU. Thus, the actual impact is considerably less than would appear from the Triangle comments.

striction on recapture, by itself, will offset these situations.

13. *Effect of the "prime time access rule".* In May 1970, later modified on reconsideration in August, the Commission adopted the "prime time access rule", new § 73.658(k), limiting TV stations in the top 50 markets (ARB prime-time home ranking) to the presentation after October 1, 1971, of network programs during no more than 3 hours of "prime time" per day, out of the 4 hours between 7 and 11 p.m., e.s.t. While the presentation of network programing by stations in other markets is not so limited, all of the networks have indicated that they will reduce their prime time programing to 3 hours instead of the current 3½ hours. NBC predicts here that under the new rule there will be more network programs available to UHF stations in situations such as Raleigh-Durham and Augusta. On the other hand, Triangle makes what appears to be a more cogent argument: that the new rule may well mean that less such programing will be available. Its contention is that, outside of the top 50 markets (which both of these are), the VHF affiliated stations will not be limited by rule to the presentation of only 3 hours a day; therefore they will present as much as they can, or 4 hours, leaving only 1 hour remaining of the 9 hours which will be available per day from all three networks. This, it is said, will make UHF stations such as WRDU practically independents.[7]

14. *Comparability of facilities.* The Notice raised the question as to whether any restriction on VHF access to two networks should apply in situations where the UHF station does not have comparable facilities, and, if not, what standards should be applied in determining what is "comparable". The comments in response to the notice had relatively little discussion of this matter; Augusta Telecasters et al., urged that such a standard not be part of the rule, and that, while waiver of the "one network per station" rule might be appropriate for consideration in some cases, comparative existing coverage contours should not be a ground for it. The argument is that facilities can be improved, and will be as the UHF stations get the increased revenue which will come from the expanded audiences they will gain having network programs.

15. *The Dothan, Ala., situation.* While most of the discussion herein pertained to markets with three (or more) stations, the Dothan UHF licensee (WDHN) discussed that rather different situation, as did ABC in reply comments. Dothan for many years was a "one-station" market, with VHF Station WTVY affiliated with CBS and ABC. WDHN commenced operation in August 1970. Dothan is ranked by ARB as the 135th market in net weekly circulation and 158th market in number of homes in its area of dominant influence (ADI). No other station puts a Grade A signal into Dothan itself; but Station WJHG–TV, Panama City, Fla. (VHF NBC), puts a Grade B signal over Dothan and Grade A into its county, in which it is shown as having 50 percent or more net weekly circulation. Stations WCTV, Thomasville (Ga.)-Tallahassee (Fla.) and two Columbus, Ga. stations put Grade B signals into the county, and the Thomasville-Tallahassee and one Columbus station show 25 to 49 percent net weekly viewing there (they are respectively CBS and ABC affiliates).[8]

16. WDHN describes unsuccessful efforts with all three networks to get a regular affiliation; CBS finally agreed that it could carry any programs not taken by WTVY (which amount to very little), and it was able to work out a similar limited arrangement with ABC.[9] According to WDHN's comments, during 1970–71 WTVY was scheduled to carry some 12 hours a week (12 programs) of ABC prime-time programing, all of it delayed, as well as three half-hour daytime (Monday-Friday) programs. WDHN argues that since this programing is not available to it, it must spend some $2,000 a month on syndicated material, whereas WTVY is able to get by with only about 1 hour a week of such programs. Recapture is said also to be a problem, as mentioned above.

17. ABC in reply comments discusses this situation, to the effect that it carefully studied the WDHN request for affiliation, and found that the station could not deliver sufficient homes to meet ABC's minimum standard for affiliation (it would add 3,200 homes to the network's circulation, and 5,000 is the minimum criterion). ABC claims that it gets much larger audiences on WTVY; and that, not having affiliations with stations in the general area to the same extent as the other networks (and with only a UHF affiliation in Montgomery) it needs the wider coverage it can get on WTVY even if only part of the time. ABC also points out that NBC, which has the Panama City station as a primary affiliate, does not even consider placing its programing in Dothan.

18. *The form of rule requested.* Of the six "UHF" parties commenting, four requested that a rule be adopted limiting stations to one affiliation per station. Triangle suggested a rule that, in a recognized market with three stations or less, a VHF primary affiliate should not be able to take programs from another network unless that network had offered an affiliation, on standard terms, to a UHF station in the market not otherwise affiliated. Conversely, the network would be prohibited from offering programs to any VHF station except its regular affiliate unless it had first offered a standard affiliation to the UHF station. WDHN, Dothan, proposed a rule that would prohibit a station with a "dual affiliation" from (1) presenting network programs on a delayed basis unless they have first been offered to any unaffiliated station in the market; and (2) from recapturing any program which it has declined, during the duration of the season. However, these protections would only last for the first 5 years of the license of the UHF station protected. It is claimed that this would provide such stations with an incentive to improve facilities promptly, since they will have to have an established audience by the end of the 5-year period. WDHN also proposes other features in its rule, including applicability to all "intermixed" markets, and defining "market" broadly, to include stations with overlapping signals, for example, Dothan-Panama City-Albany-Montgomery. Or, it is suggested, the Commission could prohibit networks from denying an affiliation to any station on the basis of outside coverage. WDHN also makes the same argument mentioned above, that "comparability" should not be a test. Some of the UHF parties express the view that the alternative approach suggested in the notice—a limitation on VHF stations taking programs from a "second" network such as 25 percent of the amount taken from the first—is not sufficient, since it would still leave them with first access to the best and most popular programs of two networks. Recapture restriction is also viewed as inadequate, since it does not resolve the matter of initial access to programing and would not cover "special" broadcasts at all.

19. As to the televising of network "specials", in reply comments WDHN suggested a possible regulation to deal with this matter, as follows: the network must first offer the "special" to the station in the market which is normally carrying its programs at the time pre-empted by the special broadcast; if the time involved includes regular programs carried by two stations in equal amount, the network may offer the special to either on condition that the station selected relinquish to the other station that portion of the time which would not otherwise be pre-empted; and if the time involved is normally split between the two stations unequally, it must offer the special program to the station normally using the most time (on the same condition).

20. *The Anchorage, Alaska situation.* Comments filed by Sourdough Broadcasters called attention to the fact that its Station KHAR–TV, Anchorage, had not been able to obtain a network affiliation, with one of the other stations having both ABC and NBC affiliations. Therefore the station was forced to go silent during 1970, returning to the air when it got more capital. It is urged that this situation not only results in loss of desirable programs to the public, but also thwarts expansion of local nonnetwork programing, which may be sharply reduced if the nonaffiliated station is forced to go dark permanently. A letter

[7] These observations were contained in a late pleading filed by Triangle on December 30, 1970. It was accompanied by a petition for its acceptance, and served on the other commenting parties. No opposition was received, and it is accepted and considered.

[8] See Television Factbook, 1970–71 edition, pp. 170b, 173b, 182b, 194b, and 196b, which presents ARB data of March 1969.

[9] According to WDHN, the arrangement with ABC requires WDHN to carry all of the network commercials, but without any compensation and having to pay for bringing the programs from Montgomery.

from a listener to the same effect (claiming to have gotten over 24,000 signatures on a petition) is attached. Sourdough accordingly asks for a rule prohibiting dual affiliation in any market where there is an independent station desiring an affiliation. In reply comments concerning this matter, Northern Television, Inc., the licensee of Station KTVA, Anchorage, a CBS affiliate, concurred in the viewpoint expressed as to the present situation and the importance of providing separate outlets for each network, but expressed the hope that this could be done by voluntary action rather than rule. It is pointed out that now, all network TV programing in Alaska is film or tape rather than live; but that this may soon change with satellite availability.

21. *Comments opposing or questioning the need for a rule.* The three national networks filed comments herein, as did three of the four VHF licensees in the markets particularly involved, all opposing the adoption of any rule in this area, or at least questioning the need for it. Essentially, the argument is that the Raleigh-Durham and Augusta situations are isolated and unique, with the great majority of these situations having been resolved by the UHF station obtaining a regular affiliation; and the same thing will happen here in time, if the UHF stations improve their situations technically and in performance to the point where they may be expected to be reasonably competitive. "Sheltering regulations" of the type proposed and advocated by the UHF parties, it is said, would remove this impetus to them to improve their service. It is also urged that Commission action is not necessary because these UHF stations do carry considerable network programs now (14 prime hours in Augusta and 18 in Raleigh-Durham, or 57 and 73 percent of 24½ prime hours per week).[10] It is also urged that the new recapture policy, adopted earlier in 1970 by ABC and CBS, and which NBC has now adopted, resolves much of the problem (such situations were one of the chief bases of the original Triangle petition). ABC also refers to its present policy in this connection: Whereas previously, if unable to obtain a primary VHF affiliation in such markets, it sought secondary placement on a VHF station as the first alternative, now in the top 100 markets it will secure a regular UHF affiliation as the alternative, and will consider this course even in smaller markets (e.g., Burlington-Plattsburgh, Vt.-N.Y., where it has a UHF affiliation). This is said to reflect the general improvement in the situation of UHF.[11]

22. NBC points to the low UHF audience shown in these two markets in the February-March 1970 ARB "sweep"—3,000 households for the UHF's compared to 65,000 and 69,000 for the VHF stations in Raleigh-Durham, and 33,000 and 39,000 for those in Augusta. Thus, it is said, in these "exceptional" situations the public interest clearly does not warrant forcing more network programs onto these UHF stations, which do not have enough circulation to justify charging an advertiser and simply are not a viable alternative to VHF placement. The result, it is argued, would simply be to diminish the audience which these programs would have, without any change in viewing habits in the market, with no public benefit and with only minimal private benefit in view of the substantial amount of network programing already carried on these stations. In sum, asserts NBC, here there is simply no public-interest justification for the Commission's involving itself in the complexities of network-station affairs, such matters as comparative coverage and circulation, recapture arrangements, rates to advertisers and station compensation, and interconnection costs. It is urged, by NBC and others, that the matter is much better left to the free play of the competitive forces of the marketplace. CBS urges that an ad hoc approach is preferable if any action is needed, which can take into account the facts of these and any future situations which may develop.

23. Capital Cities incorporated as its comments herein its opposition to the original petition (and a subsequent letter), which were discussed in the notice and need not be mentioned at length here. The points urged, in addition to arguments mentioned above, included WRDU's significantly different location compared to the VHF stations, as well as a directional antenna, giving it greater coverage to the west but meaning less coverage to the east including Raleigh; the substantial amount of NBC programing carried by WRDU–TV and the fact that usually WTVD's program plans were known to it well in advance; the asserted absence of any intent to harm the UHF station or of conduct beyond normal competitive action; the argument that no restriction on "first refusal" or "primary affiliation" would be significant since these represented unilateral NBC clearance decisions; and the argument that forcing NBC and viewers to rely on a substantially inferior UHF station would be of highly doubtful legality as a permanent matter and, viewed as a temporary expedient, would be a substantial burden on the public and the Commission, as well as impairing the cause of effective competition between networks and removing the UHF's incentive to improve. In reply comments herein, Capital Cities notes that most of the UHF parties urge a rule strictly limiting stations to one affiliation, and asserts that this would represent a sharp reversal of the Commission's traditional opposition to "exclusive" network-station relations, a position going back to the Chain Broadcasting Rules of 1941. It is also asserted that, in challenging the propriety of delayed broadcasting by the VHF stations, these parties are urging the Commission to restrict a practice which it has not previously disapproved but in fact has adopted in the CATV area, and which the Network Study Staff did not find inconsistent with the public interest. (Network Broadcasting, H.R. No. 1297, 85th Cong., second session (1958)).

24. The Augusta VHF licensees make similar arguments. Rust Craft, whose station is a CBS affiliate, stated that there is only one program in its present schedule (fall 1970) which previously ran on WATU and therefore could be regarded as "recaptured". It asserts that any rule in this field would be to the detriment of the public, particularly in conjunction with the new "prime time access" restriction; and would simply mean the loss of some programs (apparently NBC) to the total service area which the station has, without necessarily benefiting even the UHF station since the programs might not be released in the market if the VHF could not show them. WJBF, the other VHF licensee, asserts that the rule is unnecessary for the reasons already mentioned; that a station has no right to build without having an affiliation and then complain because it did not get one; and that any rule would be discriminatory in numerous respects: Against future stations (as long as there are only three networks); against the networks; against "independent networks" which may develop and need clearance opportunities which the rule would tend to reduce; against advertisers in forcing them to forego the largest possible circulation, contrary to the economics of the situation; against cable systems (in requiring networks to make programs available to UHF stations but not cable systems which may have the capacity to transmit them); and against program suppliers (will stations be forced to buy their product? If so, where will it all end?). It is claimed that the Commission should adhere to its wise policy of not getting involved in program matters; and that programs should be, as they are now, offered to stations "in descending order of audience circulation." WJFB claims that there is no clearance problem in Augusta, attaching a newspaper log showing considerable prime-time network programing by all three stations.

25. As to the form of any proposed regulation, ABC favored that advanced earlier by the Charlotte UHF station and mentioned in the notice: A numerical limitation on the number of hours (or percentage of hours taken from the primary network) which a station may take from a "second" network. It was suggested that this would be more likely to be effective, since (as pointed out by Capital Cities) the clearance decisions involved are basically unilateral on the part of the network, not a matter of contractural requirement. ABC also urged that the rule not apply where the UHF station does not have comparable facilities.

26. *Reply comments of four small-market UHF stations.* As noted above,

[10] The figures are NBC's, based on a week in the spring of 1970. Of the 14 hours carried on WATU–TV, Augusta, two were ABC, 4½ CBS and 7½ NBC; of the 18 hours carried by WRDU–TV, Durham, 11 were NBC and seven were CBS. In both cases, nearly but not completely all of the programing was carried at its live network time.

[11] ABC asserts that it reserves the right to make an exception to this policy in cases where it loses a primary VHF affiliation; in such cases, to ease the drastic impact, it may attempt to seek secondary VHF placement instead of a UHF affiliation.

reply comments herein were filed on behalf of the licensees of "small-market" UHF stations: KLOC–TV, Modesto, Calif., WHKY–TV, Hickory, N.C., WJAN, Canton, Ohio, and (formerly operating) WMKG, Muskegon, Mich.[12] These are independent UHF stations in relatively small cities, fairly close (roughly 35 to 55 miles) from cities and stations in larger markets.[13] These comments urge the Commission to adopt requirements to insure that a minimum amount of network programing be made available to these stations, 1 hour per day of prime time and 1 hour daily of nonprime time from each network, or 42 hours per week in all. This would be done by simply requiring the network-affiliated stations in these cities (usually, though not always, VHF) to give their consent to the rebroadcast (on a "bonus" basis) of that amount of network material by the small-market stations. It is claimed that these stations are desperate for programing of competitive quality, being unable to get network programs because of their "overshadowed" situations and coverage of their areas by large-market VHF affiliates, and being unable to get much good nonnetwork material because they cannot compete price-wise with the larger-city stations and salesmen are afraid to sell to them because it might jeopardize a sale in the larger center. The result, it is said, is catastrophic to the cause of local television in these cities, which are of substantial size even though smaller than the large cities nearby, and to the Commission's allocations plans and objectives. It is urged that, while the problems of recapture, clearance, etc. in the Raleigh-Durham and Augusta UHF situations may be serious, the situation in these small "overshadowed" markets is even more so.[14]

27. These parties recognize that their proposal is not within the scope of this proceeding as it was delineated in the notice, but urge that it be expanded to include this subject, in view of its importance. It is claimed that requiring such rebroadcast permission for stations over a certain distance (e.g. 30 miles) from the large-market station will achieve the obvious advantages mentioned with no significant cost to anyone. It is said that the networks will not be hurt because they have to pay nothing for these "bonus" telecasts; the large-market stations will not suffer because they do quite well anyhow and this additional exposure in the general area will have no more impact than would a CATV system; and neither they nor the networks will suffer competitively because all networks and affiliates would be treated and affected equally (since all would have the same amount of material rebroadcast by the small-market stations).

Other factual material. 28. In order to get more complete information on which to reach conclusions herein, the Commission and its staff have analyzed some additional information, concerning: (1) Current clearances of network programs in the Raleigh-Durham and Dothan (Alabama) markets; as noted, the Augusta UHF station is no longer operating; (2) the extent to which these prime-time programs available to the UHF stations are less popular than those carried by the VHF stations, as the UHF parties claim; and (3) the comparative facilities of the UHF and VHF stations. This material is discussed in the next few paragraphs.

29. *Network programs carried by WRDU–TV, Durham.* According to information contained in TV Guide for the week of January 16 to 22, 1971 (and the current TV network show sheets contained in Broadcasting Magazine for January 11) WRDU–TV carried, live, 8 hours of 23½ hours of NBC prime time programing (7:30–11 p.m. e.t.) during this week (1 hour this week was a Presidential message). These programs included one movie, Adam 12, Laugh-In, Julia, Kraft Music Hall, Four in One, Strange Report, the Bill Cosby show, and a news special preceding the Presidential message. It also carried live 2½ hours of CBS prime time programs (Thursday movie and Hogan's Heroes) and two CBS hours delayed but in prime time (Mission Impossible and Jackie Gleason), for a total of 12½ hours of prime time network material, or some 53 percent of the 23½ prime time hours. It also carried the CBS and NBC Sunday 7 p.m. shows (Lassie and Wild Kingdom, the latter delayed an hour). Of the other NBC prime time shows, WTVD carried 6½ hours live (the entire Thursday schedule,[15] the Saturday movie and Bonanza) and one-half-hour delayed but in prime time (the second half of the World of Disney program, carried on the network Sundays live at 7:30 but apparently delayed by WTVD a week and shown the following Sunday at 7). WTVD also carried in prime time during the week 13 hours of CBS prime time material, 8½ hours live and 4½ delayed. Thus, it presented in prime time 20 hours of network material. WTVD also carried delayed 3½ hours of network prime time programs (the Red Skelton show and the first half-hour of the Disney show from NBC, and 2½ hours from CBS) from 7 to 7:30 daily, plus NBC's Bold Ones at 11:30 p.m. Saturday, for a total of 24½ hours of material. The other VHF station, WRAL–TV, stuck close to its ABC network, carrying 20 of 22 hours of prime-time material, all live (some WRAL–TV programing was listed as not yet determined at the time TV Guide was published). OF NBC prime-time programing available, 6½ hours apparently was not shown in the market (one movie,[16] an hour news special "The American Wilderness", the 1-hour Don Knotts and Andy Williams programs, and the 1½-hour Man from Shiloh). 3½ hours of CBS programs were also apparently not presented, along with 2 hours of ABC.[17]

30. As to other programs, WRDU–TV, signing on at 10 a.m. Monday–Friday, carried the entire later NBC daytime schedule, totaling 6 hours a day or 30 hours a week (WTVD took the earlier 2-hour Today program). WRDU–TV did not carry network evening news, WRAL–TV and WTVD presenting NBC and CBS respectively. WTVD carried the NBC Tonight program, the only late-evening network show presented in the market. On Saturday, WTDU–TV carried live 3½ of 5 hours of NBC programing (8 a.m.–1 p.m.); 1½ hours (3 programs) were carried delayed by WTVD (two 7–8 a.m. Saturdays, before any network feed begins, and one Sunday morning). NBC does not have regular Saturday afternoon programs; its golf "special" this particular Saturday (6–7 p.m.) was carried by WTVD. WRDU–TV also carried ½ hour of CBS Saturday material. NBC's programing this particular Sunday consisted of the Super Bowl and related broadcasts and then a golf "special"; WRDU–TV carried one early half-hour of this and 5½ hours was on WTVD.[18] WTDU–TV also apparently carried 2½ hours of CBS hockey on Sunday afternoon.

31. *Carriage of ABC programs in Dothan, Ala.* As noted earlier, WTVY, the Dothan VHF station, is a CBS and

[12] The licensees are KLOC Broadcasting Co., Catawba Valley Broadcasting, Inc. (WHKY–TV), Janson Industries (WJAN), and Muskegon Telecasting Co., Inc. Station WMKG, Muskegon, operated from April 1967 until early 1970.

[13] The actual distances (not always the same as those set forth in the comments) are as follows: Modesto-Sacramento/Stockton: Between cities, 27 miles to Stockton and 70 miles to Sacramento; between station locations, about 50 miles; Hickory-Charlotte, 43 miles; Canton-Cleveland, 51 miles; and Muskegon-Grand Rapids/Kalamazoo: Between cities 35 miles to Grand Rapids and 74 miles to Kalamazoo; between station locations, only 19 miles to the Grand Rapids Ch. 13 (ABC) site but about 50 miles to the other two VHF stations in that market. The parties also list other distances in the cases of Hickory and Canton, to Winston-Salem and Asheville, N.C., and Johnson City, Tenn. (substantially farther than Charlotte), and to Akron, Youngstown, and Steubenville, Ohio (21, 43, and 50 miles respectively).

[14] The comments describe KLOC–TV as: "* * * completely independent. It is independent of any network programing, of any good syndicated programing, of any good film programing. It is thereby also independent of the ability to attract an audience."

[15] The Thursday programs included the Flip Wilson show. Ironsides, Adam 12 (which changed time this week and ran on both stations) and the Dean Martin show.

[16] Thus, of three NBC weekly movies, one was carried on WRDU–TV, one on WTVD, and one apparently not by any market station.

[17] For the Augusta market, analysis of ARB market data for February–March 1970 (paragraph 33, below) shows the following for network prime-time programs: WATU–TV (UHF) carried 10 hours of NBC programs (8½ live) 3½ hours of CBS (live) and 2½ hours of ABC (1 hour live). WJBF (VHF ABC) carried 21 hours of ABC (18½ live), and 5 hours of NBC (4½ hours live). WRDW–TV carried 19½ hours of CBS (17 hours live) and 7½ hours of NBC (1 live). Only 2 hours were not cleared.

[18] The number of specials in this week is not unusual for NBC, which makes more use of such programs than the other networks. The current TV show sheets mentioned 25 in the first quarter for it, compared to three each for ABC and CBS.

ABC affiliate, emphasizing the programing of the former; WDHN, the new UHF station, has a secondary arrangement with ABC (NBC programs are not carried in this market). According to TV Guide for the same week in January, WDHN carried 9½ hours out of 22 hours of ABC prime-time programing (6:30–10 p.m. c.s.t.) [19] The programs not carried included three movies totaling 5½ hours, five 1-hour programs (FBI, Mod Squad, Marcus Welby, M.D., the Johnny Cash show and the Lawrence Welk show), and four half-hour programs (Room 222, Make Room for Granddaddy, The Brady Bunch and Eddie's Father). WTVY carried all of these except one movie program. Two of the movie programs and two of the 1-hour programs were run on various evenings after 10 p.m.; FBI was carried in prime time on a different evening from its live broadcast (Tuesday instead of Sunday); the Lawrence Welk show was presented on the same evening of the week as its live broadcast but at a different hour; and the Johnny Cash show was carried live. The four half-hour programs were carried on different weekdays at 5 p.m.

32. As to Monday–Friday daytime programing, WDHN carried four of the five daily ABC hours (10:30–3:30 c.s.t.). The other two half-hour programs (Bewitched and General Hospital) were carried on the VHF station delayed from 3:30 to 4:30 when there is no live CBS or other network service. WDHN also carried the ABC news at 5:30, and the 10:30 Dick Cavett show. As to Saturday, WDHN apparently carried all of the 9½ hours of ABC programs except possibly for 1½ hours of sports (bowling) in the early afternoon, which was carried by WTVY. On Sunday, the UHF station carried three of five half-hour ABC morning shows (the other two, Bullwinkle and Discovery, were carried by WTVY), and it carried the two mid-day ABC programs (Directions and Issues and Answers).

33. *Relative popularity of network programs carried and not carried by the UHF stations.* As noted above, one of the arguments of the UHF parties is that while network programs (both evening and other) are available to them in quantity, these are not the popular audience-building programs; the latter, it is said, are taken by the V's. To determine whether this is true (to the extent it is susceptible of statistical evaluation) we have compared the ratings of the evening programs shown by NBC as carried by the Raleigh-Durham and Augusta UHF stations in the spring of 1970, with the other prime-time network programs at that time, using the ratings shown in the ARB Television Market Summary for City metropolitan survey area.[20] As far as this material is an indication, it shows the statement to be true but only to a certain extent; the programs carried by the UHF stations were, overall, less popular than those not carried by them, but not always. In the case of ABC, where only three programs were carried on UHF (all in Augusta), these had ratings of between 10 and 11. Of 26 other ABC prime time shows, only nine had ratings as low as 11, and only seven were under 10. As to CBS programs, for the 11 programs other than the CBS Thursday movie carried on one or both of the UHF stations,[21] the ratings varied from 20-minus (Ed Sullivan) to eight (Lancer), with a median between 13-minus and 11-plus (one show listed by NBC was not included in the rated programs). Of 17 other CBS programs except the movie, one was higher than Sullivan, four others were over 15; three were 14.5 to 14-minus; three were 12.5 (median) to 12; four were 10.5 to 8.5; and two were less than 8. The CBS movie carried on UHF had a higher rating than that not carried. For NBC, the 12 shows carried on UHF other than movies had ratings from 16-plus to 10-plus, with a median between 14.5 and 14-minus. Of nine other regular programs except movies, three had ratings over 16-plus, one was 16-plus, one (median) was 15-plus, two were 12-plus and 10-plus, and two were under 10. The movie not carried on UHF rated higher than the two which were carried.

34. *Comparability of UHF and VHF facilities.* While there have been and are UHF stations operating with only modest facilities, that is not true in the Augusta, Dothan or Raleigh-Durham situations. The Dothan station operates with 1,972 kw. E.R.P. and antenna height of 727 a.a.t.; the Augusta and Durham UHF stations have antenna heights of 1,580 and 1,040 feet a.a.t, and E.R.P. (in the maximum direction) of 800 kw. and 2483 kw., respectively. In Dothan, the distances to the Grade A contours of the UHF and VHF stations are (average) about 38 and 40 miles, respectively, and to the respective Grade B contours, about 53 and 73 miles. The UHF and VHF stations' Grade A and Grade B coverage areas are about 4,500 and 8,800 square miles for the UHF and 5,000 and 16,700 miles for the VHF. In the case of Augusta, the distance to the UHF Grade A contour is about 50 miles compared to 43 miles and 54 miles for the two VHF stations WJBF and WRDW–TV, and the respective distances to the Grade B contours are about 67 (UHF) compared to 76 and 74 miles. The areas are about 7,900 square miles for the UHF Grade A, compared to some 5,700 and 9,200 square miles; and, for the UHF Grade B, about 14,100 compared to 18,100 and 17,200 square miles. In the Raleigh-Durham situation, the two VHF stations (located close to each other slightly southeast of Raleigh) have distances to the Grade A contour of about 40 and 54 miles (WRAL–TV and WTVD respectively), and Grade A coverage areas of about 5,000 and 9,200 miles; it is about 73 miles to both Grade B contours and they include about 16,700 square miles. WRDU–TV, the UHF station, is located some 37 miles away west of Durham, and has a directional antenna giving it a roughly triangular coverage area. The distances to the Grade A contour range from 35 to about 51 miles, and, to the Grade B contour, about 50 to 67 miles. The respective coverage areas are about 6,300 and 11,800 square miles. Because of the different location, the coverage areas are somewhat different, as pointed out in the notice, with the VHF stations serving farther to the east and south, and WRDU–TV more to the west. However, all three stations well cover the "home cities" and the three "home counties" (Wake, Durham, and Orange).

Conclusions. 35. After careful consideration of the foregoing matters, as well as past Commission policies and actions which are pertinent, we conclude that the public interest requires action to limit regularly affiliated stations in markets with three or more stations in their carriage of programs from a "second" network when there are stations in the market without a regular or "primary" affiliation. The reasons for this conclusion are discussed below. Moreover, we are of the view that some action is required at this time, without waiting for the additional "Further Notice of Proposed Rule Making" step which was envisaged in the original notice as a likely next step. We reach the latter conclusions for two basic reasons: first, the critical situation of UHF in some places at the present time, for example the cessation of operation by the Augusta UHF station in November 1970; and second, the cutback in network prime-time programing apparently planned for 1971 and following seasons, assertedly, because of the new "prime time access rule" effective October 1971 (§ 73.658(k) of the Commission's rules). It appears that the networks are all going to reduce prime-time programing to 3 hours a night, or 21 hours a week, since that is all that stations are permitted to carry in the 50 largest markets. Since the markets involved here are outside the top 50, the stations in them will be under no such limitation; and the two regularly affiliated stations, if left unrestricted, may well choose to present between them the bulk of the prime-time programing of the "third" network, as well as all of that for their regular two.[22] Therefore, in order to preserve a substantial amount of desirable prime-time network product

[19] ABC ended its network broadcasting at 9:30 p.m. c.s.t. (10:30 e.s.t.) on two evenings of the week.

[20] New York City was chosen because, with all shows presented and at their live time and with no significant technical differences, this seemed the best indication of the inherent popularity of the material. The figures shown are the averages of the ratings for the four weeks covered in the ARB Summary (or three in some cases where there was one "special" in the time period) and of ratings for more than one time period if the program covered two or more.

[21] Movie programs are listed separately both because they occupy long time periods and because there was considerable variation in ratings from 1 week to the next, although always fairly high. See also footnote 25, below.

[22] As noted above, this point was urged in a late filed pleading by Triangle Telecasters, Inc. (WRDU–TV). However, it would have been noted by the Commission and staff in any event, in the course of our continuing evaluation of broadcasting and network developments and tendencies.

for the other station, action to impose an immediate restriction is required.

36. *Need for Commission action.* As noted, any Commission action in this area will apply, at present, in only one market in the 48 States, Raleigh-Durham, plus Augusta if that UHF station is able to resume operation (it may also apply in the three-VHF Anchorage, Alaska, situation mentioned above). We recognize that any rule will thus be of very limited scope, and that many such situations, which have been troublesome in the past, have been resolved by voluntary agreement, the network which has not had a primary affiliate in the market entering into such an arrangement with the UHF, station. These include the long-troublesome Birmingham and Dayton situations, where CBS and ABC respectively, now have primary UHF affiliates, and three situations in which UHF stations have gone into operation in the last half of 1970, in previously two-VHF markets, and the network without a primary VHF affiliation has joined with them. These are Savannah, Ga., and Jackson, Miss. (ABC), and apparently, Columbus, Ga. (NBC). However, the fact that the rule will be of limited applicability does not remove the need for it in the public interest, in the situations to which it applies. In these two cases, the apparent preference of the network without a regular affiliation—NBC in both cases—to seek clearance on and give preference to one of the VHF stations, is thwarting the development of the UHF stations in these markets as viable, truly competitive outlets capable of contributing to the full development of television in the United States.[23] Thus, the situation presented is contrary to our expressed goals of furthering UHF and thus providing for a fully adequate service, and Commission action is warranted and appropriate. Thus, this is not "special legislation"; it is an effort to take legitimate regulatory action to correct a situation—fortunately seldom occurring—which is contrary to the public interest. We find merit in the suggestion of one of the commenting UHF parties that, rather than indicating that no rule is necessary, the facts show that Commission action is appropriate to improve, in these two cases, situations which are normally corrected by voluntary means but have not been here. Thus, the rule adopted is largely designed simply to extend the general pattern which has developed voluntarily, to situations where it has not been applied in the absence of a rule and where it should apply if the public interest is to be served.

37. It is also to be noted that there are a large number of markets which are presently "two-VHF" situations, including some of substantial size such as Lansing, Mich., and Steubenville-Wheeling (Ohio-W. Va.), and in these situations the rule is potentially applicable if and when a UHF station is ready to commence operation. In these cases, it will serve the public interest both in providing these stations with desirable programing and, we hope, encouraging voluntary affiliation on a regular basis with the UHF station if it has comparable facilities.

38. *Substance of the rule adopted.* Accordingly, we are adopting herein a new rule, paragraph (l) of § 73.658, the text of which is set forth below. The rule is obviously long, and may appear complex; these aspects of it are necessary if the legitimate rights of the various parties and the public interest are to be adequately secured in the absence (by definition) of a voluntary agreement. As noted, the rule will apply now only in a very limited number of situations, and we hope that the course of future developments will be such that it will not need to be applied elsewhere and, indeed, will soon become a dead letter even in these situations through voluntary affiliation by the network with the UHF station. The substance of the rule is as follows:

(a) *Scope.* The rule applies in markets (as defined by the American Research Bureau (ARB)), having two stations regularly affiliated with networks, and one or more stations (VHF or UHF) not so affiliated (there are now no markets with two such stations, although Lubbock, Texas fell into that category until recently). The status of markets as covered by or excluded from the rule is determined by the existence of unaffiliated stations either operating (Raleigh-Durham) or authorized and giving notice by July 1 of a year that they will commence or resume operation by October 1, and commit themselves to remain on the air for 6 months. The latter is designed to cover the Augusta station if the UHF station can meet these conditions. The rule applies mainly though not entirely, to the "unaffiliated network", i.e., the network which does not have a regular VHF affiliate in the market, NBC in both of these cases.[24]

(b) *Programing covered.* The main operating portion of the rule, paragraph (l)(2), provides that the VHF stations affiliated with networks cannot take certain programs from the third, or "unaffiliated network", unless and until certain conditions with respect to placement on the unaffiliated station have been met. These include "evening programing" unless the latter station has been given "first call" on it to the extent of 15 hours a week, and Saturday, Sunday and holiday afternoon sports programing, such as the NBC Super Bowl program carried in Raleigh-Durham by the VHF station and mentioned in paragraph 30, above. The latter includes some highly popular material, and we regard it as of great potential benefit to the UHF station if it is able to present it. The definition of "evening programing" in paragraph (l)(2)(viii) is basically "prime time" programing, plus programing other than regular newscasts which the networks may present from 7 to 7:30 eastern time. The latter is included chiefly in recognition of the fact that on Sundays there is less of a line between prime and nonprime time, and such programs as the CBS "Lassie" and NBC "Wild Kingdom" shows (both carried by the Durham UHF) are much the same as material broadcast during prime hours.

(c) *The "first call" provision.* Subparagraph (2) of the new rule is designed to give the unaffiliated station "first call" on all of the network's evening program schedule, to the extent of 15 hours per week. In terms of quantity, this does not necessarily represent a great increase over what the UHF stations in these markets have been carrying (for example, the 10 NBC hours carried by WATU in Augusta in early 1970), although it is nearly twice the amount of NBC programing carried by WRDU–TV early in 1971 as mentioned in par. 29, above. Rather the provision is designed to insure UHF access to the desirable network programs, which can best be done by giving it "first call" on the entire evening schedule. As noted in paragraph 33, above, to some extent, although by no means entirely, the UHF stations in these situations are left with the less popular network programs and are thus at a disadvantage.[25] This "first call" extends to 15 hours of evening programing per week; we hope that the network will offer, and the station will be able to accept, more, but this is the most we believe it appropriate to require as a matter of right under a Commission regulation. It amounts, of course, to more than two hours per evening. Once the unaffiliated station has been offered the entire evening schedule and accepted this much of it (with additional "special" hours as discussed below) or taken a lesser amount and not taken the balance, the network's obligation under the rule ends.

(d) *"Specials" broadcast in evening time.* As indicated in paragraph 12, above, one of the chief complaints of WRDU–TV, Durham, is that the VHF station takes all of the NBC "specials", often popular and heavily promoted programs. While the UHF station's case appears to be overstated, and analysis of the recent TV Guide and ARB rating material men-

[23] The Raleigh-Durham and Augusta UHF stations both lost substantial sums in 1969, both on a "book" loss basis (expeditures more than revenues) and an actual cash-flow basis. As noted, the Augusta station has had to cease operation. By contrast, all of the four VHF stations in these markets are substantial and profitable operations.

[24] The term "affiliation" is defined as any arrangement under which the network looks primarily to this station as its outlet in the market, and under which the station chiefly presents the programs of this network rather than another network.

[25] A comparison of more recent material—Nov. 1970 ARB ratings in New York City, and the programs listed in TV Guide as carried by WRDU–TV and WTVD in January—shows the same kind of disparity as that mentioned earlier, the NBC shows run on the VHF station having, overall, somewhat higher ratings and including the two highest regular NBC programs (Ironsides and the Flip Wilson show). It is also noted that, in the changes for the 1971 fall season recently announced by NBC, about half of the shows on WRDU–TV will be canceled (Julia, Bill Cosby, the Kraft Music Hall, Strange Report and part of 4-in-1), whereas of the WTVD NBC material only the Red Skelton show (carried delayed) and part of the Bold Ones program will not reappear.

tioned above indicates that these UHF stations have carried a number of NBC special programs (e.g. Bob Hope and Jack Benny specials), it appears that greater access to these programs would be of benefit to the UHF stations. At the same time, it appears that there should be a limit to the extent to which the UHF station is guaranteed access to these unless it is regularly carrying the programs which the special preempts. Accordingly, subparagraph (2)(i) of the new rule adopts the following formula: the unaffiliated station may take such broadcasts as part of its 15 hours per week if they fall entirely within time segments for which it will carry the regular programing, and if part of the special but not all falls within the time period it regularly carries, it may claim the additional hours of the "special" without having them count against the 15 hours. On the other hand, specials falling entirely outside of time regularly scheduled by the UHF station will not be available to it as a matter of right. Thus, in January 1971, WRDU–TV was not taking any NBC Thursday-evening programs. If under the new rule WRDU–TV should elect not to run NBC regular Thursday night programs in the future, it would not have any right under the rule to claim "specials" presented that evening.

(e) *Afternoon sports events.* The rule (subparagraph (2)(ii) gives the unaffiliated station first call on sports events broadcast in the afternoon on Saturdays, Sundays, and holidays, including programs such as the Super Bowl, New Year's Day bowl games, golf events, etc. These should be valuable to it in attracting an audience.

(f) *Other carriage limitations.* Subparagraphs (2) (iii) and (iv) of the rules are designed mostly for clarification. Under the first, hours after 11 p.m. of programs starting before 11 p.m. (e.g., specials such as the Academy Awards programs) belong to the UHF station, without counting toward its basic 15 hours of evening programs, if it accepts the program during the earlier hours. Similarly, if the UHF station accepts and carries a Saturady-afternoon sports broadcast which runs on into evening hours, it is entitled to the latter portion of this without counting toward its 15 hours. The second provision mentioned is simply designed to prohibit the network's placing on a VHF station programing which the UHF station has accepted and is carrying. There is no evidence that this has been done, at least recently.

39. *Offer and acceptance.* One of the difficulties in formulating a rule in this area is to reconcile two objectives which look in somewhat opposite directions: On the one hand, if the network is to be required to place programs on the UHF station, in our judgment it must be assured that the UHF station will clear them with reasonable regularity; and, on the other hand, the Commission has long been concerned with preserving a station licensee's flexibility and freedom not to carry, or to quit carrying, a network program if it believes the public interest would be better served by presenting something else. Subparagraph (4) of the new rule represents the formulation of a compromise in this area, which we believe is the best that can be devised. Under it, the network's offer of a program—by July 15 for the fall season, or as soon thereafter as possible—represents a firm offer of the program to the UHF station for broadcast, live or at a delayed time acceptable to the network,[26] for the next 6 months,[27] provided the station presents the program with reasonable regularity and unless the program is cancelled on the network (if the program is not cancelled but is shifted in time, the station may exercise its rights with respect either to the program in its new time, or the time previously occupied, whichever it chooses). If a program is cancelled, the unaffiliated station must be offered the replacement, on the same terms as a new program. As to nonbroadcast by the station, it is in this area that adjustment is most difficult. In other portions of § 73.658, and corresponding rules for radio networks and stations, it is made explicit that an arrangement with a network shall not restrict the station from taking the programs of other networks, or of substituting nonnetwork material of merit. See, particularly, paragraphs (a) and (e). But here we are, to a degree, requiring the network to place programs on the unaffiliated station if it wishes exposure in the market at all. It appears that, therefore, some modification of these traditional and important concepts is necessary and appropriate, in the very limited number of situations falling within the ambit of the rule (which, as mentioned, we hope will only be temporary). Our resolution of the problem set forth in subparagraph (4) is as follows: The unaffiliated station is expressly given the right to substitute a local, or other live, program, but the network may place this particular broadcast or episode of the program on another station. If this happens more than roughly one-third of the time—more than four times in 13 weeks—the network may withdraw the program entirely for the rest of the 6-month period, without any obligation to offer the station additional time or programs instead. This should be ample to permit the unaffiliated station flexibility to meet local requirements, and is probably considerably more often than most affiliates preempt network programs.[28] The rule specifically states that paragraph (a) of section 73.658—prohibiting arrangements which hinder a station from presenting the programs of another network—do not apply to material covered by the new rule.

40. *"Alternate placement" by networks having an affiliate in the market.* The thrust of the rule adopted herein, and of the Triangle petition which led to this proceeding, chiefly concerns placement of programs by the network which does not have a regular affiliate in the market, NBC in these cases. However, as indicated above, there is a not insubstantial amount of programing on the other networks which is not carried by the regular affiliate, and some consideration should be given to this. It appears that, at least with respect to the evening programing primarily involved here, this is generally placed on the UHF station. The rule adopted herein—subparagraph (3)—imposes this practice as a requirement and gives the UHF unaffiliated station "first call" on such programs, both evening and weekend (and holiday) afternoon sports broadcasts. While this differs to some extent from the result reached in Docket 16041 concerning alternate placement of "uncleared programs", we conclude that, if only in fairness to the "unaffiliated network" whose programing judgment is to some degree being restricted, such a requirement is appropriate.[29]

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[26] If the UHF station seeks permission to present a program delayed, we expect the network to be reasonable in permitting it if the time offered is reasonably comparable and neither the network's interest nor that of the public appear to be harmed. Thus, normally, we would expect the network to accept a delay of a prime-time program to 7 p.m. within the next day or two, just as it now accepts it with the VHF stations in many cases. On the other hand, broadcast of a Sunday-night program delayed 167½ hours (to a half-hour before the next Sunday's live broadcast on the network), or of a prime-time program starting at 11:30 p.m., are not arrangements which we believe the network should be required to accept as a matter of rule, even though NBC has chosen to permit both on the part of WTVD.

[27] Thus, the year is divided into two parts, starting October 1 and April 1, with the offer and acceptance during the 90 days before each of these dates to apply for the following 6 months. It is assumed that the process beginning in January for the April 1 date could be more or less automatic.

[28] The matters discussed in this paragraph might not be much of a problem, because many stations, including particularly small-market and UHF stations, are crying for more network programs to present. However, there are some cases in which problems could arise; for example, the February–March 1970 ARB material shows Augusta Station WATU-TV devoting considerable evening time to basketball (2 hours in four evenings of 1 week, and other evenings). Some of this, at least, appears to have been Atlantic Coast Conference basketball, of considerable interest in the Augusta area and particularly the South Carolina portion of it. We do not wish to render such broadcasting impossible or difficult. This is one reason for not extending the unaffiliated station's "first call" to a larger amount of evening programing; to do so would be either to permit it to ignore local needs, or to create a situation where a network would be required to place programing on a station which might not carry it.

[29] See the report and order in Docket 16041, FCC 70–1303, 26 FCC 2d 772, 20 R.R. 2d 1687 (December 1970), paragraph 40. We noted the suggestion of some UHF parties that before seeking alternate placement of "uncleared" programs on a VHF station affiliated with another network, the networks should be required to place such material on a UHF independent. Noting the networks' natural desire to get maximum exposure and therefore possible placement on another VHF station, we refrained from more than expressing the hope that, with the increasing effectiveness of UHF, they would choose live clearance on the inde-

41. *Other programing.* The rule adopted herein applies only to evening programs and weekend (and holiday) sports broadcasts. We do not believe that there is enough of a problem with respect to other programs to warrant the adoption of a rule. In reaching this decision, we consider the limited degree of popularity which some of these programs have, the extent to which WRDU–TV, at least, has access to them now, and the fact that to the extent that some of such programs are not cleared, it apparently represents the programing judgment of the stations involved, for example in carrying only one of the three late-evening shows in the Raleigh-Durham market.

42. *Terms as to compensation and interconnection costs.* In the Docket 16041 proceeding mentioned above, we considered at some length the matter of the terms and conditions on which programs are and should be made available to "alternate" stations. No rule was adopted, but we emphasized our view that various stations used by the network, affiliated and other, should be treated in a nondiscriminatory manner, with at least as much compensation to the independent (usually UHF) station as its circulation, compared to that of the affiliate, would justify. Nondiscrimination with respect to payment of interconnection costs was also mentioned (see report and order in Docket 16041, paragraphs 31–34, 26 FCC 2d 784–786). In the present proceeding, these aspects of the unaffiliated station's situation received very little treatment.

43. Since we are taking action here which in effect requires a network to furnish programs to a particular station if it wants exposure in the market at all, and to forego opportunities for placement on a VHF station where the material may draw larger audiences at present, we do not believe it appropriate to specify in the rule anything as to terms and conditions. However, we expect a reasonable approach from the network in these matters. Thus, in line with the adjuration against discriminatory treatment set forth in the Docket 16041 report and order and mentioned above, we do not see why NBC should deliver programs for WRDU–TV at its expense only to the A.T. & T. test board in Durham but bear the cost of interconnection facilities to the station in the cast of WTVD, as its current agreements in the market provide. As to compensation, this is a somewhat more difficult matter to evaluate, since unquestionably the UHF now delivers a small audience compared to what might be expected on VHF; but, again, we are inclined to question the NBC policy of paying no compensation to WRDU–TV, when CBS has been paying the station on the basis of a network rate of $30 an hour and recently (January 10, 1971) raised the rate to $40. However, as mentioned, these matters are not part of the requirements imposed by the new rule itself.

44. *Advantages of the new rule.* As indicated above, the networks and VHF licensees opposing or questioning the value of the proposed rule urge that it is not necessary and would have no real public interest advantags, sufficient to warrant Commission intrusion into a complicated area much better left to the forces of competition. This is said to be true because of the very limited number of cases involved, with the great majority of such situations having been resolved by one network making a primary UHF affiliation; that these UHF stations do carry substantial network programing now, about as much as they would under the rule; and that any problems of instability, lack of established audience buildup, etc., will be helped by the new "recapture" policy now adopted by all three networks, guaranteeing the UHF station at least 13 weeks' run. NBC claims that in these two "exceptional" cases, the audience which the UHF station can deliver at this time is simply so small as not to represent a viable alternative to VHF placement, and the only result will be loss to the public of the programs involved.

45. We cannot agree that the chance that the rule will be of substantial public benefit is so small as not to warrant its adoption. It will have the obvious advantages, as far as these UHF stations are concerned, of guaranteeing them access to a larger quantity of desirable network programs, and to the most desirable of the programs of one of the networks, on a regular and continuing basis which will provide "audience flow". Moreover, it will guarantee them the right to present these programs for a substantial period, which has been lacking up to now and which would be only partially provided under the new "recapture" policy, although that would serve to give them more stability than they have had. Thus benefited, it is hoped that they will become viable operations, making a permanent contribution to the full development of the Nation's television system.

46. In reaching these judgments, we are aware that these stations do not now do well, either economically or in terms of audience as far as ratings are any indication, and that the new rule may not by a panacea.[30] The inferior position may result from a number of factors: the basic VHF–UHF difference, which still exists to some extent although it is constantly diminishing as UHF reception capability (now estimated at 75 percent of TV homes nationally) increases and UHF tuning convenience approaches comparability; some, though not much, difference in area served as indicated by differences in contour locations; a comparatively short period of operation in areas with no previous UHF development (since November and December 1968); less desirable programing (network and otherwise) than that which their VHF competitors can offer; and less stability of such programs when they are available, since the network programs are offered more or less on an "overflow" basis and have been subject to recapture on short notice when available; and perhaps others. Some of these, of course, are beyond the scope of this proceeding to alleviate. But we believe we must do what can be done here and at this time. Moreover, as pointed out above, we believe that prompt action is necessary to offset the reduction in network programing available in the market following the "prime time access rule", which could well result in substantially less network programing available to these stations than is the case now. Moreover, the rule has the obvious advantage of promoting fairness as between competing stations. There is something inherently inequitable about a situation where one station has access only to part of the programing of one network and a still smaller part of that of another, both definition the less popular parts, while its competitor is able to present the best of both—to an extent of 25 hours of prime-time programing a week or more—with some programs broadcast live and others delayed, sometimes considerably. When this unfairness has tangible results in terms of the possible success vis-a-vis likely failure of additional needed stations, we believe that action by this Commission is indicated.

47. The last point indicates one of the respects in which the new rule will benefit the public, in making network programing available at more convenient times. While this is a minor point, and we are not here criticizing the practice of delayed broadcasting as such, there is certainly nothing desirable about a situation which results in presentation of a prime-time program starting at 11:30 p.m., or a delay of virtually a week, until a half-hour before the next week's broadcast, both of which occurred in the case of WTVD. Moreover, it appears that there is something, even though not a great deal, to be said for an argument made in one of the letters filed supporting action in this area: America is a mobile society, and it is not particularly desirable to have a situation in which a person sees a program in one city, journeys to another and views the program there, some days later, only to find that he must watch exactly the same material he has seen before. The other chief respect in which the public is benefited, aside from the increased chances for a

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pendent instead of clearance over other networks' affiliates.

In the present matter we believe a more definite requirement should be imposed, since here we are trying to further the development of third stations in substantial markets as truly competive outlets. Also, as indicated in the text, fairness to the "unaffiliated network" would appear to dictate the same requirement for all. Therefore, we are adopting the rule as mentioned, which pretty much codifies what is existing practice.

[30] The ratings shown in ARB material for these stations are presently rather low, though in the Raleigh-Durham market they do not usually reflect the more than 20-to-1 difference claimed by NBC (paragraph 2, above). According to the November 1970 ARB report for this market, WRDU–TV had ratings as high as 5 and 6 for two NBC specials (Bob Hope and Jack Benny), but otherwise nothing higher than a few 4 ratings for regular network programs.

needed additional service, is in having network programs presented in the market which are not now shown there at all, which occurred to a substantial extent in Raleigh-Durham although much less so in Augusta.

48. *Possible disadvantages of the rule: Loss of the programs to the public.* Unquestionably, as some of the opposing parties urge, there will be some loss of programs to the public, for those programs now carried on the VHF station which are viewed by persons who cannot receive UHF. Insofar as it relates to the basic VHF–UHF difference, this difference will diminish in the near future; and, in our view, this process will be speeded by the development of an attractive UHF outlet carrying a large share of the programing of one of the networks, on a regular and continuing basis. We recognize that, to some extent, the programing may be less widely available because of different levels of facilities (and different location in the case of Raleigh-Durham), but these "fringe" areas are small and, to a large extent, can receive NBC stations in other markets. Moreover, the rule is limited in its application to situations where the unaffiliated UHF station's facilities are reasonably comparable, such that it has two-thirds as large an area as the smallest of the VHF stations. While we certainly do not accept the argument of one of the UHF parties that comparability can reasonably be ignored and a network required to accept placement on a small UHF operation such as the former facilities of the Johnstown, Pa., station, in our view some significance must be attached to the point that, with the increased audience and economic health that they will enjoy, these stations will with time increase their facilities and eliminate the small coverage disparity which may now exist. Therefore, on balance the gains to the public outweigh the losses.

49. *Possible impact on the network (NBC).* Since the rule would require the network to forego VHF placement and accept UHF carriage if it wishes exposure in the market at all, it is appropriate to consider this aspect of this matter, particularly since the same network, NBC, is involved in the only two cases of immediate significance. NBC asserts that the UHF delivers too small an audience to warrant charging an advertiser whose program is carried on it; but it does not claim, and it does not appear, that this necessarily means an actual loss of revenue to NBC through such placement (it does not pay the UHF station any compensation, as noted above). The price of a participating commercial minute to a national advertiser is not necessarily so exactly priced that it reflects the charge for each station carrying the program; this would be impossible since stations may clear or not clear the program at various times. Therefore, it may well be that whether or not the VHF station or the UHF station is carrying the program, will not be reflected in the rate charged the advertiser.[31] Moreover, with only two markets immediately involved, it does not appear that the UHF inclusion would result in any significant "softening" of the lineup the network is able to offer, so as to make purchase of time on it less attractive to a potential advertiser.[32] We conclude that this is not a matter of significance compared to the public benefit involved.

50. *Other considerations: "exclusivity".* One of the arguments advanced against the rule is that it will tend to promote "exclusive" relationships between stations and networks, something which it has been one of the key objectives of Commission regulation for 30 years to prevent and discourage. Thus, paragraphs (a), (c), (d), and (e) of present § 73.658 prohibit, respectively, arrangements which hinder a station from presenting the programs of another network, affiliation agreements longer than 2 years, "time optioning" arrangements under which a network is given control over a station's time without the station's having accepted a specific program during it, and arrangements which impede the station's right to reject network programs or to substitute nonnetwork programs of significance.

51. It is true that to some extent, the rule adopted looks in the other direction; this is one of the reasons why we might well be reluctant to adopt it in a less limited context. It is also one respect in which the formulation of an appropriate regulation has been difficult, as indicated above (paragraph 39). Nonetheless, in the limited number of situations which will be covered, and with the rule drawn as it has been, we do not believe that it does violence to these basic and important concepts. We point out that, as to local programs, the UHF station retains complete freedom as to 6 evening hours, as well as to other hours, and in addition freedom to reject even the network programing accepted, to a substantial extent. Thus, the interest in preserving opportunity for local and other nonnetwork programing is, we believe, adequately protected. As to exclusivity vis-a-vis other networks, admittedly the rule represents a deviation from Commission policy in this respect; § 73.658(a) is specifically declared to be inapplicable in these situations. But we believe that here the public interest warrants this departure. It does not appear that, for the present or the immediate future, there will be any additional "networks" in the sense that that term applies to ABC, CBS, and NBC—entities distributing programs for a large amount of time daily, generally on an interconnected basis. If and when such developments appear realistic possibilities for the near future, we can take another look at this rule. Other "network" operations, such as sports networks, can be accommodated sufficiently within the provisions of the rule as it has been drawn. Therefore, the only real impact is on possible placement of programs on these stations by one of the other two existing national networks; and we do not find this a sufficiently strong consideration to warrant withholding the benefits which, hopefully, will flow from the new rule. Again, for these reasons and others, we hope the rule will be of only limited and temporary applicability.

52. *"Removing the incentive for UHF improvement".* We are likewise convinced that the rule will not act to seriously undermine the incentive to UHF stations to improve their facilities and performance, as some of the opponents claim. In order for the rule to apply, these stations must already operate with quite substantial facilities, as noted above. The revenue which they are able to get in the future will depend, in addition to their programing, on their coverage, just as it does with VHF stations; and therefore we believe they will have substantially the same incentive to improve which television stations generally have. Rather, in our view, the spur to their development through better programing and an established position will give the needed capital to make improvement possible.

53. *The Dothan, Ala., and "small market UHF" situations.* The rule adopted herein applies only to two-affiliate-plus independent situations, usually VHF–UHF. The Dothan, Ala. situation mentioned above (paragraphs 15–19) is a two-station market situation, and thus not falling within the rule adopted. Relief may well be warranted in this and similar cases also, since it appears that the established VHF station has primary access to one network (CBS) and the pick of the programs of another (ABC), leaving the UHF station with only the ABC overflow. However, there are somewhat more complex considerations, requiring exploration in a further notice of proposed rule making herein, which we hope to issue in the near future. This is a market with considerable coverage from outside, and it

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[31] This matter was discussed in 1965, in the notice of proposed rule making and notice of inquiry in Docket 16041 (FCC 65–484), footnote 7. It was pointed out that the charge to a participating advertiser is the same provided the program is cleared over stations whose aggregate network rates fall within a fairly wide range (e.g., $90,000 to $120,000). If this is true, the inclusion of one station more or less, or a UHF instead of a VHF station, is not normally likely to make a difference unless it is in one of the largest markets. All but four of the regular commercial programs in current network schedules are "participating".

[32] Of 21 two-VHF-one-UHF markets other than Raleigh-Durham and Augusta, NBC is affiliated with the UHF station in three, compared to five for CBS and 13 for ABC. In nine one-VHF-two-UHF markets, NBC has UHF affiliates in five (VHF in four); CBS has six UHF and three VHF; ABC has seven UHF and two VHF. NBC is at a disadvantage compared to CBS in one-VHF-one-UHF markets, where CBS has primary affiliations with four VHF stations and NBC has one VHF and four UHF primary affiliations (ABC has one primary UHF affiliation). The 21 markets mentioned do not include Johnstown-Altoona, Pa., where NBC has a primary affiliation and CBS places much of its programing on both the other VHF and the UHF stations.

is arguable that therefore a network should be required to place its programing in it only if it can obtain the wide coverage which, for the present in this market, VHF can provide but UHF cannot. There are also the fact that the third network — NBC — does not place programs in the market at all, and a considerably greater disparity between VHF and UHF facilities than that in the other markets considered. These factors make it inappropriate to include such situations in the rule adopted, without further exploration.

54. The other matter raised—making network programs available on an equal and more or less "duplicative" basis to small-market UHF stations—will likewise be given consideration in a Further Notice in the near future. This proposal, discussed in paragraphs 26–27, above, is one of considerable interest and, at least at first glance, attractiveness, since these stations must be regarded as, if anything, even more deserving of our attention than the UHF stations involved here, since they are the only stations in their communities. We defer further discussion of this proposal until another time.

55. In view of the foregoing: *It is ordered*, That, effective June 30, 1971, pursuant to authority contained in sections 4(i) and 303 (i) and (r) of the Communications Act of 1934, as amended, § 73.658 of the Commission's rules is amended by the addition of new paragraph (l), as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: March 24, 1971.

Released: April 1, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[33]

[SEAL] BEN F. WAPLE, *Secretary.*

In § 73.658, new paragraph (l) is added, reading as follows:

§ 73.658 Affiliation agreements and network program practices.

* * * * *

(l) *Broadcast of the programs of more than one network.* The provisions of this paragraph govern and limit the extent to which, after October 1, 1971, commercial television stations in the 50 States of the United States, which are regular affiliates of one of the three national television networks, may broadcast programs of another network, in markets where there are two such affiliated stations and one or more operational VHF or UHF stations having reasonably comparable facilities which are not regular affiliates of any network. Whether or not the stations in a particular market come within the provisions of this paragraph is determined by whether, as of July 1 of each year with respect to programs beginning October 1, or as of January 1 of each year with respect to programs beginning April 1, there are in the market the stations specified in the last sentence.

(1) *Definitions.* As used in this paragraph, the following terms have the meanings given:

(i) "Station" means a commercial station in the 50 States of the United States.

(ii) "Operational station" means a station authorized and operating as of October 1 or April 1, or a station authorized and which, 3 months or more before such date (i.e., by July 1 or January 1) gives notice to the Commission that it will be on the air by such date (including request for program test authority if none has previously been given) and commits itself to remain on the air for 6 months after such date.

(iii) "Affiliated station" means a station having a regular affiliation with one of he three national television networks, under which it serves as that network's primary outlet for the presentation of its programs in a market. It includes any arrangement under which the network looks primarily to this station rather than other stations for the presentation of its programs and the station chiefly presents the programs of this network rather than another network.

(iv) "Unaffiliated station" means a station not having an affiliation arrangement as defined in this subparagraph with a national television network, even though it may have other types of agreements or per-program arrangements with it.

(v) "Network" means a national organization distributing programs for a substantial part of each broadcast day to television stations in all parts of the United States, generally via interconnection facilities.

(vi) "Unaffiliated network" means a network not having an affiliated station (as defined in this paragraph) in a particular market, even though it may have other types of agreements or per-program arrangements.

(vii) "Market" means the television markets of the United States, and the stations in them, as identified in the latest publication of American Research Bureau (ARB), together with any stations which have since become operational in the same communities.

(viii) "Evening programing" means programing (regular programs or "specials") starting and concluding on a network between the hours of 7:30 p.m. and 11 p.m. local time (except 6:30 p.m. and 10 p.m. in the Central time zone), plus all programs other than regular newscasts starting on the network between 7 and 7:30 p.m. local time (6 and 6:30 p.m. local time in the Central time zone). It does not include portions broadcast after 7 p.m. of programs starting earlier, or portions broadcast after 11 p.m. of programs starting earlier.

(ix) "Specials" means programs not carried on the network at least as often as once a week. It includes both programs scheduled well in advance and those scheduled very shortly before broadcast on the network.

(x) "Reasonably comparable facilities" means station transmitting facilities (effective radiated power and effective antenna height above average terrain) such that the station's Grade B coverage area is at least two-thirds as large (in square miles) as the smallest of the market affiliated stations' Grade B coverage areas.

(2) *Taking programs from unaffiliated networks.* No affiliated station, in a market covered by this paragraph, shall take and broadcast, from an unaffiliated network, any programing of the times and types specified in this subparagraph, unless the conditions specified have first been met:

(i) Any evening programing (as defined in this paragraph), unless and until the entire schedule of such programs has been offered by the unaffiliated network to the unaffiliated station as provided in subparagraph (4) of this paragraph, and the unaffiliated station has either accepted 15 hours per week of such programs, plus additional "special" hours when part of the "special" is included in the 15 hours, or has accepted a lesser amount and indicated that it does not wish to carry any more. Such acceptance shall be governed by the provisions of subparagraph (4) of this paragraph.

(ii) Any programing beginning on the network between 12 noon and 7 p.m. on Saturdays, Sundays, and holidays, and consisting of sports events (including, without limitation, college football and basketball, professional football, baseball, ice hockey, golf, tennis, horseracing and autoracing), unless and until the program has first been offered to the unaffiliated station and that station has indicated that it does not wish to accept it.

(iii) Any programing broadcast after 11 p.m. local time (except 10 p.m. local time in the central time zone) which is a continuation of programs starting earlier and carried by the unaffiliated station; or any material broadcast after 7 p.m. (6 p.m. in the central time zone) which is a continuation of sports programs beginning earlier and carried by the unaffiliated station.

(iv) Any program presented in the same week by the unaffiliated station.

(3) *Carriage of programs of a network which has an affiliate.* No affiliated station in a market covered by this paragraph shall broadcast, from another network which has an affiliated station in the market, any evening programing or Saturday, Sunday, or holiday sports programing, unless such programing has first been offered to the unaffiliated station in the market and the latter has indicated that it does not wish to carry it.

(4) *Offer and acceptance.* (i) The "offer" by a network referred to in this paragraph means an offer to the unaffiliated station of the programs for broadcast. Programs so offered cannot be withdrawn by the network until the following April 1 or October 1, unless the station does not in fact broadcast the program as accepted, in which case the provisions of subdivision (ii) of this subparagraph shall apply, or unless the program is canceled on the network, in

[33] Commissioners Bartley and Wells dissenting.

which case the replacement or substitute program shall be offered to the station as a new program under subparagraphs (2) or (3) of this paragraph. If a program accepted by the unaffiliated station is shifted in time, the station may exercise its right of "first call" either with respect to the program at its new time, or the previous time segment, at its option.

(ii) The acceptance referred to in subparagraphs (2) and (3) of this paragraph means that the unaffiliated station agrees to broadcast the program accepted, at its live network time or a delayed time acceptable to the network, unless in its judgment the program is not in the public interest or it wishes to substitute a local, or other live, program for it. The provisions of paragraph (a) of this section, prohibiting agreements which hinder the presentation of the programs of other networks, shall not apply to material covered by this paragraph. If a program is not presented in a particular week live or at a delayed time acceptable to the network, the network may place this particular broadcast of the program on another station; and if this occurs more than 4 times in any 13-week period the network may withdraw the program from the station without obligation to offer it any additional programing. The unaffiliated station is free to seek and obtain other terms of acceptance from the network; but the offer of programing by the network on the foregoing terms satisfies its obligations under this paragraph.

(iii) The offer by the network shall, to the extent possible, be on or before July 15 with respect to programs beginning in the fall season, and by January 15 with respect to programs presented after April 1, or otherwise as soon as possible. The unaffiliated station's acceptance or indication of nonacceptance if possible shall be within 2 weeks after the date of the offer; programs not accepted within 30 days of the date of the offer shall be deemed not accepted.

NOTE 1: If there are in a particular market two affiliated stations and two (or more) operational unaffiliated station with reasonably comparable facilities, the provisions of this paragraph (1) shall require an offer of programing to each; but the 15-hour-per-week "first call" provision applies to the total programing taken by all such stations.

NOTE 2: The provisions of this paragraph (1) do not apply to a market in which there are two VHF affiliated U.S. stations, and a foreign VHF station to which a national U.S. television network transmits programs pursuant to authority granted under section 325 of the Communications Act of 1934, as amended, and which serves as that network's primary affiliate in the market.

[FR Doc.71-4712 Filed 4-5-71;8:48 am]

Proposed Rule Making

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Ch. II]

CAPITAL CONSTRUCTION FUND

Interim Agreement Forms

EDITORIAL NOTE: This document which formerly appeared at 36 F.R. 6115 in the issue for Friday, April 2, 1971, is being republished with the addition of a proposed form of Interim Capital Construction Fund Agreement.

The Merchant Marine Act, 1936, as amended by the Merchant Marine Act of 1970 (Public Law 91-469), provides that eligible citizens of the United States may enter into agreements with the Secretary of Commerce affording certain tax benefits for moneys deposited in a Capital Construction Fund. This function has been delegated to the Assistant Secretary of Commerce for Maritime Affairs.

The purpose of this notice is to publish for comment the proposed form of Interim Capital Construction Fund Agreement. The reason for proposing an Interim Agreement is that the Assistant Secretary has not yet completed development of all the necessary forms and regulations connected with the establishment of a Permanent Agreement.

While the Capital Construction Fund Program is exempt from the requirements of section 4, Administrative Procedure Act (5 U.S.C. 553), the Assistant Secretary invites interested parties to submit written comments on the proposed agreement, form for his consideration, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20235, by the close of business on April 26, 1971.

Dated: March 30, 1971.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

AARON SILVERMAN,
Assistant Secretary,
Maritime Administration.

Contract No. _____.

MARITIME ADMINISTRATION INTERIM CAPITAL CONSTRUCTION FUND AGREEMENT

(Proposed Form)

This Interim Capital Construction Fund Agreement (the (Agreement), made on , 1971, by and between the Secretary of Commerce, represented by the Assistant Secretary of Commerce for Maritime Affairs (the Assistant Secretary), and (the Party), a citizen of the United States.

WITNESSETH:

WHEREAS:

1. The Party applied for establishment of an Interim Capital Construction Fund (the Interim Fund) under section 607 of the Merchant Marine Act, 1936, as amended (the Act), for the purpose of providing replacement, additional or reconstructed vessels for operation in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States;

2. Secion 607 of the Act provides that the Secretary of Commerce (who has delegated the function to the Assistant Secretary) may enter into agreements under that section; and

3. Relying in part on warranties and representations of the Party;

Now, Therefore, in consideration of the premises, it is hereby agreed:

I. *Agreement of Parties.* The Assistant Secretary and the Party hereby agree to the establishment of the Interim Fund for the purposes set forth in Article IV and that during the term of this Agreement deposits into and withdrawals from the Interim Fund shall be made only in accordance with the provisions, conditions and requirements of this Agreement.

II. *Term of the Agreement.* This Agreement shall terminate as follows:

A. Upon failure of the Party to make application for a permanent Capital Construction Fund Agreement (the Permanent Agreement) within 60 days after the final form of such Permanent Agreement has been made available by the Maritime Administration for execution, and in any case, failure to make application for a Permanent Agreement on or before November 30, 1971, whichever event shall first occur.

B. Upon denial by the Assistant Secretary of a timely-filed application for a Permanent Agreement.

C. All other provisions of this Agreement notwithstanding, on December 31, 1971, without further act or deed by the Assistant Secretary.

D. By mutual consent.

E. Upon the execution by the Assistant Secretary of a Permanent Agreement.

In the case of terminations occasioned by the events described in sections (A), (B), (C), and (D) above, the provisions of the Internal Revenue Code of 1954 shall apply as though this Agreement had not been executed. In the case where termination of this Agreement occurs upon execution of a Permanent Agreement, there shall be no interval between the Agreements. The assets then on deposit in the Interim Fund, to the extent found necessary and appropriate by the Assistant Secretary for carrying out the program set forth in the Permanent Agreement, shall be transferred to the corresponding accounts in the Permanent Fund under the Permanent Agreement.

III. *Vessels Subject to the Agreement.* In accordance with subsection 607(a) of the Act, the Party owns or leases the eligible or qualified vessels, as those terms are defined in subsection 607(k) of the Act, contained in Schedule A of the Agreement.

IV. *Purposes of the Interim Fund.*

A. The Interim Fund established by the Agreement shall be for the purposes of providing for qualified withdrawals during the term of this Agreement or under an immediately succeeding Permanent Agreement. A qualified withdrawal from the Interim Fund is one made in accordance with the Agreement, but only if it is for:

—the acquisition, construction, or reconstruction of a qualified vessel;

—the acquisition, construction, or reconstruction of barges and containers which are part of the complement of a qualified vessel; or

—the payment of the principal or indebtedness incurred in connection with the acquisition, construction, or reconstruction of a qualified vessel or a barge or container which is part of the complement of a qualified vessel.

B. The Party has applied for this Agreement and the creation of the Interim Fund for the purpose of accumulating or maintaining the necessary resources to achieve the general objectives contained in Schedule B of the Agreement.

V. *Approved Depositories.* The following depositories for the assets of the Interim Fund have been approved; _____

VI. *Deposits to be made in the Interim Fund.*

A. In order to carry out the purposes of section 607 of the Act as more specifically set forth in Schedule B of the Agreement, for each of the taxable years 1970 and 1971:

1. The Party shall make deposits in the amounts of all:

a. Deductions allowable under section 167 of the Internal Revenue Code of 1954 for such year with respect to Agreement vessels to the extent that (i) such depreciation is earned, and (ii) the Party is required to make payments of the principal on indebtedness incurred in connection with the acquisition, construction or reconstruction of qualified Agreement vessels; and

b. Net proceeds from (i) the sale or other disposition of any Agreement vessel, (ii) any insurance or indemnity attributable to any Agreement vessel, and (iii) any mortgage placed on any qualified vessel, except as any such net proceeds shall be specifically exempted from deposit by the Assistant Secretary.

2. The Party may make deposits in the amounts and order specified below:

a. Receipts from the investment and reinvestment of amounts held in the Interim Fund;

b. One hundred percent of the taxable income attributable to the operation of the Agreement vessels in the foreign or domestic commerce of the United States or in the fisheries of the United States, but not in excess of 100 percent of the taxable income of the Party for any year; and

c. Deductions allowable under section 167 of the Internal Revenue Code of 1954 for such year with respect to Agreement vessels, reduced by any deposits made under paragraph (A) (1) (a).

Deposits authorized by this section shall be credited to the ordinary income, capital gain and capital accounts in accordance with the characterization required under section 607 of the Act.

The computation of the taxable income and gain of the Party for the applicable taxable year shall be made after taking into account the reductions and exclusions required by subsection 607(d) of the Act.

B. Any amounts deposited in the Interim Fund, except those deposited under Article VII, which are determined by subsequent audit to be in excess of the limitations on taxable income stated in Section (A) shall be applied as deposits applicable to a subsequent taxable year either under this Agreement or a Permanent Agreement.

C. The amounts of any deposits provided for in the Agreement may be made in the form of securities of the type permitted as investments as specified in Article IX, and

mortgages received in connection with transactions referred to in section (A).

D. With respect to any leased vessel, barge or container covered by the Agreement, the maximum amount which may be deposited by the Party for any taxable year may be increased by the amount allowable to the owner as a deduction under section 167 of the Internal Revenue Code of 1954 that the owner is not required or permitted to deposit under an agreement for that year. Such deposits by the Party will be added to the amount in the capital account as a deposit of depreciation.

VII. *Treatment of Existing Funds.*

A. If the Party was maintaining a fund or funds under section 607 of the Act before the enactment of the Merchant Marine Act of 1970, the Party may extend this Agreement to some or all of the amounts in such old funds by transferring such amounts in a nontaxable transaction to the appropriate accounts in the Interim Fund as provided in subsection 607(j).

B. In the event that a transfer under section (A) is made, the Party and the Assistant Secretary agree that the amounts transferred to this Agreement from such funds shall be available for the satisfaction of any and all obligations owed the United States pursuant to Article II–35 of the operating-differential subsidy agreement of the Party pending release by the United States of the Party from such obligations.

VIII. *Withdrawals from the Interim Fund.*

A. A withdrawal made for the purposes specified in Schedule B of the Agreement shall be treated as a "qualified withdrawal" within the meaning of subsection 607(f) of the Act. Any withdrawal which is not a qualified withdrawal shall be treated as a nonqualified withdrawal or a withdrawal pursuant to subsection 607(i), as the case may be, but in the case of a nonqualified withdrawal, prior consent of the Assistant Secretary must be obtained before such withdrawal may be made.

B. Except to the extent provided in regulations of the Assistant Secretary, qualified withdrawals for the acquisition, construction, or reconstruction of barges and containers which are part of the complement of a qualified vessel, and the payments of the principal on indebtedness incurred in connection therewith, shall be made only with respect to barges and containers constructed in the United States.

IX. *Investment of the Interim Fund.* The assets in the Interim Fund may be invested in accordance with the following requirements and such additional requirements as the Assistant Secretary may prescribe from time to time.

A. The assets of the Interim Fund may be invested in:

1. Obligations of the U.S. Government, or of any agency or instrumentality thereof; and

2. Bankers acceptances and negotiable certificates of deposit, and commercial notes which are readily marketable and of the highest grade as rated by Dun and Bradstreet and which mature no later than 1 year from the date of purchase.

B. Prohibited Activities:

1. Acting for the account of the Interim Fund, no person shall buy on margin or effect the short sale of any security.

2. The assets of the Interim Fund may not be invested in securities of any of the following:

a. The Party;

b. A parent of the Party;

c. A subsidiary of the Party;

d. A related company of the Party; or

e. Any issuer owning or controlling more than ten percent of the Party's voting securities.

C. Power to Prohibit Investment and Order Divestiture: The Assistant Secretary retains the absolute right at any time to prohibit investment of any assets of the Interim Fund in particular securities or groups of securities and to order divestiture of securities or groups of securities held in the Interim Fund.

D. Interim Fund and Entity: Once deposited, each asset of the Interim Fund remains an integral part of the Interim Fund until withdrawn in accordance with the terms of section 607 of the Act, the Agreement, and the regulations, when issued.

X. *Provisions Concerning Title XI Financing.*

A. In the event the Party at any time is the owner of a vessel subject to a mortgage insured pursuant to Title XI of the Act (Title XI) or at any time has a vessel under construction, the financing of which involves a loan insured pursuant to Title XI, and is permitted by the Assistant Secretary to make deposits into the Interim Fund all or part of which deposits would otherwise be required to be deposited into a Restricted Fund, other Reserve Fund, Construction Fund, or any other related fund relating to such Title XI financing (such Title XI financing related to such deposits into the fund being herein called a "Fund—Title XI Financing"), the Party will (unless otherwise approved by the Assistant Secretary in writing) enter into an agreement satisfactory in form and substance to the Assistant Secretary that:

1. The Interim Fund and all assets on deposit therein shall be and do constitute security to the United States for (a) the payment of all sums due under and the performance of all covenants contained in any mortgage insured pursuant to Title XI, and (b) the payment of all sums due with respect to any loan insured pursuant to Title XI and the performance of all covenants contained in a loan agreement or similar undertaking in respect to such loan; and

2. The Party will execute such further agreements or documents and take such other actions as may be deemed by the Assistant Secretary as necessary to perfect the pledge of such security.

B. Party agrees that at any time it is a party to a Fund—Title XI Financing, it shall not make a qualified withdrawal except for the payment of principal (excluding prepayment) of any loan or mortgage insured pursuant to Title XI, without the consent of the Assistant Secretary if after giving effect to such withdrawal the net worth of the Party, as reflected in the then most recent financial statement of the Party would be less than forty percent of the undepreciated original cost to the Party, as of the end of the immediately preceding fiscal year of the Party, of all vessels owned by the Party on such date (plus all additions and betterments thereto, less all retirements thereof, to such date), all as determined in accordance with generally accepted accounting practices; provided, that the net worth required by this section may be reduced to such amount as may be consented to in writing by the Assistant Secretary. The term "Net Worth" as used in this Article shall mean, as of any date, the total of paid in capital stock, paid in surplus and earned surplus, and all other amounts that would be included in net worth in accordance with generally accepted accounting principles, but exclusive of any increment resulting from the reappraisal of assets.

C. Party agrees that if on the date of termination of the Agreement, or in the event of a nonqualified withdrawal pursuant to Article VIII, it is the owner of a vessel subject to a mortgage insured pursuant to Title XI or has a vessel under construction the financing of which involves a loan insured pursuant to Title XI, it will, unless otherwise approved by the Assistant Secretary, upon release from the Interim Fund of moneys on deposit in the Interim Fund on such date, deposit, to the extent such moneys are not otherwise permitted by the Assistant Secretary to be deposited into a fund created pursuant to a Permanent Agreement, such moneys into the Restricted Funds (reserve funds) established pursuant to Title XI financings to which the Party is a party in accordance with the following. The sums on deposit in the Interim Fund on termination of the Agreement, to the extent that such sums are not otherwise permitted by the Assistant Secretary to be deposited into a fund created pursuant to a Permanent Agreement, are herein called the "Free Statutory Reserve Funds." The sums to be deposited into each Restricted Fund pursuant to this section shall, to the extent of the Free Statutory Reserve Funds, equal the difference between the amount then on deposit in such Restricted Fund (including the current market value of securities held in such Restricted Fund at the time of the deposit) and the principal amount of all bonds then outstanding with respect to the mortgage relating to such Restricted Fund; *Provided,* That if the Free Statutory Reserve Funds are insufficient to make such deposit into each Restricted Fund pursuant to all ship mortgages (or chattel mortgages or loan agreements with respect to ships under construction) of the Party existing upon the expiration or termination of the Agreement (whether or not such mortgages or agreements shall provide for a similar fund), the Party shall deposit into each Restricted Fund such proportion of the Free Statutory Reserve Funds as (i) the difference between (A) the amount on deposit in such Restricted Fund as aforesaid and (B) the principal amount of all outstanding bonds with respect to the mortgage relating to such Restricted Fund bears to (ii) the difference between (A) all amounts on deposit in such Restricted Fund plus all amounts which are on deposit in similar funds under all ship mortgages (or chattel mortgages or loan agreements with respect to ships under construction) of the Party existing upon the expiration or termination of the Agreement, and (B) the principal amount of all then outstanding bonds and evidences of indebtedness secured by all the then existing ship mortgages (or chattel mortgages or loan agreements with respect to ships under construction) of the Party.

The deposit required by this section into the Restricted Fund shall be made at such time and from time to time as funds are available for withdrawal from the Interim Fund as aforesaid. The deposit shall be subject to prior settlement of tax liability consequent upon the withdrawal from the Interim Fund.

D. Notwithsanding the foregoing provisions of this Article VIII unless otherwise approved by the Assistant Secretary, the proceeds of any loan or mortgage insured pursuant to Title XI which are required or permitted by the Assistant Secretary to be deposited in whole or in part in the Interim Fund shall be security only with respect to and for the related loan or mortgage and the Party will, at or before the time of such deposit, enter into an agreement satisfactory in form and substance to the Assistant Secretary to provide for such security interest.

XI. *Pledges and Assignments Prohibited.* The Party covenants and agrees that, without the prior written consent of the Assistant Secretary, neither the Party nor a trustee nor any other person shall pledge or assign all or any portion of the Agree-

ment, the Interim Fund, or any assets in the Interim Fund, except in connection with Title XI financings pursuant to Article X.

XII. *Related Companies.* Where affiliates, subsidiaries, holding companies or other persons related to the Party, directly or indirectly, are involved in the financing, acquisition, construction, or reconstruction of a qualified vessel, or barge or container which is part of the complement of a qualified vessel, the Party shall make written application to the Assistant Secretary for approval of the transaction not less than 30 days prior to the execution thereof. Withdrawals made with respect to any transactions before such approval is granted shall be treated as nonqualified withdrawals.

XIII. *Records and Reports.*

A. The Party and every affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by, the Party (1) shall keep its books, records, and accounts relating to the property and to the maintenance, operation, and servicing of the vessel(s) and service(s) covered by the Agreement in such form and under such rules and regulations as may be prescribed by the Assistant Secretary, but the Assistant Secretary shall not require the duplication of books, records, and accounts required to be kept in some other form by the Interstate Commerce Commission or the Secretary of the Treasury; and (2) shall file, upon notice from the Assistant Secretary, balance sheets, profit and loss statements, and such other statements of financial operations, special reports, memoranda of facts and transactions, as in the opinion of the Assistant Secretary affect the financial results in the performance of, or transactions or operations under, the Agreement. The Assistant Secretary reserves the right to require that all or any of such statements, reports and memoranda shall be certified by independent certified public accountants acceptable to the Assistant Secretary. The Party shall from time to time establish and maintain such checks upon or systems of control of expenditures or revenues in connection with the operation of the Agreement vessel(s) as the Assistant Secretary may require.

B. The Assistant Secretary is hereby authorized to examine and audit the books, records, and accounts of all persons referred to in section (A) whenever he may deem it necessary or desirable.

XIV. *Warranties and Representations by the Party.* The Party hereby warrants and represents as follows:

A. The Party is and at all times during the period of this Agreement will continue to be a citizen of the United States within the meaning of subsection 905(c) of the Act;

B. The Party owns or leases one or more eligible vessels as defined in subsection 607 (k) of the Act;

C. The vessels referred to in Schedule B of the Agreement and, except as provided in regulations issued by the Assistant Secretary, the barges and containers which are part of the complement of such vessels:

1. Were, or will be, constructed or reconstructed in the United States;

2. Were, or will be, documented under the laws of the United States; and

3. Are, or will be, operated in the United States foreign, Great Lakes, or noncontiguous domestic trade, or in the fisheries of the United States.

Any vessel which (a) was constructed outside the United States but documented under the laws of the United States on April 15, 1970, or (b) constructed outside the United States for use in the United States foreign trade pursuant to a contract entered into before April 15, 1970, shall be treated as satisfying the above requirements.

XV. *Effective Dates.* The Agreement is binding upon execution and shall be effective for purposes of deposits into and withdrawals from the Interim Fund as of the same date.

XVI. *Modification, Amendment, and Extension.* The Agreement may be modified, amended or extended by mutual consent.

XVII. *Miscellaneous Provisions.* The use of headnotes at the beginning of the Articles in the Agreement is for the purpose of description only and shall not be construed as limiting or in any other manner affecting the substance of the articles themselves.

In witness whereof, the Assistant Secretary and the Party have executed the Agreement, in triplicate, effective as of the dates indicated herein and actually on the _____ day of _____ 1971.

UNITED STATES OF AMERICA
Secretary of Commerce.
Assistant Secretary of
Commerce for
Maritime Affairs.

[SEAL]
Attest:

[SEAL]
Attest:

Approved as to form:

Assistant General Counsel,
Maritime Administration.

I, _____, certify that I am the _____ of the corporation named as Party in the within Agreement; that _____, who signed the said Agreement on behalf of the Party, was the _____ of said corporation; that I know his signature and his signature thereto is genuine; and that said Agreement was duly signed, sealed and attested for and on behalf of said corporation by authority of its governing body.

(*Secretary*)

[SEAL]

[FR Doc.71-4601 Filed 4-1-71;8:48 am]

ATOMIC ENERGY COMMISSION

[10 CFR Parts 20, 30, 40, 70, 71]

TRANSPORTATION OF RADIOACTIVE MATERIAL

Notice of Proposed Rule Making

The Atomic Energy Commission has under consideration amendments to its regulations in 10 CFR Part 71, "Packaging of Radioactive Material for Transport", to impose safety regulations applicable to shippers and carriers of radioactive material not regulated by the Department of Transportation (DOT), the U.S. Postal Service (formerly the Post Office Department), or an Agreement State, and related amendments to Parts 20, 30, 40, and 70 which would impose on AEC licenses (1) packaging requirements for shipments of licensed material not presently subject to Part 71 and DOT regulations; (2) package marking and labeling requirements for all shipments of licensed material not subject to DOT regulations; (3) requirements to provide opening instructions with each package and to have procedures for opening and closing packages; and (4) all applicable requirements of the regulations of DOT when transporting licensed material as a carrier not subject to DOT regulations.

Under present AEC rules, AEC licensees must meet packaging standards and requirements in 10 CFR Part 71 for shipments of fissile material and large quantities of licensed material. Under DOT rules, AEC licensees also must meet certain additional packaging requirements for such shipments. In most cases, the transport of such shipments, and the packaging and transport of shipments of all other radioactive materials by AEC licensees, are subject to DOT or U.S. Postal Service regulations.

Under the proposed amendments (see § 71.5) AEC licensees would be required to comply with all the packaging requirements in the DOT rules for shipments of radioactive material not otherwise subject to DOT or U.S. Postal Service regulation. In addition (see §§ 71.2 and 71.5), AEC licensees transporting radioactive material not otherwise subject to DOT regulations would be required to comply with the carrier requirements of the DOT regulations if such transport was outside the confines of their plants. This latter provision is intended to cover transport in locations to which the general public has access under normal circumstances.

It is not possible to define, in advance, all cases in which the DOT regulations would not be applicable to packaging or transport of radioactive materials by AEC licensees. So that it will be clear that DOT regulations will apply either under DOT or AEC authority, proposed amended § 71.5 is written so that paragraph (a) would apply the packaging and transport requirements of the DOT regulations to all shipments of radioactive material by AEC licensees and paragraph (c) would exempt AEC licensees from AEC imposition of those same requirements on shipments which are already subject to the regulations of DOT or the U.S. Postal Service. Paragraph (b) would establish the AEC as the agency to which requests for waivers or exemptions from the requirements of the referenced DOT regulations should be made when DOT does not have jurisdiction over the shipment and/or transportation.

The reference to compliance with the requirements of other agencies in § 71.3 would not be changed since, regardless of the AEC rules applying DOT rules in certain instances, if the licensee is subject to DOT rules under DOT jurisdiction, he still must comply with those rules.

The proposed additions to §§ 30.34(c), 40.41(c), and 70.41(a) would refer licensees to the requirements of Part 71 for preparation for shipment and transport of licensed materials and would authorize licensees to transport materials held under license in accordance with those requirements.

At present, §§ 30.13, 40.12, and 70.12 exempt from licensing requirements "common and contract carriers" to the extent that they transport or store by-

product, source, or special nuclear material for another. These exemptions apply to carriers by air, rail, highway, or water. The proposed amendments would add freight forwarders and warehousemen to these exemptions.

Freight forwarders collect or receive a number of small shipments from various shippers and forward these as a service to those shippers. With respect to their collecting and receiving activities, DOT treats freight forwarders as carriers. The amendment set forth below would include them under the carrier exemption.

Warehousemen are presently exempted from licensing to the extent that they transport or store source and special nuclear material for another by §§ 40.12 and 70.12. A proposed amendment would add to § 30.13 a similar exemption from licensing for warehousemen for byproduct material.

The proposed amendment would exempt a physician to the extent that he transports in his own vehicle or directs an employee to transport in a vehicle under the physician's control, licensed radioactive material for use in the practice of medicine. This is in line with the position taken several years ago by the Interstate Commerce Commission and now assumed by the Department of Transportation, that the DOT regulations do not apply to physicians transporting in their own vehicles radioactive material used for treatment or diagnosis. A physician would be required to comply with the requirements of 10 CFR Part 71, including DOT rules and regulations, in the transportation of licensed material for purposes other than use in the practice of medicine and in the preparation of licensed material to be transported in a vehicle not under his control or by persons other than his employees.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Parts 20, 30, 40, 70, and 71 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within 60 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

1. A new § 20.205 is added to Part 20 to read as follows:

§ 20.205 Procedures for opening packages.

Each licensee shall establish and maintain procedures for safely opening packages in which licensed material is received, taking into account any special instructions which accompany the package, and shall assure that such procedures are followed.

2. Section 30.13 of Part 30 is revised to read as follows:

§ 30.13 Carriers.

Common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service are exempt from the regulations in this part and Parts 31–36 of this chapter and the requirements for a license set forth in section 81 of the Act to the extent that they transport or store byproduct material in the regular course of carriage for another or storage incident thereto.

3. Section 30.34(c) of Part 30 is amended by adding the following sentence.

§ 30.34 Terms and conditions of licenses.

* * * * *

(c) * * * Preparation for shipment and transport of byproduct material shall be in accordance with the provisions of Part 71 of this chapter.

4. Section 40.12 of Part 40 is revised to read as follows:

§ 40.12 Carriers.

Common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service are exempt from the regulations in this part and the requirements for a license set forth in section 62 of the Act to the extent that they transport or store source material in the regular course of carriage for another or storage incident thereto.

5. Section 40.41(c) of Part 40 is amended by adding the following sentence:

§ 40.41 Terms and conditions of licenses.

* * * * *

(c) * * * Preparation for shipment and transport of source material shall be in accordance with the provisions of Part 71 of this chapter.

6. Section 70.12 of Part 70 is revised to read as follows:

§ 70.12 Carriers.

Common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service are exempt from the regulations in this part to the extent that they transport or store special nuclear material in the regular course of carriage for another or storage incident thereto.

7. Section 70.41(a) of Part 70 is amended by adding the following sentence:

§ 70.41 Authorized use of special nuclear material.

(a) * * * Preparation for shipment and transport of special nuclear material shall be in accordance with the provisions of Part 71 of this chapter.

8. The title of 10 CFR Part 71 is amended to read as follows:

PART 71—PACKAGING OF RADIOACTIVE MATERIAL FOR TRANSPORT AND TRANSPORTATION OF RADIOACTIVE MATERIAL UNDER CERTAIN CONDITIONS

9. Section 71.1 of Part 71 is amended to read as follows:

§ 71.1 Purpose.

(a) This part establishes requirements for transport and for preparation for shipment of licensed material and prescribes procedures and standards for approval by the Atomic Energy Commission of packaging and shipping procedures for fissile material (uranium-233, uranium-235, plutonium-238, plutonium-239, and plutonium-241) and for large quantities of licensed materials, as defined in § 71.4(f).

(b) The packaging and transport of these materials is also subject to other parts of this chapter and to the regulations of other agencies having jurisdiction over means of transport. The requirements of this part are in addition to, and not in substitution for, other requirements.

10. Section 71.2 of Part 71 is amended to read as follows:

§ 71.2 Scope.

The regulations in this part apply to all persons authorized by specific license issued by the Commission to receive, possess, use, or transfer licensed materials, if they deliver such materials to a carrier for transport or transport such material outside the confines of their plant or other place of use.

11. Section 71.3 of Part 71 is amended to read as follows:

§ 71.3 Requirement for license.

No licensee subject to the regulations in this part shall (a) deliver any licensed materials to a carrier for transport or (b) transport licensed material except as authorized in a general license or specific license issued by the Commission, or as exempted in this part.

12. Section 71.5 of Part 71 is redesignated § 71.6 and §§ 71.6 through 71.14 are redesignated §§ 71.8 through 71.16.

13. A new § 71.5 is added to Part 71 to read as follows:

§ 71.5 Transportation of licensed material.

(a) No licensee shall transport any licensed material outside of the confines of his plant or other place of use, or deliver any licensed material to a carrier for transport, unless the licensee complies with the applicable requirements of the regulations appropriate to the mode of transport, of the Department of Transportation in 49 CFR Parts 170–189, 14 CFR Part 103 and 46 CFR Part 146, and the U.S. Postal Service in 39 CFR Parts 14 and 15 insofar as such regulations relate to the packaging of byproduct, source, or special nuclear material, marking and labeling of the packages, loading and storage of packages, placarding of the transportation vehicle,

monitoring requirements and accident reporting.

(b) When Department of Transportation regulations are not applicable to shipments of licensed material by rail, highway, or water because the shipment or the transportation of the shipment is not in interstate or foreign commerce, or to shipments of licensed material by air because the shipment is not transported in civil aircraft, the licensee shall conform to the standards and requirements of the Department of Transportation specified in paragraph (a) of this section, to the same extent as if the shipment or transportation were in interstate or foreign commerce or in civil aircraft. Any requests for modifications, waivers, or exemptions from those requirements, and any notifications referred to in those requirements shall be filed with, or made to, the Atomic Energy Commission.

(c) Paragraph (a) of this section shall not apply to the transportation of licensed material, or to the delivery of licensed material to a carrier for transport, where such transportation is subject to the regulations of the Department of Transportation or the U.S. Postal Service.

14. An undesignated center head "Exemptions" is added to Part 71 preceding § 71.6.

15. In redesignated § 71.6 of Part 71, paragraph (a), and the introductory language of paragraph (b) preceding subparagraph (b)(1) are amended to read as follows:

§ 71.6 Exemptions for certain shipments.

A licensee is exempt from all of the requirements of this part to the extent that he delivers to a carrier for transport:

(a) Packages each of which contains no licensed material having a specific activity in excess of 0.002 microcurie/gram; or

(b) Shipments subject to the regulations of the Department of Transportation in 49 CFR Parts 170–189, 14 CFR Part 103, or 46 CFR Part 146 or the U.S. Postal Service in 39 CFR Parts 14 and 15 of packages each of which contains less than a large quantity of radioactive material, as defined in § 71.4(f), which may include one of the following:

* * * * *

16. A new § 71.7 is added to Part 71 to read as follows:

§ 71.7 Exemption of physicians.

Physicians, as defined in § 35.3(b) of this chapter, are exempt from the regulations in this part to the extent that they transport licensed material for use in the practice of medicine.

17. Section 71.51 of Part 71 is revised by amending paragraphs (a) and (b), redesignating paragraph (b) as paragraph (c), and adding a new paragraph (b) to read as follows:

§ 71.51 Establishment and maintenance of procedures.

The licensee shall establish and maintain:

(a) Operating procedures adequate to assure that the determinations and controls required by this chapter are accomplished;

(b) Procedures for opening and closing packages in which licensed material is transported and received to provide safety and to assure that, prior to delivery to a carrier for transport, each package (1) is properly closed for transport and (2) includes any necessary instructions for safely opening the package; and

(c) Regular and periodic inspection procedures adequate to assure that the procedures required by paragraphs (a) and (b) of this section are followed.

18. A new § 71.55 is added to Part 71 to read as follows:

§ 71.55 Opening instructions.

The licensee shall include with each package, when shipped, any necessary instructions for safely opening that package.

(Secs. 53, 62, 81, 161; 68 Stat. 930, 932, 935, 948, as amended; 42 U.S.C. 2073, 2092, 2111, 2201)

Dated at Washington, D.C., this 23d day of March 1971.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc.71-4710 Filed 4-5-71;8:48 am]

ENVIRONMENTAL PROTECTION AGENCY

[21 CFR Part 420]

PYRETHRINS AND PIPERONYL BUTOXIDE

Proposal To Establish Tolerances for Pesticide Chemicals

Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, NJ 08903, on behalf of the state experiment stations of Michigan and Pennsylvania requested the Commissioner of Food and Drugs to establish tolerances for residues of the insecticides pyrethrins at 0.05 part per million and piperonyl butoxide at 0.25 part per million in or on stored raw potatoes from postharvest application of the insecticides.

Prior to December 2, 1970, the Secretary of Agriculture advised that these pesticide chemicals are useful for the purposes for which tolerances are being proposed. Part 120, Chapter I, Title 21 was redesignated Part 42 and transferred to Chapter III (36 F.R. 424).

Based on consideration given data submitted in the petition and other relevant material, it is concluded that the proposed tolerances will protect the public health and that no adverse ecological effect will occur from this postharvest use of these insecticides. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated to the Commissioner or Acting Commissioner of the Environmental Protection Agency (36 F.R. 1228), it is proposed that § 420.127 be amended by adding a new paragraph "0.25 part per million * * *" and that § 420.128 be amended by adding a new paragraph "0.05 part per million * * *" as follows:

§ 420.127 Piperonyl butoxide; tolerances for residues.

* * * * *

8 parts per million * * *

0.25 part per million in or on potatoes from postharvest application.

§ 420.128 Pyrethrins; tolerances for residues.

* * * * *

0.1 part per million * * *

0.05 part per million in or on potatoes from postharvest application.

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, within 30 days after publication hereof in the Federal Register, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, within 30 days after publication hereof in the Federal Register, file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: March 31, 1971.

R. E. Johnson,
Acting Commissioner, Pesticides Office.

[FR Doc.71-4757 Filed 4-5-71;8:51 am]

[21 CFR Part 420]

O,O-DIETHYL O-[p-(METHYLSULFINYL)PHENYL] PHOSPHOROTHIOATE

Proposal To Establish Tolerances for Pesticide Chemicals

Chemagro Corp., Post Office Box 4913, Hawthorn Road, Kansas City, MO 64120, has requested that a tolerance of 0.1 part per million be established for residues of the insecticide *O,O*-diethyl *O*-[*p*-(methylsulfinyl)phenyl] phosphorothioate in or on rutabaga roots grown in Canada and marketed in the United States.

Prior to December 2, 1970, the Secretary of Agriculture advised that this pesticide chemical is useful for the purpose for which the tolerance is being proposed and the Fish and Wildlife Service of the Department of Interior advised that it has no objection to this tolerance.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration given the data submitted and other relevant material, it is concluded that such a tolerance will protect the public health. Therefore, pursuant to the provisions of the Federal Food, Drug and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Commissioner or Acting Commissioner of the Pesticides Office of the Environmental Protection Agency (36 F.R. 1228) it is proposed that § 420.234 be amended by inserting "rutabagas" in the paragraph beginning "0.1 part per million * * *" as follows:

§ 420.234 *O,O*-diethyl *O*-[*p*-(methylsulfinyl)phenyl] phosphorothioate; tolerances for residues.

* * * * *

0.1 part per million in or on corn grain (including field corn, popcorn, and sweet corn), onions (dry), potatoes, rutabbagas (roots), and tomatoes.

* * * * *

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, within 30 days after publication hereof in the FEDERAL REGISTER, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: April 1, 1971.

R. E. JOHNSON,
Acting Commissioner,
Pesticides Office

[FR Doc.71-4758 Filed 4-5-71;8:52 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 240]

GUIDES FOR ADVERTISING ALLOWANCES AND OTHER MERCHANDISING PAYMENTS AND SERVICES

Notice of Opportunity To Submit Written Views, Suggestions or Objections

Notice is hereby given that pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41-58, and the provisions of Part 1, Subpart A, of the Commission's Procedures and Rules of Practice, 16 CFR 1.5, 1.6, the Federal Trade Commission proposes to amend its "Guides for Advertising Allowances and Other Merchandising Payments and Services" (16 CFR 240).

At the time of the issuance of the Guides in final form the Commission announced its intention to reexamine the Guides after they had been in effect 18 months and to solicit formal comments thereon from interested parties at that time. The Commission has now reexamined the Guides and proposes to amend six sections thereof.

While the Commission is interested in receiving information on the proposed amendments, it is also interested in receiving informative comments on the Guides.

Accordingly, opportunity is hereby extended by the Commission to any and all persons, firms, corporations, organizations, or other parties affected by or having an interest in the Guides and the proposed amendments of the Guides, to present to the Commission their views in respect thereto, including such pertinent data, views, information, suggestions, or objections as they may desire to submit. In addition to comments on the proposed amendments, of particular interest to the Commission is whether small customers have received notice of their opportunity to participate in cooperative advertising programs, and whether promotional programs were discontinued as a result of the Guides. Copies of the proposed amendments to the Guides may be obtained upon request to the Commission. Such data, views, information, suggestions, or objections may be submitted by letter, memorandum, brief, or other written communication not later than May 21, 1971, addressed to Ernest G. Barnes, Assistant Director, Bureau of Competition, Federal Trade Commission, Sixth and Pennsylvania Avenue NW., Washington, DC 20580. Written comments received in the proceeding will be fully considered by the Commission and will be available for examination by interested parties in Room 130 of the Division of Legal and Public Records at the Commission's Washington address.

Text of the proposed sections or parts of sections where changes are proposed in the Guides follows:

NOTE: These proposed amendments of the Guides have not been approved by the Federal Trade Commission. They are a draft of proposed amendments of the Guides which are made available to all interested or affected parties for their consideration and for submission of such data, views, information, suggestions, or objections as they may care to present, due consideration to which will be given by the Commission before proceeding to final action on the proposed amended Guides.

Change 1. Delete from § 240.5(a) the following: "Special sales or promotional efforts for which 'push money' is paid to clerks, salesmen, and other employees of the customers;". Section 240.5(a) would then read as follows:

§ 240.5 What are services or facilities?

* * * * *

(a) * * *

Any kind of advertising, including cooperative advertising;
Handbills;
Window and floor displays;
Demonstrators and demonstrations.

* * * * *

Change 2. Add to § 240.7 Example 7 to read:

§ 240.7 Proportionally equal terms.

* * * * *

Example 7. A seller should not offer to pay a straight line rate for advertising if such payment results in a discrimination between competing customers; e.g., the offer of $1 per line for advertising in a newspaper that charges competing customers different amounts for the same advertising space.

Change 3. Amend Example 5 of § 240.8(b) to read:

§ 240.8 Seller's duty to inform.

* * * * *

(b) * * *

Example 5. A seller regularly promotes his products at the retail level, and during the year he has various special promotional offers. His competing customers include large direct-purchasing retailing customers and smaller customers who purchase through wholesalers. Many of the promotions he offers can best be used by his smaller customers if the funds to which the smaller customers are entitled are pooled and used by the wholesalers in their behalf (newspaper advertisements, for example). The seller may encourage, but not coerce, the retailer purchasing through a wholesaler to designate a wholesaler as his agent for receiving notice of, collecting, and using promotional allowances for him. If a wholesaler or other intermediary by written agreement with a retailer is actually authorized to collect promotional payments from suppliers, the seller may assume that notice of, and payment under, a promotional plan to such wholesaler or intermediary constitutes notice and payment to the retailer. (A seller should not rely on a written agreement authorizing an intermediary to receive notice of and/or payment under a promotional plan for a retailer, if the seller knows, or should know, that the retailer was coerced into signing the agreement. In addition, a seller should assume that an intermediary is not authorized to receive notice of and/or payment under a promotional plan for a retailer unless there is a written authorization signed by such retailer.)

Change 4. Example 1 of § 240.9 to read:

§ 240.9 Availability to all competing customers.

* * * * *

EXAMPLE 1: A manufacturer offers a plan of short term store displays of varying sizes, including some which are suitable for each of his competing customers and at the same time are small enough so that each customer may make use of the promotion in a practical business sense. The plan also calls for uniform reasonable certification of performance by the retailer. Because they are reluctant to process a reasonable amount of paper work, some small retailers do not participate. This fact is not deemed to place a manufacturer in violation of § 240.9 and he is under no obligation to provide additional alternatives.

Change 5. Section 240.11(b) to read:

§ 240.11 Checking customer's use of payments.

* * * * *

(b) A seller who, in good faith, takes reasonable and prudent measures to verify the performance of his competing customers will be deemed to have satisfied his obligations under the Act. Also,

a seller who, in good faith, concludes a promotional agreement with wholesalers or other intermediaries and who otherwise conforms to the standards of § 240.13 shall be deemed to have satisfied this obligation. If a seller has taken such steps, the fact that a particular customer has retained an allowance in excess of the cost or approximate cost, if the actual cost is not known, of services performed by him shall not alone be deemed to place a seller in violation of the Act.

* * * * *

Change 6. Example 2 of § 240.15 to read:

§ 240.15 Third party liability for double billing.

* * * * *

EXAMPLE 2: Newspaper A has various published rates. Retailer B is a large advertiser who in the past has earned the lowest rate. Newspaper A should not submit monthly invoices to Retailer B at a high rate agreed to by the parties unless the invoice discloses that Retailer B may receive a rebate, and a statement as to the amount or approximate amount of the rebate, if known, and if not known, the amount of rebate the Retailer could reasonably anticipate.

(Secs. 5, 6, 38 Stat. 719, as amended, 721, 15 U.S.C. 45, 46; 49 Stat. 1526; 15 U.S.C. 13, as amended)

Issued: April 6, 1971.

By direction of the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-4672 Filed 4-5-71;8:45 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

ELEMENTAL SULPHUR FROM MEXICO

Antidumping Proceeding Notice

APRIL 2, 1971.

On March 2, 1971, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), indicating a possibility that elemental sulphur from Mexico is being, or likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the Bureau of Customs is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows: The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs regulations (19 CFR 153.30).

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[FR Doc.71-4842 Filed 4-5-71;8:52 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Wyoming 25062]

WYOMING

Opening Lands to Small Tract Application

MARCH 29, 1971.

1. Pursuant to Small Tract Classification Wyoming 25062 dated March 29, 1971, the following described land will be opened to small tract application as set out below, for lease only for business site purposes under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a–e), as amended:

SIXTH PRINCIPAL MERIDIAN

T. 19 N., R. 105 W.,
Sec. 14, a tract of land within lot 5 described as follows:

Beginning at a point 1,029.45 feet N. 16°47'18" E. of the quarter corner common to secs. 14 and 15, T. 19 N., R. 105 W., of the 6th P.M.; thence N. 12°22' E. a distance of 300 feet, thence S. 89°41' E. a distance of 540 feet, thence S. 12°12' W. a distance of 651.6 feet, thence N. 74°54'30" W. a distance of 298.82 feet, thence N. 12°22' E. a distance of 273.41 feet, thence N. 89°41' W. a distance of 235 feet to a point of beginning.

The above-described parcel of land contains 5.78 acres.

The lands are located in Sweetwater County approximately three-eighths mile north of Rock Springs, Wyo.

2. At 10 a.m. on April 9, 1971, the land will be open to applications for a business site lease under the Small Tract Act. All valid applications received at or prior to 10 a.m. on April 9, 1971, will be considered as simultaneously filed at that time. All applications filed after that time will be considered in the order of filing.

3. Applicants must file, in duplicate, with the Assistant Manager, Land Office, Bureau of Land Management, Post Office Box 1828, 2120 Capitol Avenue, Cheyenne, WY 82001, application form 2233–1 filled out in compliance with instructions on the form and accompanied by evidence that they have submitted an acceptable bid to the U.S. General Services Administration, for the construction of facilities in accordance with GSA Solicitation for Offers No. 71–8. Copies of the application form can be secured from the above-named official. The application must be accompanied by a filing fee of $10 and a deposit of $100 advance rental for 1 year. Failure to transmit these payments with the application will render the application invalid. Advance rentals will be returned to unsuccessful applicants. All filing fees will be retained by the United States.

4. The lease will be issued for a term of 20 years.

DANIEL P. BAKER,
State Director.

[FR Doc.71-4711 Filed 4-5-71;8:48 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, or Corrections

By notice in the FEDERAL REGISTER of February 20, 1971, Part II, there was published a list of the properties included in the National Register of Historic Places. This list has been amended by a notice in the FEDERAL REGISTER of March 2 (pp. 3930–31). Further notice is hereby given that certain amendments or revisions, in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470.

The following properties have been added to the National Register since March 2:

CALIFORNIA

Los Angeles County

Encino, *Rancho El Encino (Los Encinos State Historic Park)*, 16756 Moorpark Street.

CONNECTICUT

Fairfield County

Greenfield Hill, *Greenfield Hill Historic District*, the area comprising the village green and adjacent properties on Meeting House Lane, Hillside Road, and Old Academy Road; extending south on both sides of Bronson Road and Hillside Road to a point beyond the Old Cemetery on the former and to a point beyond Verna Hill Road on the latter.

Hartford County

Hartford, *Butler-McCook Homestead*, 396 Main Street.

Litchfield County

Woodbury, *Glebe House*, south side of Hollow Road at the head of Hollow Road No. 2.

Woodbury, *Woodbury Historic District No. 1*, both sides of Main Street (U.S. 6) for a distance of 2 miles; the southern boundary is the Davis parcel (No. 1) and the Bull parcel (No. 2); the northern limit is the Stewart parcel (No. 127) and the Morgan parcel (No. 168) at the boundary of the regional school property (No. 14); also included are Hollow Road and Sycamore Street to the Pomperaug River, Judson Avenue to the river, School Street, Orenaug and Park Roads up to Orenaug Park, and Pleasant Street including the Merriman parcel (No. 128).

New Haven County

Ansonia, *Mansfield, Richard, House*, 35 Jewett Street.

Northford, *Williams, Warham, House*, intersection of Old Post Road with Connecticut 17 and 22.

Southbury, *Southbury Historic District No. 1*, Main Street from Woodbury town line to Old Waterbury Road.

Tolland County

Mansfield Center, *Williams, Eleazer, House*, east side of Storrs Road just south of the intersection with Dobbs Road.

DELAWARE

Kent County

Dover, *Old Statehouse*, The Green.

New Castle County

Wilmington, *Brandywine Village Historic District*, bounded roughly by Tatnall Street, 22d Street, Vandever Avenue, Mabel Street, and Brandywine Creek.

Wilmington vicinity, *The Winterthur Museum and Gardens*, 6 miles northwest of Wilmington on Delaware 52.

FLORIDA

Leon County

Tallahassee, *Union Bank*, 106 South Adams Street.

St. Johns County

St. Augustine, *Alcazar Hotel*, 79 King Street.

GEORGIA

Morgan County

Madison vicinity, *Cedar Lane Farm*, off Georgia 83 north of Madison.

KANSAS

Allen County

Iola, *Allen County Jail*, 204 North Jefferson Street.

Chase County

Cottonwood Falls, *Chase County Courthouse*, on the square at the south end of Broadway.

Dickinson County

Abilene, *Eisenhower Home*, 201 Southeast Fourth Street.

Doniphan County

Highland, *Irvin Hall, Highland Community Junior College*, Highland Community Junior College campus.

Douglas County

Baldwin, *Old Castle Hall*, 513 Fifth Street.
Lawrence, *Old Lawrence City Hall (Watkins National Bank)*, 1047 Massachusetts Street.

Ellis County

Hays, *Fort Hays*, Frontier Historical Park.

Morris County

Council Grove vicinity, *William Young Archeological Site*, 4.5 miles north of Council Grove.

Riley County

Manhattan, *Goodnow House*, 2301 Claflin Road.

Sedgwick County

Wichita, *University Hall, Friends University*, 2000 University Avenue.

Shawnee County

Topeka, *St. Joseph's Catholic Church*, 235 Van Buren Street.

Wabaunsee County

Wabaunsee, *Beecher Bible and Rifle Church*, Southeast corner of Chapel and Elm Streets.

Wyandotte County

Kansas City, *St. Augustine Hall (Mather Hall)*, 3301 Parallel Avenue.
Kansas City, *Trowbridge Archeological Site*, between 61st and 63d Streets north of May Lane and Leavenworth Street.
Muncie, *Grinter Place*, 1420 South 78th Street.

MARYLAND

Allegany County

La Vale, *La Vale Tollgate House*, U.S. 40.

Baltimore (independent city)

Clifton Park Valve House, 2801 Hartford Road.

Baltimore County

Stevenson vicinity, *Fort Garrison*, Garrison Farms Court, south of Stevenson.

Carroll County

Union Mills, *Union Mills Homestead Historic District*, intersection of U.S. 140 and Deep Run Road.

Frederick County

Frederick, *Hessian Barracks*, 242 South Market Street.

Wicomico County

Salisbury, *Pemberton Hall*, Pemberton Road.

MASSACHUSETTS

Essex County

Newburyport, *Market Square Historic District*, Market Square and properties fronting on State, Merrimac, Liberty, and Water Streets.
Newburyport, *U.S. Customhouse*, 25 Water Street.

MICHIGAN

Charlevoix County

St. James, *Mormon Print Shop*, Main and Forest Streets.

Lenawee County

Cambridge Junction, *Walker Tavern (Cambridge State Historical Park)*, on U.S. 12.

Mackinac County

Mackinac Island, *Mission Church*, Huron Street.

Sanilac County

Minden City vicinity, *Sanilac Petroglyphs*, off Germania Road, 11 miles west of Minden City.

MINNESOTA

Hennepin County

Minneapolis, *Butler Brothers Building*, First Avenue North at Sixth Street.

MISSOURI

Clay County

Liberty vicinity, *Nebo Hill Archeological Site*, 3 miles southeast of Liberty.

Jackson County

Kansas City, *Katz Building (Boley Building)*, 1130 Walnut Street.
Kansas City, *Scarritt Building and Arcade*, corner of Ninth and Grand Streets, and 819 Walnut Street.

Marion County

Palmyra, *Gardner House*, 421 South Main Street.

Oregon County

Riverton vicinity, *Pigman Mound of Archeological Site*, 0.75 mile southeast of Riverton.

Saline County

Malta Bend vicinity, *Plattner Archeological Site*, 0.75 mile north of Malta Bend.

Scott County

Diehlstadt vicinity, *Sandy Woods Settlement Archeological Site*, 1.75 miles northwest of Diehlstadt.

Washington County

Fertile vicinity, *Cresswell Petroglyph Archeological Site*, 2 miles east of Fertile.

NEBRASKA

Lancaster County

Lincoln, *Lewis-Syford House*, 700 North 16th Street.

NEW HAMPSHIRE

Belknap County

Laconia, *Belknap-Sulloway Mill*, Mill Street.
Laconia, *Busiel-Seeburg Mill*, Mill Street.

NEW JERSEY

Atlantic County

Atlantic City, *Absecon Lighthouse*, Vermont and Pacific Avenues.

Mercer County

Princeton, *Morven*, Stockton Street.
Trenton, *Old Barracks*, South Willow Street.

Middlesex County

Perth Amboy, *Proprietary House (The Westminster)*, 139–151 Kearny Avenue.

Ocean County

Barnegat Light, *Barnegat Lighthouse*, northern end of Long Beach Island.

Somerset County

Raritan, *Frelinghuysen, General John, House*, Somerset Street and Wyckoff Avenue.
Somerville, *Old Dutch Parsonage*, 38 Washington Place.

NEW YORK

Albany County

Albany, *Albany Academy (Joseph Henry Memorial)*, Academy Park.
Albany, *Albany Union Station*, east side of Broadway between Columbia and Steuben Streets.
Albany, *Cherry Hill*, South Pearl Street between First and McCarthy Avenues.
Albany, *New York Executive Mansion*, 138 Eagle Street.
Albany, *New York State Capitol*, Capitol Park.
Albany, *New York State Court of Appeals (State Hall)*, Eagle Street between Pine and Columbia Streets.
Cohoes, *Harmony Mill No. 3 (Mastodon Mill)*, 100 North Mohawk Street.
Cohoes, *Lock 18 of Enlarged Erie Canal (Double Lock)*, west of 252 North Mohawk Street, east of Reservoir Street near Manor Avenue.
Cohoes, *Music Hall*, northwest corner of Remsen and Oneida Streets.

Clinton County

Plattsburgh, *Kent-Delord House*, 17 Cumberland Avenue.
Plattsburgh, *Old Stone Barracks*, Rhode Island Avenue, Plattsburgh Air Force Base.

Columbia County

Germantown, *Clermont*, Clermont State Park.
Livington, *Livingston, Henry W., House, The Hill*, at intersection of U.S. 9 and New York 82.

Herkimer County

Indian Castle vicinity, *Indian Castle Church*, East of Indian Castle on New York 5 South.

Madison County

Cazenovia, *Lorenzo*, Ledyard Street (U.S. 20).

Monroe County

Rochester, *Child, Jonathan, House and Brewster-Burke House Historic District*, 37 South Washington Street and 130 Spring Street.

New York County

New York City, *Schermerhorn Row Block (New York State Maritime Museum Block)*, bounded by Front, Fulton, South Streets, and Burling Slip.

Onondaga County

Syracuse, *Onondaga County Savings Bank Building (Gridley Building)*, 101 South Salina Street.
Syracuse, *Syracuse Savings Bank*, 102 North Salina Street.

Syracuse, *Weighlock Building*, southeast corner of Erie Boulevard and Montgomery Street.

Rensselaer County

Troy, *Gasholder House, Troy Gas Light Co.*, northwest corner of Jefferson Street and Fifth Avenue.

Saratoga County

Mount McGregor, *Grant Cottage*, County Route 101 north of U.S. 9.

NORTH CAROLINA

Beaufort County

Washington, *Bank of Washington, West End Branch*, 216 West Main Street.

Edgecombe County

Battleboro, *St. John's Episcopal Church*, East Main Street.
Tarboro, *The Barracks*, 1100 Albermarle Street.
Tarboro, *Blount House (The Grove)*, 130 Bridgers Street.
Tarboro, *Calvary Episcopal Church and Churchyard*, 411 East Church Street.
Tarboro, *Cotton Press*, Town Common.
Tarboro, *Walston-Bulluck House (Pender Museum)*, 1018 St. Andrews Street.
Tarboro vicinity, *Bracebridge Hall*, near small crossroads of Macklesfield.
Tarboro vicinity, *Coolmore Plantation*, west of Tarboro on U.S. 64.
Tarboro vicinity, *Piney Prospect (Sugg House)*, 5.7 miles south of Tarboro off Route 1601.

Hertford County

Como vicinity, *Hare Plantation House*, 1.6 miles west of the junction of Route 1317 and U.S. 258.
Como vicinity, *Riddick House*, 1 mile south of the intersection of Routes 1319 and 1322.
Murfreesboro, *The Columns*, Jones Drive.
Murfreesboro, *Freeman House (Hertford Academy)*, 200 East Broad Street.
Murfreesboro, *Roberts-Vaughan House*, 130 East Main Street.

Wilkes County

Wilkesboro, *Old Wilkes County Jail*, North Bridge Street.

OHIO

Franklin County

Westerville, *Towers Hall, Otterbein College*, West Main and Grove Streets, Otterbein College campus.

Lucas County

Toledo, *Neukom, Albert, House*, 301 Broadway.

OKLAHOMA

Oklahoma County

Jones vicinity, *"Ringing the Wild Horse" Site*, W½ sec. 17 and E½ sec. 18, T. 13 N., R. 1 W.

PENNSYLVANIA

Delaware County

Haverford, *Nitre Hall*, Karakung Drive.

Fayette County

Mount Braddock vicinity, *Meason, Isaac, House (Dr. Christopher Gist Plantation)*, U.S. 119 North.

Montgomery County

Plymouth Meeting, *Hovenden House, Barn, and Abolition Hall* No. 1 East Germantown Pike.
Plymouth Meeting, *Plymouth Friends Meetinghouse*, corner of Germantown and Butler Pikes.

Philadelphia County

Philadelphia, *Kosciuszko House*, 301 Pine Street.
Philadelphia, *Maxwell, Ebeneezer, House*, 200 West Tulpenhocken Street.

RHODE ISLAND

Kent County

East Greenwich, *Witmarsh, Colonel Micah, House (John Reynolds House)*, 294 Main Street.

Newport County

Newport, *Clarke Street Meetinghouse (Second Congregational Church)*, Clarke Street.

Providence County

Cranston, *Joy Homestead*, 156 Scituate Avenue.
Cranston, *Sprague, Governor William, Mansion*, 1351 Cranston Street.

SOUTH CAROLINA

Lancaster County

Lancaster, *Lancaster County Courthouse*, 104 North Main Street.

Oconee County

Walhalla vicinity, *Oconee Station and Richards House*, 11 miles north of Walhalla via South Carolina 11 and County Route 95.

Richland County

Columbia, *South Carolina State Hospital Mills Building*, 2100 Bull Street.
Columbia, *Trinity Episcopal Church*, 1100 Sumter Street.

TENNESSEE

Shelby County

Memphis, *Hunt-Phelan Home*, 533 Beale Avenue.
Memphis, *The Lee and Fontaine Houses of the James Lee Memorial*, 680–690 Adams Avenue.
Memphis, *Randolph House*, 546 Beale Street.

TEXAS

Bastrop County

Bastrop, *Allen-Bell House*, 1408 Church Street.

Bowie County

Texarkana, *Offenhauser Insurance Building*, State Line Avenue and Third Street.

Crockett County

Sheffield vicinity, *Fort Lancaster*, 10 miles east of Sheffield on U.S. 290.

Gonzales County

Gonzales, *Kennard House*, 621 St. Louis Street.

Jefferson County

Beaumont, *McFadden House Complex*, 1906 McFadden.

Lavaca County

Hallettsville, *Lay-Bozka House*, 205 Fairwinds.

San Augustine County

San Augustine, *Cartwright, Matthew, House*, 912 East Main Street.

Val Verde County

Comstock vicinity, *Seminole Canyon Archeological District*, 7 miles west of Comstock, south of U.S. 90.

Washington County

Brenham vicinity *Hatfield Plantation*, northwest of Brenham off Farm-to-Market 912.
Gay Hill vicinity, *The Red House*, northwest of Gay Hill via Texas 36 and Farm-to-Market 390.

UTAH

Salt Lake County

Salt Lake City, *Cathedral of the Madeleine (Roman Catholic)*, 331 East South Temple Street.
Salt Lake City, *Devereaux House (Staines-Jennings Mansion)*, 334 West South Temple Street.

Washington County

St. George, *Young, Brigham, Winter Home and Office*, corner of Second North and First West Streets.
Santa Clara, *Hamblin, Jacob, House*.
Silver Reef, *Wells Fargo and Company Express Building*, Main Street.

Weber County

Ogden, *Goodyear, Miles, Cabin*, Tabernacle Square.

VERMONT

Rutland County

Castleton, *Castleton Medical College Building*, South Street.

Washington County

Montpelier, *Vermont Statehouse*, State Street.

Windsor County

Goulds Mill, *Eureka Schoolhouse*, Charleston Road.
Windsor, *Old Constitution House*, 16 North Main Street.

WASHINGTON

Jefferson County

Port Townsend, *Old German Consulate (Olson-Hastings House)*, 313 Walker.

WEST VIRGINIA

Putnam County

Buffalo, *Buffalo Indian Village Site*, southwest of Buffalo off U.S. 35.

Taylor County

Grafton, *Andrew Methodist Church (Mothers' Day Shrine)*, East Main Street between St. John and Luzader Streets.

WISCONSIN

Iowa County

Mineral Point, *Pendarvis*, 114 Shake Rag Street.

ERNEST ALLEN CONNALLY,
Chief, Office of Archeology and Historic Preservation.

[FR Doc.71-4692 Filed 4-5-71;8:47 am]

Office of the Secretary

EDGAR A. WEYMOUTH

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) Now own, having been received as an inheritance, 217 shares Texaco, Inc., com.
(2) None.
(3) None.
(4) None.

This statement is made as of March 8, 1971.

Dated: March 8, 1971.

E. A. WEYMOUTH.

[FR Doc.71-4706 Filed 4-5-71;8:48 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt. 11]

SALES OF CERTAIN COMMODITIES

Monthly Sales List

The CCC Monthly Sales List for the fiscal year ending June 30, 1971, published in 35 F.R. 10922, is amended to delete the provisions of section 48 entitled *Nonfat Dry Milk—Unrestricted Use Sales.*

Effective date: March 26, 1971.

Signed at Washington, D.C., on March 26, 1971.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.71-4702 Filed 4-5-71;8:47 am]

Consumer and Marketing Service

WHEAT RESEARCH AND PROMOTION PROGRAM

Notice of Intention To Enter Into Agreements With Organizations

Pursuant to the Wheat Research and Promotion Act, Public Law 91-430, enacted by the 91st Congress, the Secretary of Agriculture intends to enter into agreements with one or more organizations of wheat growers, farm organizations, and such other organizations as he may deem appropriate to carry out a program of research and promotion designed to expand domestic and foreign markets and increase utilization for U.S. wheat, and to carry out any other such programs which he deems will benefit wheat producers in the United States.

In determining the appropriateness of an organization to enter such an agreement, the Secretary will consider the organization's membership and activities; whether its principal function is carrying out a program of research and promotion designed to expand domestic and foreign markets and increase utilization of U.S. wheat; and whether it has the staff and other resources to assure adequate development, supervision, and execution of wheat research and promotion programs.

Applications from organizations wishing to be considered for such an agreement should be sent to the Director, Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture, 6505 Belcrest Road, Hyattsville, MD 20782, and must be received at that address within 30 days from the date of this notice.

Effective date. This notice is effective upon publication in the FEDERAL REGISTER (4-6-71).

Done in Washington, D.C., this 2d day of April 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-4832 Filed 4-5-71;8:52 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File No. 26(69)-6; Case No. 412]

BRUNO KAELBERER AND SYSTEM TECHNIK G.m.b.H.

Notice of Related Party Determination

In the matter of Bruno Kaelberer and System Technik G.m.b.H., 83 Untermainkai, Frankfurt/Main, Federal Republic of Germany.

An order dated October 13, 1970, was entered by the Office of Export Control, Bureau of International Commerce, against Comp-Data G.m.b.H. and Johann Nitschinger of Vienna, Austria, denying them all privileges of participating in any manner or capacity in exportations from the United States of commodities or technical data for a period of 5 years. This order was published in the FEDERAL REGISTER on October 23, 1970 (35 F.R. 16551). Said order, as stated therein, continued in effect restrictions that had been imposed against the above-named parties on April 10, 1970.

Section 388.1(b) of the Export Control Regulations provides, in part, that to the extent necessary to prevent evasion of any order denying export privileges, said order may be made applicable to parties other than those named in the order with whom said named parties may then or thereafter be related by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or related services. It has been determined by the Office of Export Control, Bureau of International Commerce, that within the purview of said section Bruno Kaelberer and System Technik G.m.b.H., located at the above address, are related parties to said Comp-Data G.m.b.H. and Johann Nitschinger. Under this determination the terms and restrictions of the order of October 13, 1970. are effective against said related parties.

The said related parties are being notified of this determination and advised that if they contend that the ruling is not justified they may make application to have the ruling reconsidered or terminated. Due notice will be given of any termination or change in this related party determination.

Dated: March 29, 1971.

RAUER H. MEYER,
Director,
Office of Export Control.

[FR Doc.71-4673 Filed 4-5-71;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-259; Various NDAs]

NEW-DRUG APPLICATIONS

Notice of Withdrawal of Approval

A notice of opportunity for hearing was published in the FEDERAL REGISTER on November 7, 1970 (35 F.R. 17209), extending to each holder of a "deemed approved" new-drug application listed herein, and to any interested person who might be adversely affected, an opportunity for hearing on the proposal of the Commissioner of Food and Drugs to issue an order under the provision of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of such applications and all approved amendments and supplements thereto.

The objective of this action is to close a number of new-drug files that have been inactive for several years. Withdrawal of approval of these applications is not for the purpose of classifying the products as new drugs or of applying the efficacy provisions of the act to drugs of the same composition marketed by other firms.

The applicants listed below have either indicated that they will not avail themselves of the opportunity for a hearing or have not filed a written appearance of election within 30 days as provided by said notice for the new-drug applications listed herein. The failure to file such an appearance is construed as an election by such persons not to avail themselves of the opportunity for hearing.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1053, as amended; 21 U.S.C. 355(e)), and under authority delegated to the Commissioner (21 CFR 2.120), approval of the following new-drug applications, including all amendments and supplements thereto, is hereby withdrawn on the grounds that the applicants have repeatedly failed to make required reports under section 505 (j) of the act (21 U.S.C. 355(j)) and 130.35 (a), (b), (e), and (f) of the new-drug regulations (21 CFR 130.35).

Applicant's name and address	NDA Nos.	Name of drug
Abbott Labs, Abbott Park, North, Chicago, Ill. 60064	6-592	Aldarsons Capsules.
American Pharmacal Co., 425 Main St., Poughkeepsie, NY	3-443	Sulfathiazole Tablets.
Angier Chemical Co., 244 Brighton Ave., Boston, MA	6-862	S-D-O (Sulfadioxide Solution).
Ayerst Labs (Division American Home Products), Rouses Point, N.Y. 10017.	6-574	Thiomerin Injection.
Ayerst, McKenna & Harrison, 20 East 40th St., New York, NY	7-349	Arthenolone Tab. and Inj.
Bard Saratoga Laboratories, Inc., Saratoga Springs, N.Y	10-327	Eumens Tablets.
Bauer & Black, Division Kendall Co., Box 348, Louisville Rd., Franklin, KY 42134.	5-826	Dynic Air Germicide.
Bio Intrasol Labs, Inc., Brooklyn, N.Y	10-731	Vitamin B^{12} Activity Conc. Solution Injection.
Breon & Co., Inc. (George A), 1450 Broadway, New York 18, NY.	3-044	Desoxycholic Acid Tablets.
Bristol Myers Co., New York, N.Y	6-400	Propylthiouracil Tabs.
	6-865	Mephenesin Tablets.
	8-496	Bristazide Tablets.
	10-881	Ambutonium Bromide Tabs.
	10-677	Lenigyn Capsules.
Burroughs Wellcome & Co., Inc., 1 Scarsdale Rd., Tuckahoe, NY.	5-658	Quinizarin Powder.
	6-259	Amidone HCl Tablets.
Camenol Co., Lafayette, Oreg	1-304	Camenol Solution.
Canada Packers, Ltd./Canada, Philip J. Lobue Co., Agent, Toronto, Canada.	11-471	Acthalean Injection.
Chicago Dietetic Supply House, Chicago, Ill	7-025	Cellu K Salt.
Cole Pharmacal Co., 3715-27 Laclede Ave., St. Louis, MO 63108	3-254	E-B-Z Compound Oint.
	8-007	Khellcol Tablets.
Columbus Pharmacal Co., Division Philips Roxane, Inc., 326-336 Oak St., East Columbus, OH.	10-965	Cobalamin Conc. Inj.
Commercial Solvents Corp., 260 Madison Ave., New York, NY 10016.	7-560	Tolanate Tablets.
Delmar Pharmacal Co., Rensselaer, N.Y	10-952	Reserpine Tablets.
Direct Sales Co., 377 Genesee St., Buffalo, NY	3-091	Ephedrine HCl Solution.
	3-337	Vitamin B_1 Tablets.
	3-375	Vitamin B_1 Injection.
	3-425	Ferrous Sulfate Tablets.
	3-717	Aluminum Hydroxide Tablets.
Doak Co., 2000 Shames Dr., Westbury, Long Island, NY 11590	5-874	Salinidol Oint.
Dome Chemicals, Inc., 125 West End Ave., New York, NY	11-767	Prednisolone Tablets.
Dorsey Co., Smith, Division Wander Co., 233 South 10th St., Lincoln, NE 68501.	13-082	Wilpo 24 Inlay Tablets.
Eli Lilly & Co., 740 South Alabama St., Indianapolis, IN 46206	6-745	Aludrine HCl Injection.
Endo Products Co., 84-40 101 St., Richmond Hill 18, NY	2-753	Menaquin Tablets.
First Texas Chemical Manufacturing Co., Post Office Box 5026, Dallas, TX 75222.	0-721	Cevitamic Acid Tabs.
	0-965	Nicotinic Acid Tabs.
	3-364	Vadrin Solution.
	3-669	Sulfathiazole Tabs.
	4-316	Morphine HCl Elixir.
	5-055	Sulfathiozole 5 Percent Oint.
Geigy Pharmaceuticals, Division Geigy Chemical Corp., Saw Mill River Rd., Ardsley, NY 10502.	11-079	Finalgon Oint.
B. F. Goodrich Chemical Co., Calvert City, Ky. 42029	10-633	Good-Rite Beta Propiolactone.
Hart Labs, Winston-Salem, N.C	11-534	Nicocaps.
G. F. Harvey Co., Inc., Saratoga Springs, N.Y	3-601	Amoplex Liquid.
	3-602	Sulfathiazole Tablets.
	9-746	Rauwoldin Tablets.
	12-369	Athrombin K.
Harvey Labs, 428-30 South 13th St., Philadelphia, PA	2-979	Digiseals Capsules.
	10-772	Rauwolfia Serpentina Tablets.
E. W. Heun Co., 6117 Gravois Ave., St. Louis, Mo	11-944	Drocode Bitartrate w/APC Tabs.
Hoffman-La Roche, Inc., 340 Kingsland St., Nutley, N.J. 07110	9-160	Mepesulfate Injection.
	10-635	Noludar w/Marplan Bromide Syrup.
	10-756	Romycil Capsules.
	11-468	Prostigmin Bromide Timespan Tablets.
Horner, Inc., Frank W., 91 Willow St., Lynn, MA	4-256	Vagicol 47.
Indiana Botanic Gardens, Inc., 626 177th St., Hammond, IN 46325.	0-282	Eucamint Ointment.
Immui Flour Corp., Columbia, S.C	7-305	IMP Tooth Powder.
Intra Products, Inc., Post Office Box 14148, Northridge Station, Dayton, Ohio.	0-693	Stilbestrol Injection.
Johnson & Johnson, U.S. Highway 1, North Brunswick, N.J. 08900.	5-351	Sulfathiazole Steripads.
	5-352	Sulfanilamide Uterine Packing Dressing.
	5-736	Tyro-Thri-Cin Pad Dressing.
Kalusoff, Ltd., Post Office Box 844, Springfield, IL	4-218	Kalusoff's Benchlopen Solution.
Kasar Manufacturing Co., 7313 North Harlem Ave., Chicago, IL	10-682	Reserpine Injection.
Kremers Urban Co., 5600 West County Line Rd. (Box 2038), Milwaukee, WI 53201.	11-009	Vitamin B_{12} Activity Conc. Ku-Injection.
Lanolin Plus, Inc., 30 West Hubbard St., Chicago, IL	11-039	Gone Cream.
Lederle Labs, Division American Cynamid Co., Pearl River, N.Y. 10965.	12-213	Neo Aristocort Acetonide Eye-Ear Drops.
Lee-Bert, Inc., 900 Lapeer St., Saginaw, MI	5-696	Lan Lip Pomade Cream.
Lloyd Brothers, Inc., Cincinnati, Ohio 45229	11-509	Nevora Tablets.
M & W Products Co., Inc., 209 Ivinson Ave., Post Office Box 116, Laramie, WY.	7-952	Nasol Tablets.
McNeil Labs, Camp Hill Rd., Fort Washington, Pa. 19034	12-580	Tylenol Tabs.
	12-331	Axiquel Tablets.
Mead Johnson & Co., Evansville, Ind. 49464	6-788	Lonsalt Iodized Granules.
	11-734	Cadryn.
Wm. S. Merrell Co., 1269 Gest St., Cincinnati, OH 45203	11-976	Bentyl W/O.
	12-588	Tenuvim Capsules.
Metropolitan Labs., Division Michigan Chemical Corp., 500 North Bankon St., St. Louis, MI.	12-319	Optizone Tablets.
E. S. Miller Labs., 743 Maple Ave., Los Angeles, CA	11-029	ESM-191 Tablets.
Modern Pharmaceuticals, Columbia, S.C	12-002	IMF Toothpaste.
National Drug Co., Division Richardson-Merrell, Inc., 4663 Stenton Ave., Philadelphia, PA 19144.	10-771	Parenzyme Buccal Tablets.
Novocol Chemical Manufacturing Co., Inc., 2921-2933 Atlantic Ave., Brooklyn, NY 11207.	12-988	Monerone injection.
Novy, Frank, 3935 West 26th St., Chicago, IL	2-870	Kaselina Turf-Peat Baths Solution.
	2-871	Orion Herb Tea Liq.
Nuclear Consultants, Division Mallinckrodt Chemical Works, Maryland Heights, Mo. 63042.	10-817	Radioactive Colloidal Gold Injection.
	11-775	Sodium Iodide 1-131 Diagnostic Capsules.
	11-776	Sodium Iodide 1-131 Diagnostic Solution.
	11-777	Sodium Phosphate P-32 Therapy Solution.
Nuclear Corporation of America, St. Louis, Mo	9-359	Radioactive Phosphorous.
Nysco Labs., Inc., 34-24 Vernon Blvd., Long Island City, NY	8-439	Antihistamine w/APC Tabs.
	8-468	Nyscoloid Tablets.
Ortho Pharmaceutical Corp., Raritan, N.J. 08869	11-817	Lupinac Injection.
Panray Corp., New York, N.Y	8-515	Hexamethonium Chloride Tab.
Parke-Davis & Co., Joseph Campau Ave., Detroit, MI 48207	5-399	Phemerol Octyl Oxyac Mis.
	5-457	Cellulose Acetate Phthalate.
	5-855	Diramin Injection.
	5-964	Benzyl Benzoate Eml.
	6-289	Amulcent Gel Sus.
	7-767	Diamenodyphenyl Sufone Tab.
	9-111	Mentanol Capsules.
	9-582	Vanquin Suspension.
	10-340	Prodorm Capsules.
Physicians Drug & Supply Co., 408 North 3d St., Philadelphia, PA.	8-859	Cortisone AC Tablets.
Physiological Chemical Co., Inc., New York, N.Y	7-792	Scorbacaine Inj.
Pitman-Moore Co., Dow Chemical Co., 1200 Madison Ave., Indianapolis, IN 46206.	5-655	Alginex Sulfathiazole Sus. Benzodol
	10-071	Tablets.
Premo Pharmaceutical Labs., Inc., 111 Leuning St., South Hackensack, NJ 07606.	3-407	Sulfathiazole Tablets Hycortole Acetate Saline Injection.
Proco Sol Chemical, 1209 Arch St., Philadelphia, PA	9-779	Magnacaine Injection.
Purdue Frederick Co., 99-101 Saw Mill River Rd., Yonkers, NY 10701.	10-985	Somatovite Chew Tablets;
	10-332	Ethnine Simplex Tablets.
	12-668	Ethnine Simplex Syrup.
	12-722	Quikaps Capsules.
Quikaps Products Co., 199 Broadway, Amityville, NY	3-531	Rescinnamine Tablets.
Raymer Pharmacal Co., Jasper & Willard Sts., Philadelphia, PA 19134.	11-010	Repoise Tablets (Mephenoxalone);
A. H. Robins Co., Inc., 1407 Cummings Dr., Richmond, VA 23220.	12-769	Mekasel Powder.
Wm. H. Rorer, Inc., Fort Washington, PA	5-983	Bio-Clear Lot.
Rubenstein, Helena, 655 5th Ave., New York, NY	12-312	Stilbestrol Tablets.
Schieffein & Co., Apex, N.C. 27502	4-390	Hydrocortisone Ointment.
Seaboard Drug Co., 21 West 45th St., New York, NY	10-657	Anecane Lozenge.
Seaver & Co. S.R., North Kansas City, MO	0-375	Lucorteum Inj.
Sharp & Dohme Inc., Rahway, NJ 07065	6-678	Aramine Solution.
	9-001	Dextrose 5 percent in Physiologic
Sherman, G. H., Inc., 14600 East Jefferson Ave., Detroit, MI	3-362	Sodium Chloride Sol. and Vit. B_1.
E. R. Squibb & Sons, Georges Rd., New Brunswick, NJ 08900	7-912	Morphine Tartrate Inj.
	7-921	Sodium Ascorbate Inj.
	7-922	Morphine Tartrate with Atropine Tartrate.
	7-924	Procaine HCl Inj.
	7-927	Methadone Tartrate Inj.
	7-928	Thiamine HCl Inj.
	7-929	Pyridoxine HCl Inj.
	7-930	Niacinamide Inj.
	12-780	Di-Ademel Suspension.

Applicant's name and address	NDA Nos.	Name of drug
Success Chemical Co., Inc., 800 Hinsdale St., Brooklyn, NY	10-820	Cortisone Acetate Oint.
	10-720	Hydrocortisone Acetate Oint.
Syntex Chemical Co. (Labs), 701 Welch Rd., Palo Alto, CA 94304	13-205	Neo-Synalar Emollient Cream.
Texas Pharmacal Co., Hicks Bldg., San Antonio, TX	4-970	Mercreol Ointment.
The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49001	6-378	Methadon HCl Elixir.
	11-085	Prednisolone Sodium Succinate Injection.
	10-944	Methorate Syrup.
Vick Chemical Co., Division Richardson-Merrell, Inc., 122 East 42d St., New York, NY.	11-037	Tempo Tablets.
Vitarine Co., Inc., 227-15 North Conduit Ave., Springfield Gardens, NY 11413.	10-607	Serpivite Capsules.
	10-920	Vitamin B_{12} Activity Conc. Inj.
Westwood Pharmaceuticals, 468 Dewitt St., Buffalo, NY	10-968	Gentia Creme.
Whittier Labs, Chicago, Ill	8-551	Pyracarb Tab.
Wilson Labs, 4221 South Western Blvd., Chicago, IL 60609	4-944	Oxidized Mixed Ox Bile Acids.
Winthrop Products, Inc., Division of Sterling Drug, Red Mill Rd., Rensselaer, NY.	10-873	Maxukal Injection.
	12-552	Carbocain Injection.
	11-001	Demerol w/Lotusate Tablets.
Worthington Biochemical Corp., Freehold, NJ	9-380	Hyaluronidase Inj.
Wyeth Labs., Division American Home Products, Philadelphia, Pa. 19101.	11-585	Onadon Tablets.
Ziegler Pharmacal Co., 484 Delaware Ave., Buffalo, NY	10-587	Cowlserpa Tablets.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (4-6-71).

Dated: March 17, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-4590 Filed 4-5-71;8:45 am]

[DESI 50223]

CERTAIN NEOMYCIN TOPICAL DERMATOLOGIC PREPARATIONS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following dermatologic drugs:

1. Ultimycin Cream, containing neomycin palmitate and allantoin; Walker Corporation & Co., Inc., Easthampton Place and North Collingwood Avenue, Post Office Drawer 1320, Syracuse, New York 13206 (NDA 50-223).

2. Neo-Mantle Lotion and Neo-Mantle Creme, both containing neomycin sulfate; Dome Laboratories Division, Miles Laboratories, Inc., 400 Morgan Lane, West Haven, Connecticut 06516 (NDA 50-239 and NDA 50-240).

The Food and Drug Administration concludes that these neomycin sulfate or neomycin palmitate dermatologic preparations are possibly effective for all labeled indications.

Preparations containing neomycin sulfate or neomycin palmitate are subject to the antibiotic procedures under section 507 of the Federal Food, Drug, and Cosmetic Act. To allow applicants to obtain and submit data to provide substantial evidence of effectiveness of the drugs in those conditions for which they have been evaluated as possibly effective, batches of such drugs which bear labeling with the indications evaluated as possibly effective will be accepted for release or certification by the Food and Drug Administration for a period of 6 months after publication of this announcement in the FEDERAL REGISTER.

To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

At the end of the 6-month period, any such data will be evaluated and the conclusions published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, such drug will no longer be eligible for release or certification.

A copy of the Academy's report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 50223, directed to the attention of the following appropriate office, and addressed to the Food and Drug Administration, 5600 Fisher's Lane, Rockville, Maryland 20852:

Amendments (identify with NDA number, if known): Division of Anti-Infective Drug Products (BD-140), Office of Scientific Evaluation, Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

Requests for NAS-NRC Report: Press Relations Office (CE-200), Food and Drug Administration, 200 "C" Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51, as amended, 59 Stat. 463, as amended: 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: March 17, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc. 71-4684 Filed 4-5-71;8:46 am]

[DESI 8278]

PHENTOLAMINE MESYLATE FOR INJECTABLE USE AND PHENTOLAMINE HYDROCHLORIDE FOR ORAL USE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs for injectable or oral use:

1. Regitine Lyophilized Powder for Injection, containing phentolamine mesylate; CIBA Pharmaceutical Co., 556 Morris Avenue, Summit, New Jersey 07901 (NDA 8-278).

2. Regitine Tablets, containing phentolamine hydrochloride; CIBA Pharmaceutical Co. (NDA 8-278).

The drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new-drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new-drug application is required from any person marketing such drugs without approval.

The Food and Drug Administration is prepared to approve new-drug applications and supplements to previously approved new-drug applications under conditions described in this announcement.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. Phentolamine mesylate or phentolamine hydrochloride preparations are effective for use in diagnosis of pheochromocytoma; prevention or control of hypertensive episodes that may occur as a result of stress and manipulation of the tumor in preoperative preparation of the patient with a pheochromocytoma and during the actual removal of the tumor; and to prevent or counteract dermal necrosis and sloughing caused by intravenous norepinephrine.

2. These drugs are probably effective in the medical management of pheochromocytoma to prevent paroxysmal attacks during a period when postponement of surgical treatment may be necessary.

3. These drugs are possibly effective as adjunctive therapy in patients with vaso-

spasm with or without arterial occlusive disease.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new-drug applications and abbreviated supplements to previously approved new-drug applications under conditions described herein.

1. *Form of drug.* Phentolamine mesylate preparations are in sterile powder form suitable for reconstitution for intramuscular or intravenous administration, and phentolamine hydrochloride preparations are in tablet form suitable for oral administration.

2. *Labeling conditions.* a. The labels bear the statement "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows: (The possibly effective indications may also be included for six months.)

INDICATIONS

Phentolamine mesylate or phentolamine hydrochloride preparations are indicated for use in the diagnosis of pheochromocytoma; prevention or control of hypertensive episodes that may occur as a result of stress and manipulation of the tumor in preoperative preparation of the patient with a pheochromocytoma and during the actual removal of the tumor; prevention and counteracting dermal necrosis and sloughing caused by intravenous norepinephrine; and in medical management of pheochromocytoma to prevent paroxysmal attacks during a period when postponement of surgical treatment may be necessary.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new-drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraphs (a)(1) (i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new-drug application, the submission of an abbreviated new-drug application as described in paragraph (a)(3)(i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as probably effective (included in the "Indications" section above) and possibly effective (not included in the "Indications" section), continued use as described in (c), (d), (e), and (f) of that notice.

A copy of the Academy's report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 8278, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland, 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original abbreviated new-drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: March 16, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-4683 Filed 4-5-71;8:46 am]

[Docket No. FDC-D-326; NDA 12-382; DESI 12382]

PROPIOMAZINE HYDROCHLORIDE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Largon Injection containing propiomazine hydrochloride; Wyeth Laboratories, Division American Home Products Corp., Post Office Box 8299, Philadelphia, Pennsylvania 19101 (NDA 12-382).

The drug is regarded as a new drug (21 U.S.C. 321(p)). Supplemental new-drug applications are required to revise the labeling in and to update previously approved applications providing for such drug. A new-drug application is required from any person marketing such drug without approval.

The Food and Drug Administration is prepared to approve new-drug applications and supplements to previously approved new-drug applications under conditions described in this announcement.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. The drug is effective as a sedative for relief of restlessness and apprehension preoperatively or during surgery.

2. The drug is regarded as probably effective as a sedative for relief of restlessness and apprehension during labor.

3. Propiomazine hydrochloride lacks substantial evidence of effectiveness when used in combination with meperidine for providing analgesia.

4. With the exception of the aforementioned indications, the drug is regarded as possibly effective for all claimed indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new-drug applications and abbreviated supplements to previously approved new-drug applications under conditions described herein.

1. *Form of drug.* Propiomazine hydrochloride preparations are in sterile aqueous solution form suitable for parenteral administration.

2. *Labeling conditions.* a. The label bears the statement "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows:

INDICATIONS

As a sedative, for the relief of restlessness and apprehension preoperatively or during surgery.

As a sedative for the relief of restlessness and apprehension during labor.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study", published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new-drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1062), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug in the formulation which is marketed as described in paragraphs (a)(1) (i), (ii), and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new-drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is or is intended to be marketed, as described in paragraph (a)(3)(ii) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as probably effective (included in the "Indications" section above) and possibly effective (not in-

cluded in the "Indications" section above), continued use as described in (c), (d), (e), and (f) of that notice.

C. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new-drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A3 of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Promulgation of the proposed order would cause any related drug for human use offered for the indications for which substantial evidence of effectiveness is lacking to be a new drug for which an approved new-drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing, together with a well-organized and full-factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the Academy's report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 "C" Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 12382, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original abbreviated new-drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

Request for Hearing (identify with Docket Number): Hearing Clerk, Office of General Counsel (GC-1), Room 6-62, Parklawn Building.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended: 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drug (21 CFR 2.120).

Dated: March 17, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-4687 Filed 4-5-71;8:46 am]

[Docket No. FDC-D-160; NADA No. 8-593V]

DR. STEPHEN JACKSON AND BENGEN & CO.

Coecolysin Bengen; Notice of Withdrawal of Approval of New Animal Drug Application

In the notice of opportunity for hearing published in the FEDERAL REGISTER of July 7, 1970 (35 F.R. 10926), the Commissioner of Food and Drugs proposed to issue an order under the provisions of section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b (e)) withdrawing approval of NADA (new animal drug application) No. 8-593V and all amendments and supplements thereto held by Bengen & Co. for the drug Coecolysin Bengen. This proposal was made on the grounds that an evaluation of new information before the Commissioner with respect to the drug together with the evidence available to him when the application was approved shows there is a lack of substantial evidence that the drug has the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

The holder of the new animal drug application and any interested person electing to avail themselves of the opportunity for hearing were required by the notice to file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug application should not be withdrawn together with a well-organized and full-factual analysis of the clinical and other investigational data they were prepared to prove in support of their opposition to the grounds for the notice of opportunity for a hearing. It was noted that the request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing.

Dr. Stephen Jackson, 4815 Rugby Avenue, Washington, D.C. 20014, agent for the holder (Bengen & Co., 8-12 Dreyerstrasse, Hanover, Federal Republic of Germany), filed a written appearance requesting a hearing along with material in support of his request.

I. *Basis of the request for a hearing.* Dr. Jackson's analysis of the information before the Commissioner made the following points:

(A) The material submitted in the original NADA for the product demonstrates the efficacy of Coecolysin.

(B) Coecolysin is accepted and has been used successfully by practicing veterinarians.

(C) A recent study of the use of Coecolysin in horses proves the efficacy of the drug.

II. *Findings and conclusions.* The Commissioner's findings are as follows:

(A) *Composition of the drug.* The drug is labeled as containing an active organic substance extracted from the walls of horse and bovine intestines.

(B) *Claims.* The information in the package insert for Coecolysin states that the drug is an organic extract for stimulation of gastrointestinal peristalsis in horses, cattle, sheep, hogs, and dogs. The insert also indicates that the result of administration of the drug is an increased peristalsis starting in the stomach and continuing along the intestines and that the drug is indicated in all motility disturbances of the gastrointestinal tract.

(C) *NAS-NRC Evaluation.* A notice published in the FEDERAL REGISTER of January 17, 1969 (34 F.R. 771), announced the National Academy of Sciences-National Research Council's evaluation of the drug as "probably not effective" for increasing peristalsis in the gastrointestinal tract of horses, cattle, sheep, hogs, and dogs. The notice invited Dr. Jackson to submit pertinent data on the drug's effectiveness.

(D) *Material submitted in support of the drug.* (1) The original NADA contained a paper published in "Vienna Veterinary Monthly," 1940, Vol. 27, p. 455, concerning the use of Coecolysin in horses. The NADA also contains a reference to in vitro experiments on isolated intestinal segments by Dr. A. Barke, published in "Tierarzthliche Umschau" (Veterinary Review), 1949, Vol. 11/12, p. 161.

The "Vienna Veterinary Monthly" article consists of uncontrolled clinical cases and is therefore inadequate to provide substantial evidence of the drug's effectiveness. Dr. Barke's experiments were performed on strips of horse intestines and cannot be considered as proving effectiveness in the living horse. The study is basic pharmacological research conducted in the firm's own laboratory. It does not provide dosage titration, nor is it designed to do so.

The study is at best supportive.

(2) In response to the Commissioner's order of July 9, 1966 (31 F.R. 9426), requesting efficacy data for review by the NAS–NRC, three additional literature references were submitted and several letters were received from practicing veterinarians giving personal testimony to various conditions under which they considered the drug gives satisfactory results. The only experimental data submitted had to do with the effect of Coecolysin on one isolated frog rectum. Such data is certainly not evidence that the drug will increase peristalsis in the gastrointestinal tract of the horse. Likewise, the testimonials of the practicing veterinarians cannot be considered as substantial evidence of the drug's effectiveness. On the basis of the information available at that time, the NAS–NRC panel evaluated the drug as "probably not effective".

(3) In response to the notice (34 F.R. 771) announcing the NAS–NRC evaluation of the drug as "probably not effective", numerical summaries of the use of Coecolysin by various practicing veterinarians and from the Hanover Veterinary School were submitted. These are uncontrolled clinical observations based on subjective estimates of prior experience and can not be considered as substantial evidence of effectiveness. They are not adequate and well-controlled studies.

(4) In response to the notice of opportunity for hearing, a study was submitted entitled "Demonstration of the in vivo effects of Coecolysin in horses." The purpose of the study was to demonstrate the peristaltic-increasing effect of Coecolysin in the normal horse. A microphone was introduced approximately 70 centimeters into the colon of the horses. The microphone was connected with a tape recorder, and the intestinal sounds, according to the protocol, were recorded from approximately 15 minutes before to approximately 100 minutes after treatment with Coecolysin. The sounds were transformed into curves and written on recording paper. The graphs purportedly show increased peristaltic movement in the majority of the horses tested.

This study is of inadequate experimental design because the protocol submitted and the raw data generated do not provide for the controlled measurement of vital parameters. No meaningful interpretations of the graphs were submitted, and the raw data do not prove that the drug increases peristalsis. Pulse rate and respiration are handwritten on the graph. There is no indication how the pulse and respiration were measured. Further, the graphs are not calibrated with time or to indicate sound levels. The graphs do not provide any visible change as a result of flatus or defecation, and no explanation or interpretation is offered.

Furthermore, the study does not provide meaningful data as to what constitutes a normal horse with respect to peristaltic action. Adequate pretest standardization data has not been provided. The study is incomplete and inadequate because of the lack of a standard base line for the horses. Because of this lack, valid comparison and evaluation is impossible. In short, the data submitted is incomplete and does not prove the purported results. This is not an adequate and well-controlled study.

(5) A statement was submitted that the University of Minnesota is conducting a research project of the effects of Coecolysin on intestinal motility in dogs and in vitro intestinal segments. However, the results of the experiments have not been reported. The mere statement that such a project has been undertaken cannot raise an issue of fact warranting a hearing, as no evidence has been presented.

The NAS–NRC evaluation of this product was evaluated "probably not effective". The decision was based on the data available at the time. In the ensuing 25 months, the firm has submitted uncontrolled clinical data and incomplete raw data from an inadequately designed efficacy study. No meaningful data from an adequate and well-controlled investigation has been presented in this period of time to provide substantial evidence as to the efficacy of the drug.

Accordingly, the Commissioner concludes from the available information and data that there is a lack of substantial evidence that the drug has the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling, and that Dr. Jackson has failed to set forth specific facts showing that a genuine and substantial issue of fact requires a hearing.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–51, 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), the request for a hearing is denied and approval of NADA No. 8–593V, including all amendments and supplements thereto, is hereby withdrawn.

This order shall become effective on the date of its publication in the FEDERAL REGISTER (4–6–71).

Dated: March 25, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71–4685 Filed 4–5–71;8:46 am]

[Docket No. FDC–D–155; NADA No. 7–023V et al.]

PITMAN-MOORE, INC. ET AL.

Certain Animal Worming Preparations; Notice of Withdrawal of Approval of New Animal Drug Applications

A notice of opportunity for a hearing was published in the FEDERAL REGISTER of September 19, 1970 (35 F.R. 14661), proposing to withdraw approval of certain new animal drug applications for drugs containing 2,2′ methylenebis(4-chlorophenol) and recommended for use in treating cats, cattle, dogs, and sheep for tapeworms and coccidiosis. Said notice followed publication, in the FEDERAL REGISTER of February 13, 1969 (34 F.R. 2147), of an announcement by the Food and Drug Administration and the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, following evaluation of reports received from the Academy by the Administration.

Pitman-Moore, Inc., Camp Hill Road, Fort Washington, Pa. 19034, holder of NADA (new animal drug application) No. 7–023V for the drug Teniatol, NADA No. 5–831V for Suspension Teniathane, and NADA No. 5–832V for Tablets Teniathane and The Dow Chemical Co., Post Office Box 1706, Midland, Mich. 48640, holder of NADA No. 7–524V for the drug Parabis-90 responded to said notice by requesting withdrawal of approval of their new animal drug applications.

Merck Sharp & Dohme/Research Laboratories, Division of Merck & Co., Inc., Rahway, N.J. 07065, holder of NADA No. 6–495V for the product Belcest Canine Teniacide and Happy Jack, Inc., Snow Hill, N.C. 28580, holder of NADA No. 7–829V for the drug Happy Jack Tapeworm Tablets for Dogs did not file a written appearance of election regarding whether they wished to avail themselves of the opportunity for a hearing. This is construed as an election by said firms not to avail themselves of the opportunity for a hearing. No other response to the notice of opportunity for a hearing was received.

The Commissioner of Food and Drugs finds on the basis of new information before him with respect to said drugs, evaluated together with the evidence available to him when the applications were approved, that there is a lack of substantial evidence that said drugs will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Based on the foregoing requests and findings, the Commissioner concludes that approval of said new animal drug applications should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–47; 21 U.S.C. 360b (e)) and under authority delegated to the Commissioner (21 CFR 2.120), approval of NADA No. 7–023V, NADA No. 5–831V, NADA No. 5–832V, NADA No. 7–524V, NADA No. 6–495V, and NADA No. 7–829V, including all amendments and supplements thereto, is hereby withdrawn effective on the date of signature of this document.

Dated: March 24, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71–4686 Filed 4–5–71;8:46 am]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

CENTRAL RAILROAD CO. OF NEW JERSEY

Application for Guarantee of Trustee Certificates

Findings of the Secretary of Transportation pursuant to section 3(a) of the Emergency Rail Services Act of 1970 re the application of the Trustee of The Central Railroad Company of New Jersey for a guarantee of trustee certificates.

By application dated February 26, 1971, filed pursuant to section 3(a) of the Emergency Rail Services Act of 1970 (Public Law 91-663), the Trustee of the Central Railroad Company of New Jersey seeks the guarantee by the Secretary of Transportation of the payment of principal and interest on trustee certificates proposed to be sold.

Section 3(a) of the Act authorizes the Secretary to make such a guarantee, after consultation with the Interstate Commerce Commission, and upon making, in writing, certain required findings. The Act further requires the Secretary to publish notice of his intention to make such required findings in the FEDERAL REGISTER not less than 15 days prior to making such findings. Such notice was published in the FEDERAL REGISTER on March 3, 1971. On March 16, 1971, opportunity to make an oral presentation was afforded Mr. Roger C. Ward, attorney for the Manufacturers Hanover Trust Co., as Trustee of the General Mortgage of the Railroad, together with Mr. Norman Cogliati, his financial analyst. Oral comment was also received from Mr. Howard C. Westwood, representing bondholders of the Boston and Maine Railroad appearing in the nature of an amicus. Careful consideration has been given to the relevant data presented.

Findings required by section 3(a). I hereby find, for the reasons stated in the discussion which follows, that:

(1) Cessation of essential transportation services by the railroad would endanger the public welfare;

(2) Cessation of such services is imminent;

(3) There is no other practicable means of obtaining funds to meet payroll and other expenses necessary to provide such services than the issuance of such certificates;

(4) Such certificates cannot be sold without a guarantee;

(5) The railroad can reasonably be expected to become self-sustaining; and

(6) The probable value of the assets of the railroad in the event of liquidation provides reasonable protection to the United States.

Discussion. As to finding No. 1:

The Central Railroad Company of New Jersey (hereinafter called the Central) is an eastern carrier presently operating 592 miles of rail line. The principal routes are from Jersey City, N.J., to Bridgeton, N.J., and from Jersey City to Scranton, Pa., by way of the Bethlehem-Allentown area. The railroad has been in reorganization since 1967 and has a long history of marginal operations on a systemwide basis.

The Trustee of the Central has submitted a plan for the rationalization of the Central's system as part of the application for this guarantee. The plan proposes abandonment by the Central of unprofitable rail lines and facilities. These lines and facilities are located principally in areas of low population to the west of Hampton, N.J., and to the south of Whiting, N.J. Certain branch lines to the east and north of these points would also be abandoned under the proposed plan. Any abandonments would require the approval of the Interstate Commerce Commission.

The balance of the railroad's system (hereinafter referred to as revised system) would be contained within Essex, Hudson, Monmouth, Middlesex, Somerset, and Union Counties of the State of New Jersey. These 6 counties have a population of over 3 million and a population density in excess of 250 per square mile. They contain some of the highest concentrations or heavy industry in the world and provide goods and services for the New York metropolitan area and the country at large.

Within this six county area, the Central serves such cities as Newark (pop. 378,222), Bayonne (pop. 69,898), Plainsfield (pop. 46,344), Jersey City (pop. 253,467), Elizabeth (111,414), Perth Amboy (38,546) and others. Within this area also the Central carries 15,000 commuters per day. Cessation of this commuter service could add more than 10,000 private automobiles to already highly congested highways and, as a consequence, significantly increase air pollution attributable to auto emissions. In an area already suffering from high levels of air pollution, this result would be highly undesirable. Moreover, many of these automobiles would be destined for one of our most highly congested urban centers—downtown Manhattan.

In addition to providing commuter service, the revised system of the Central would provide the sole rail service to at least 396 shippers in the six county area. Basic industries served include petrochemicals, cement, grain, asphalt, lumber, heavy electrical, and machine products. Major shippers include the Port Elizabeth and Port Newark facilities of the Port of New York Authority, Western Electric, American Cyanamid, General American Transportation Corporation, American Metal Climax, Wakefern, Metroglass Containers, Phillips Petroleum Corp., Continental Can, American Oil Co., Reynolds Metals, Dow Chemical Co., and U.S. Metals. These firms are vitally dependent on the Central's service for raw materials and the shipping of products. The total employment by those shippers relying solely on Central service, as revised, exceeds 41,000.

In 1969, shippers with access to the Central originated or terminated about 18 million tons of rail freight through facilities located within the Central's revised system. Shippers solely dependent on the Central for rail services similarly originated or terminated over 5 million tons. Virtually all of these were commodities which could not move practically by truck. These shippers would be required to curtail or cease operations to the extent truck movement is not feasible. Thus there would be significant dislocation in the changeover to other rail and truck services and a considerable volume of material that would not move at all.

There are presently 159,900 unemployed within the area to be served by the revised Central system. This represents an unemployment rate of 7.4 percent. The direct increase in unemployment from cessation of operations by the Central could reach as much as 41,000, exclusive of rail employees. This would be a 26-percent increase in the number of unemployed in this area.

Moreover, there are supplies of food and fuel that are solely dependent on Central for rail service. One, Wakefern Food Corp., located in Elizabeth, N.J., serves 2 million people in the New York metropolitan area. This corporation receives a total of 350,000 tons per annum. Cessation of operations by the Central would potentially close the flow of food through this facility.

Thus, the termination of services within the revised system by the Central would involve substantial hardship on commuters, shippers, employees, and the public generally. Moreover, because of the strategic location of the road (serving, as it does, one of the highest concentrations of heavy industry and largest metropolitan areas in the world) the impact of a termination of services could be expected to transcend the New Jersey/New York area, with secondary and tertiary effects felt in the country at large. Accordingly, I conclude that termination of operations by the Central Railroad Company of New Jersey would involve the cessation of essential transportation services endangering the public welfare.

As to finding No. 2:

The Central needs a minimum monthly cash balance of $500,000 to assure continued normal operations of its facilities. Without this minimum balance it is impossible for the railroad to be assured of sufficient funds to meet current cash demands. These demands have fluctuated as much as $300,000 to $1 million dollars per month. The cash balance at January 1, 1971, was $869,000. This balance dropped to $567,000 at the end of February. By March 31, there will be an estimated cash balance of $400,000. The cash balance includes the $2 million appropriated by the State of New Jersey in February and the commuter subsidy payments of $215,000 per month under the commuter service contract with the State of New Jersey.

It is clear that the Central's cash position is exceptionally precarious. A severe cash drain would result in cessation of services. In addition, the railroad must pay in the near future $2 million in back

wages required by Public Law 91-541. This alone places the railroad in such a deficit position that the cessation of services is imminent.

As to finding No. 3:

The most practicable sources of funds other than credit include disposition of assets, increased revenues from better services, and reduction of costs. None of these sources can provide immediate cash resources to the Central.

Disposition of assets includes such items as salvage from the abandonment of excess rail capacity and the sale of nontransportation properties. Abandonment is subject to the abandonment provisions of section 1(18) of the Interstate Commerce Act (49 U.S.C. 1(18)). Potential funds from this source cannot be realized quickly enough to meet the Central's immediate needs.

The Central Railroad Company of New Jersey currently has $1.7 million worth of nontransportation assets. Liquidation of these assets at this time, even if possible, would be insufficient to meet the railroad's needs. Moreover, immediate disposition of assets would be precipitous and result in an undue loss of values. However, as a condition to a guarantee, the Trustee will be required to submit a plan for the orderly disposition of such assets.

Increased revenues from better service cannot be achieved immediately. The cash balances enumerated under the discussion of finding No. 2 demonstrates that sufficient funds are not now being generated by the railroad. The fact that the long term prospects may be otherwise is of no immediate benefit.

Reduced costs require a long-term program dependent on improved operating efficiencies and reduction in the uneconomical lines of the railroad. Although implementation of these improvements will be a condition to a guarantee, increased efficiencies cannot be achieved without immediate cash which is not presently available.

As to finding No. 4:

The Trustee has explored the financing of trustee certificates with a commercial bank, a major brokerage house, insurance companies, and an investment banker. These efforts have been without success. Exhibit 22 of the application contains copies of replies by some of these firms and institutions. The firms and institutions contacted include:

Morgan Guaranty Trust Co.
Prudential Insurance Company of America.
The Mutual Benefit Life Insurance Co.
The Howard Savings Institution.
Merrill, Lynch, Pierce, Fenner & Smith.

In every case it was clearly indicated that purchase of trustee certificates would not be considered unless guaranteed by the Federal Government.

As to finding No. 5:

The Central is in great difficulty at this time. Creditors are pressing for its liquidation. The adverse financial results experienced by the Central during reorganization promises no improvement if the railroad continues to operate as it is presently constituted. Continued cash attrition will unquestionably force the Central to cease operations in the immediate future. However, given time to take certain positive steps, I believe the Central can reasonably be expected to become self-sustaining. As indicated in the discussion of finding No. 1, the Trustee has developed a plan of abandoments of unprofitable lines and other operations. I have examined this plan and believe that it is highly meritorious in its general outline and has excellent prospects for success if promptly implemented. Accordingly, as a condition to a guarantee, the Trustee will be required to undertake diligent efforts to implement the plan according to a specified and strict time schedule.

There are other encouraging factors which I believe will greatly enhance the Central Railroad Company of New Jersey's financial recovery. The State of New Jersey has continued to assume the avoidable costs of commuter services. Moreover, in January of this year a new Trustee was appointed to manage the affairs of the railroad. He has worked aggressively with shippers, bondholders, and this Department to develop solutions and has provided a new direction to management.

Increases in freight rates just approved by the Interstate Commerce Commission should help to offset increased labor costs. In addition, the sale of trustee certificates should restore confidence to users of the Central's freight services, many of whom, fearful of cessation of operations, have diverted their traffic elsewhere.

The above factors will require at least a year before any significant benefits are realized. However, I believe with the support provided by the State of New Jersey, continued cooperation from the Interstate Commerce Commission, particularly in the expeditious processing of applications for abandonment, and funds obtained from the sale of trustee certificates, the Trustee will have the time necessary to implement a sound rationalization program. For these reasons I believe the Central can reasonably be expected to be self-sustaining.

As to finding No. 6:

The Central Railroad Company of New Jersey's balance sheet as of December 31, 1970, lists total assets of $129,567,225. The net liquidation value of its assets has been estimated at $79,654,000. Under the provisions of section 3(c) of the Act, the trustee certificates, approved by the court, are to be treated as an expense of administration and receive the highest lien on the railroad's property and priority under the Bankruptcy Act. The agreements entered into with the Trustees in connection with a guarantee will provide sufficient opportunity for close and continuing review to assure the preservation of assets sufficient to protect the Government's interest.

Issued in Washington, D.C., on March 24, 1971.

JOHN A. VOLPE,
Secretary of Transportation.

[FR Doc.71-4701 Filed 4-5-71;8:47 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23045]

AIR NAURU

Notice of Hearing

Application for a foreign air carrier permit authorizing foreign air transportation of persons, property and mail between the Republic of Nauru and Majuro in the Marshall Islands, Trust Territory of the Pacific Islands.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing on the above-entitled application is assigned to be held on April 20, 1971, at 10 a.m., e.s.t., in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

Dated at Washington, D.C. April 1, 1971.

[SEAL] ROBERT L. PARK,
Hearing Examiner.

[FR Doc.71-4720 Filed 4-5-71;8:48 am]

[Docket No. 23187; Order 71-3-181]

COMBS AIRWAYS, INC.

Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority March 30, 1971.

The Postmaster General filed a notice of intent March 11, 1971, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of 54.94 cents per great circle aircraft mile for the transportation of mail by aircraft between Portland, Maine, and Newark, N.J., via Manchester, N.H., and Albany, N.Y., based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft 18 aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order [1] to include the following findings and conclusions:

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

The fair and reasonable final service mail rate to be paid to Combs Airways, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 54.94 cents per great circle aircraft mile between Portland, Maine, and Newark, N.J., via Manchester, N.H., and Albany, N.Y., based on five round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f),

It is ordered, That:

1. Combs Airways, Inc., the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Eastern Air Lines, Inc., Mohawk Airlines, Inc., Northeast Airlines, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Combs Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Combs Airways, Inc., the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Eastern Air Lines, Inc., Mohawk Airlines, Inc., Northeast Airlines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-4723 Filed 4-5-71;8:48 am]

[Docket No. 22628; Order 71-4-8]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order of Deferral Relating to Ticket Issuance by Agents

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of April 1971.

There has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958, as amended, (the Act) and Part 261 of the Board's economic regulations an agreement among various air carriers, foreign air carriers and other carriers embodied in a resolution of the International Air Transport Association (IATA) adopted at the Composite Passenger Traffic Conference meeting held in Honolulu September/October 1970.[1] The text of the agreement is as follows:

> Resolved that where an Agent issues two or more tickets and/or other transportation documents for parts of the same through journey to the same passenger where the effect of such multiple issuance is to undercut the applicable through fare, such Agent shall be deemed solely responsible for such issuance and be subject to compliance action pursuant to Section H of Resolutions 810a and 810aa.

Explanatory information submitted by IATA in connection with the adoption of this new resolution states that the Conference was attempting to discourage the use of two tickets to undercut, a through fare, prohibiting IATA members and agents from doing so and desiring to relieve the members from responsibility for actions over which they had no control. It was noted further that the resolution would not apply where tickets were issued for transportation partly by scheduled service and partly by charter service.

The Board concludes that the agreement raises issues which require further review and consideration prior to final action thereon. These issues include but are not necessarily limited to the following matters:

1. *The effect of the resolution on agents.* Violations of IATA resolutions by agents may result in either administrative reprimand, or, after due process, in suspension or cancellation of agent's IATA approval. Violations by IATA member carriers, if proven, are subject to notification of the carrier of a finding that it is guilty, to reprimand or to monetary fine. It is not clear whether both the carrier and its agent can be punished for the same violation or whether the carrier alone is ultimately responsible.[2] Since it is conceivable that an agent can be put out of business for a violation of this resolution (a risk not run by the carriers), the Board believes the record should show what steps the carriers have taken to advise the agents of their liability under the resolution and whether the assignment of sole responsibility to the agents for violations of the resolution places an undue and unwarranted burden on the agents.

2. *The status of IATA through fares.* The instant resolution raises the question, insofar as U.S. air carriers and air transportation is concerned, of the meaning of through fares as used therein. IATA defines through fares in Resolution 014a as meaning the total fare from point of departure to point of destination. Under this definition it would apear that an agent would be in almost constant danger of violating this resolution in any case where he issued more than one ticket for any journey other than from one point to another where a single fare was applicable. This continuing risk may be an inevitable result of the volume and complexity of the IATA resolutions relating to fares and their calculation and construction.[3] Under these conditions we invite comment on whether the assignment to agents of sole responsibility for acts committed under the broad terms of the resolution assumes a degree of expertise in this area which the average agent cannot reasonably be expected to attain.

On the subject of undercutting IATA through rates, a public interest issue is presented by resolutions which would apply sanctions for the multiple issuance of tickets in the United States for a through journey involving lawful fares for each component ticket. Specifically, the Board is concerned as to whether special fares applicable between foreign countries should be withheld from sale by U.S. travel agents to customers within the United States.

Pursuant to the foregoing, we shall therefore invite U.S. passenger-carrying members of IATA and other interested persons to address their comments not only to the questions discussed herein but to any other ramifications and potential effects of the resolution with which the Board should be concerned.

Accordingly, it is ordered, That:

1. Action on Agreement CAB 22068-R33 is deferred;

2. U.S. air carriers which are members of IATA[4] may file comments on the agreement;

3. Any other interested persons may file comments on the agreement;

4. Such comments shall be filed within 25 days of the date of this order;[5] and

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[1] The agreement was filed on Nov. 23, 1970, for intended effectiveness Apr. 1, 1971 and its IATA description is:
Resolution 810s:
141/810s Multiple Ticket.
242/810s Issuance by Agents.
333/810s.

[2] IATA Resolution 850c entitled "Responsibility for Travel at the Correct Fare" states that "notwithstanding any other resolution (1)——the member whose ticket is issued shall be responsible for the accuracy of the fare shown thereon in relation to the journey and class to be performed and in all other relevant particulars."

[3] The current IATA Manual of Traffic Conference Resolutions contains 317 pages devoted to these subjects.

[4] American Airlines, Inc., Braniff Airways, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Mohawk Airlines, Inc., National Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Trans World Airlines, Inc., and United Air Lines, Inc.

[5] Such comments shall refer by number to this order and shall include an original and 19 copies to be filed with the Board's Docket Section.

5. This order shall be served on the above-named air carriers, the International Air Transport Association, the Air Transport Association, the American Society of Travel Agents, the Association of Retail Travel Agents and the U.S. Departments of Transportation and Justice.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-4721 Filed 4-5-71;8:48 am]

[Docket No. 22628; Order 71-3-189]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority March 30, 1971.

By Order 71-3-61, dated March 10, 1971, the Board, among other things, deferred action with a view toward eventual approval on certain resolutions adopted by the Traffic Conferences of the International Air Transport Association (IATA) and incorporated in agreements adopted in Geneva subsequent to the recessed Honolulu Worldwide Passenger Fare Conference. To the extent that these resolutions would apply in air transportation, they involve procedural or technical provisions not affecting basic fare levels.

In deferring action on the agreement 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period, and the tentative conclusions in Order 71-3-61 will herein be made final.

Accordingly, it is ordered, That:

Agreements CAB 22122, R-1, R-4, and R-5; CAB 22185, R-2, R-3, R-8, R-9, R-10, R-17, R-67, R-112, R-116, R-145, and R-146; and CAB 22222, R-1, R-4, R-5, and R-16, be and hereby are approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-4722 Filed 4-5-71;8:48 am]

[Docket Nos. 23196, 23080; Order 71-3-188]

PILGRIM AVIATION AND AIRLINES, INC.

Order To Show Cause Regarding Establishment of Service Mail Rates

Issued under delegated authority March 30, 1971.

The Postmaster General filed a notice of intent March 12, 1971, pursuant to 14 CFR Part 298, petitioning the Board to establish for Pilgrim Aviation and Airlines, Inc. (Pilgrim), an air taxi operator, final service mail rates for the transportation of priority and nonpriority mail by aircraft between Albany, N.Y., and Hartford, Conn. (Bradley Field).

No service mail rates are currently in effect for this transportation by Pilgrim. The Postmaster General requests that the multielement service mail rates established for priority mail by Order E-25610, August 28, 1967, in the Domestic Service Mail Rate Investigation, and for nonpriority mail by Order 70-4-9, April 2, 1970, Nonpriority Mail Rates, be made applicable to this carriage of mail.[1] He states that the Postal Service and Pilgrim agree that the applicable multielement rates are the fair and reasonable rates of compensation for the proposed services.

The rates established by Orders E-25610 and 70-4-9 have been open since December 12, 1970, pursuant to Order 70-12-48, December 8, 1970, instituting an investigation of the domestic service mail rates for priority and nonpriority mail. Therefore, the present domestic service rates for the transportation of priority and nonpriority mail by air are subject to such retroactive adjustment to December 12, 1970, as the final decision in the current domestic service mail rate investigation may provide.

We propose to establish service rates for the transportation by Pilgrim of priority and nonpriority mail at the levels establishes in Orders E-25610 and 70-4-9, respectively. These rates and provisions will be subject to retroactive adjustment when the current domestic service mail rate investigation is concluded. Furthermore, Pilgrim will be made a party to that proceeding.

The Board finds it in the public interest to fix, determine and establish the fair and reasonable rates of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[2] to include the following findings and conclusions:

The fair and reasonable service mail rates to be paid to Pilgrim Aviation and Airlines, Inc., entirely by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Albany, N.Y. and Hartford, Conn. (Bradley Field), shall be:

(a) For priority mail, the multielement rates established by the Board in Order E-25610, August 28, 1967, as amended;

(b) For nonpriority mail, the multielement rates established by the Board in Order 70-4-9, April 2, 1970; and

(c) The rates and provisions of Orders E-25610 and 70-4-9 shall be applicable to Pilgrim Aviation and Airlines, Inc., on a temporary basis, subject to such retroactive adjustment as the decision in Docket 23080 may provide.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, the Board's regulations 14 CFR Part 302, 14 CFR Part 298, and the authority duly delegated by the Board in its organization regulations, 14 CFR 385.16(f),

It is ordered, That:

1. Pilgrim Aviation and Airlines, Inc., the Postmaster General, Mohawk Airlines, Inc., and all other interested persons, are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the rates specified above, as the fair and reasonable temporary rates of compensation to be paid to Pilgrim Aviation and Airlines, Inc., for the transportation of priority and nonpriority mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, as specified below;

3. Pilgrim Aviation and Airlines, Inc., is hereby made a party in Docket 23080;

4. This order shall be served on Pilgrim Aviation and Airlines, Inc., the Postmaster General, and Mohawk Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK, *Secretary.*

1. Further procedures related to the attached order shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed therein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

2. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed therein and fix and determine the final rate specified therein;

3. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307).

[FR Doc.71-4724 Filed 4-5-71;8:48 am]

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[1] The service mail rates established by those orders provide for terminal charges per pound of mail orginated of 2.34 cents at Albany and Hartford, plus line-haul charges per mail ton-mile of 24 cents for priority mail and 11.33 cents for nonpriority mail.

[2] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

CIVIL SERVICE COMMISSION

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Title Change in Noncareer Executive Assignment

By notice of December 23, 1970, F.R. Doc. 70-17231 the Civil Service Commission authorized the Department of Health, Education, and Welfare to make a change in title for the position of Deputy Commissioner for Planning, Research, and Evaluation, Office of Education, Office of Planning, Research, and Evaluation, authorized to be filled by noncareer executive assignment. This is notice that the title of this position is now being changed to Deputy Commissioner for Development, Office of Education, Office of the Deputy Commissioner for Development.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-4750 Filed 4-5-71;8:51 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of President, Government National Mortgage Association, Office of the Assistant Secretary for Housing Production and Mortgage Credit.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-4740 Filed 4-5-71;8:50 am]

DEPARTMENT OF JUSTICE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Deputy Director of Public Information, Office of the Attorney General.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-4741 Filed 4-5-71;8:50 am]

DEPARTMENT OF JUSTICE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Chief, Appeals and Civil Litigation Section, Internal Security Division.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-4742 Filed 4-5-71;8:50 am]

DEPARTMENT OF JUSTICE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Chief, Analysis and Evaluation Section, Internal Security Division.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-4743 Filed 4-5-71;8:50 am]

DEPARTMENT OF JUSTICE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Justice to fill by noncareer executive assignment in in the excepted service the position of Staff Assistant, Internal Security Division, Office of the Assistant Attorney General.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-4747 Filed 4-5-71;8:51 am]

DEPARTMENT OF JUSTICE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Attorney General, Internal Security Division, Office of the Assistant Attorney General.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-4748 Filed 4-5-71;8:51 am]

FEDERAL TRADE COMMISSION

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Federal Trade Commission to fill by noncareer executive assignment in the excepted service the position of Director, Bureau of Texitiles and Furs.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-4745 Filed 4-5-71;8:50 am]

FEDERAL TRADE COMMISSION

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 920 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Federal Trade Commission to fill by non-career executive assignment in the excepted service the position of Director, Bureau of Restraint of Trade.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-4746 Filed 4-5-71;8:50 am]

OFFICE OF THE VICE PRESIDENT

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Office of the Vice President to fill by noncareer executive assignment in the excepted service the position of Assistant to the Vice President for Information and Research.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-4744 Filed 4-5-71;8:50 am]

OFFICE OF THE VICE PRESIDENT

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Office of the Vice President to fill by noncareer executive assignment in the excepted service the position of assistant to the Vice President for Scheduling and Appointments.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-4749 Filed 4-5-71;8:51 am]

ENVIRONMENTAL PROTECTION AGENCY

CHEMAGRO CORP.

Notice of Withdrawal of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 420.8 *Withdrawal of Petitions Without Prejudice* of the pesticide procedural regulations (21 CFR 420.8), Chemagro Corp., Post Office Box 4913, Kansas City, MO 64120, has withdrawn its petition (PP OF0982), notice of which was published in the FEDERAL REGISTER of August 25, 1970 (35 F.R. 13534) proposing the establishment of tolerances (21 CFR Part 420) for residues of the insecticide and nematocide ethyl 4-(methylthio)-*m*-tolyl isopropylphosphoramidate in or on the raw agricultural commodities peanut vine hay at 15 parts per million; peanut hulls and vines at 4 parts per million; and peanuts at 0.01 part per million.

Dated: March 26, 1971.

R. E. JOHNSON,
Acting Commissioner, Pesticides Office.

[FR Doc.71-4761 Filed 4-5-71;8:52 am]

COMMITTEE TO CLARIFY STATUS OF AUTOMATIC PYRETHRIN DISPENSERS

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1H2634) has been filed by the Committee to Clarify Status of Automatic Pyrethrin Dispensers, 1625 K Street NW., Washington, DC 20002, proposing the issuance of a regulation (21 CFR Part 121) to provide for the safe use of automatic insecticide dispensers containing pyrethrins in conjunction with piperonal bis[2-(2-butoxyethoxy)ethyl]acetal and/or N-octyl-bicycloheptene dicarboximide and/or piperonyl butoxide in areas where food and beverages are prepared and served.

Dated: March 31, 1971.

R. E. JOHNSON,
Acting Commissioner, Pesticides Office.

[FR Doc.71-4760 Filed 4-5-71;8:52 am]

THIABENDAZOLE

Notice of Establishment of Temporary Tolerance

The Merck, Sharp, and Dohme Research Laboratories, Division of Merck and Co., Inc., Rahway, N.J. 07065, submitted a petition requesting a temporary tolerance for residues of the fungicide thiabendazole in or on the raw agricultural commodity group citrus fruit at 6 parts per million.

A permanent tolerance of 2 parts per million for residues of thiabendazole on citrus fruit is currently established. However, in order to obtain adequate protection against fungal growth during long periods of storage and shipment of treated fruit, particularly for overseas markets, a charge in the mode and amount of application of the fungicide is necessary.

The Fish and Wildlife Service, U.S. Department of Interior, advised that it has no objection to this temporary tolerance.

It has been determined that a temporary tolerance of 6 parts per million for residues of the fungicide in or on citrus fruit is safe and will protect the public health. It is therefore established as requested on condition that the fungicide is used in accordance with the temporary permit which is being issued concurrently and which provides for distribution under the Merck and Company, Inc. name.

This temporary tolerance will expire on March 26, 1972.

This action is taken pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)) and pursuant to Reorganization Plan No. 3 of 1970 (35 F.R. 15623) and under authority delegated to the Commissioner or Acting Commissioner, Pesticides Office of the Environmental Protection Agency (36 F.R. 1228).

Dated: March 26, 1971.

R. E. JOHNSON,
Acting Commissioner, Pesticides Office.

[FR Doc.71-4759 Filed 4-5-71;8:52 am]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 866]

I. FRAZIER CO.

Order of Revocation

By letter dated March 19, 1971, R. K. Jaggar of I. Frazier Co., Exchange Building, Seattle, WA, advised the Commission that I. Frazier Co. had gone out of business as of March 1, 1971, and requested that Independent Ocean Freight Forwarder License No. 866 be terminated without prejudice.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised) section 7.04(g) (dated September 29, 1970):

It is ordered, That the Independent Ocean Freight Forwarder License No. 866 of I. Frazier Co. be returned to the Commission for cancellation.

It is ordered, That the Independent Ocean Freight Forwarder License No. 866 of I. Frazier Co. be and is hereby revoked effective March 1, 1971, without prejudice to reapplication at a later date.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon I. Frazier Co., Exchange Building, Seattle, WA.

AARON W. REESE,
Managing Director.

[FR Doc.71-4719 Filed 4-5-71;8:48 am]

FEDERAL POWER COMMISSION

[Docket No. CI62-1209, etc.]

COLUMBIA GAS DEVELOPMENT CORP.

Order Amending Orders Issuing Certificates of Public Convenience and Necessity, Substituting Respondents, Redesignating Proceedings, Accepting Notices of Succession for Filing, and Redesignating FPC Gas Rate Schedules

MARCH 25, 1971.

On November 10, 1970, Columbia Gas Development Corp. (petitioner) filed in Docket No. CI62-1209 et al., a petition to amend the orders issuing certificates of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in said dockets to The Preston Oil Co., an Ohio corporation, by substituting petitioner as certificate holder, all as more fully set forth in the petition to amend and in the appendix hereto.

Petitioner merged The Preston Oil Co., an Ohio corporation, effective as of June 1, 1970, and proposes to continue without change the sales of natural gas in interstate commerce authorized to be made by the latter. Immediately prior to the merger, The Preston Oil Co., an Ohio corporation, assigned all of its properties and interests outside of Louisiana and Texas and the offshore areas adjacent thereto to The Preston Oil Co., a Delaware corporation.

Petitioner's predecessor is authorized to make several sales at rates effective subject to refund. Petitioner requests to be substituted in lieu of its predecessor as respondent in each of the latter's rate proceedings and indicates that it intends to assume its predecessor's total refund obligations.

The Commission's staff has reviewed the petition to amend and recommends each action ordered as consistent with all substantive Commission policies and

required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, no petition to intervene, notice of intervention, or protest to the granting of the petition to amend has been filed.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity to The Preston Oil Co., an Ohio corporation, should be amended as hereinafter ordered and that the related FPC gas rate schedules should be redesignated accordingly.

(2) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that petitioner should be substituted in lieu of The Preston Oil Co., an Ohio corporation, as respondent in the latter's rate proceedings and that said proceedings should be redesignated accordingly.

The Commission orders:

(A) The orders issuing certificates of public convenience and necessity to The Preston Oil Co., an Ohio corporation, in the dockets set forth in the appendix below are amended by substituting petitioner as certificate holder; and in all other respects said orders shall remain in full force and effect.

(B) Petitioner is substituted in lieu of The Preston Oil Co., an Ohio corporation, as respondent in the rate proceedings set forth in the appendix below and said proceedings are redesignated accordingly. Petitioner shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Sales herein authorized to be continued from Southern Louisiana are subject to Commission Opinion Nos. 546 and 546-A and accompanying orders (40 FPC 530 and 41 FPC 301) with regard to rate reductions, refunds, and filings.

(D) The notices of succession submitted by petitioner to the FPC gas rate schedules of The Preston Oil Co., an Ohio corporation, are accepted for filing effective as of June 1, 1970, and said rate schedules are redesignated as set forth in the appendix below.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

APPENDIX

Preston R.S. No.	Columbia Gas R.S. No.	Certificate docket No.	Rate suspension docket No.
27 [1]	1	CI62-1209	RI63-101, RI64-318.
29 [1]	2	CI63-977	
30	3	CI64-941	
32 [2]	4	CI66-156	RI62-227, RI67-385.
33 [1]	5	CI67-63	
34 [1]	6	CI68-1429	
36 [1]	7	CI69-967	RI69-860.
37 [1]	8	CI69-802	RI70-112.
38 [1]	9	CI69-1035	RI70-170.
39 [1]	10	CI70-126	RI70-913.
40 [1]	11	CI70-117	

[1] Temporary certificate.
[2] (Operator) et al.

AREA RATE AND OTHER PROCEEDINGS

Area Rate Proceeding Docket Nos. AR61-2, et al.
Area Rate Proceeding Docket Nos. AR69-1, et al.
Pipeline Production Area Rate Proceeding Docket No. RP66-24.

[FR Doc.71-4678 Filed 4-5-71;8:45 am]

[Docket No. CP68-231]

COLUMBIA OFFSHORE PIPELINE CO. ET AL.

Notice of Amendment to Application

MARCH 31, 1971.

Take notice that on March 8, 1971, Columbia Offshore Pipeline Co (Columbia Offshore), Post Office Box 683, Houston, TX 77001, Columbia Gulf Transmission Co. (Columbia Gulf), Post Office Box 683, Houston, TX 77001, Bonita Transmission Co. (Bonita), 2817 One Main Place, Dallas TX 75250, and Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), Post Office Box 2511, Houston, TX 77001 (applicants) filed in Docket No. CP68-231 an amendment to the application for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act, currently pending before the Commission in said docket by proposing certain additions and modifications, all as more fully set forth in this third amendment to the application which is on file with the Commission and open to public inspection.

Specifically, Tennessee and Columbia Gulf propose to interconnect certain of their existing and proposed pipeline facilities in the Southern Louisiana and Offshore Louisiana area with a new pipeline to be built, owned and leased to them by Bonita. Such interconnected facilities are proposed to be operated as an integrated offshore system known as the "Blue Water Project", for the joint transportation of natural gas produced in the Offshore Louisiana Area.

Tennessee's existing facilities are a 26-inch pipeline extending from a point on its Muskrat Line in Terrebonne Parish, La., approximately 61 miles to Block 198, Ship Shoal Area, Offshore Louisiana, and a connecting 30-inch pipeline extending westward from Block 198 to a point in Block 245, Vermilion Area, Offshore Louisiana. Columbia Gulf's existing facility is a 30-inch pipeline extending from points of connection with its existing pipeline system near Egan, La., southerly to Pecan Island, La.

The facilities proposed to be constructed and operated under this amended application are as follows:

(1) A 36-inch diameter pipeline together with related facilities, including a dehydration and separation facility to be located near Pecan Island, Vermilion Parish, La., which is herein proposed to be constructed and owned by Bonita and leased to Columbia Gulf and Tennessee, with such pipeline extending approximately 74.5 miles from the terminus of Columbia Gulf's existing 30-inch diameter pipeline near Pecan Island in a southerly direction into the Gulf of Mexico to a point in Block 245, also in Vermilion Parish. At the southerly end of said 36-inch pipeline in Block 245 a platform will be constructed and owned by Bonita and leased to Columbia Gulf and Tennessee.

(2) Two measuring stations to be constructed at the northerly terminus of the Western Shore Line for the purpose of measuring gas which is transported through the Western Shore Line. These measuring stations will be constructed, owned, and operated by Columbia Gulf.

(3) 1.04 miles of 30-inch diameter pipeline to connect Tennessee's existing 30-inch Offshore Header in Block 245 to Bonita's 36-inch diameter pipeline on the platform proposed to be installed by Bonita in Block 245. This connecting pipeline will be constructed, owned and operated by Tennessee and will become part of the Offshore Header.

(4) 1.52 miles of 30-inch diameter pipeline to connect the measuring station which will meter the gas delivered to Tennessee from the Western Shore Line at Egan, La., with the existing 16-inch diameter and 24-inch diameter pipelines of Tennessee. This proposed connecting line will be constructed, owned and operated by Tennessee.

(5) 3.5 miles of 20-inch diameter pipeline to connect the terminus of Columbia Gulf's existing 26 inch pipeline on a platform in Block 250, Eugene Island Area, Offshore Louisiana, with the Offshore Header in Block 240 (Eugene Island) together with a measuring station and deck piping on said platform. These facilities will be constructed, owned and operated by Columbus Gulf.

The cost of the facilities proposed herein is estimated to be $44,196,000. The cost of the Bonita facilities is estimated to be $39,930,000 which cost Bonita states will be financed initially through short-term loans and permanently through the issuance of long-term secured notes, preferred stock and common stock. The cost of the Tennessee facilities is estimated to be $1,788,000 which cost Tennessee states will be financed from general funds or borrowings from its credit agreement. The cost of the Columbia Gulf facilities is estimated to be $2,478,000 which cost Columbia Gulf states will be financed from the sale of notes and common stock to its parent company, The Columbia Gas System, Inc.

Applicants state that the total estimated capacity of the Blue Water project, when completed, will be approximately 1,083,700 Mcf of natural gas per day.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before April 21, 1971.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-4713 Filed 4-5-71;8:48 am]

[Docket No. RP71-96]

COMMERCIAL PIPELINE CO., INC.

Notice of Proposed Changes in FPC Gas Tariff

MARCH 29, 1971.

Take notice that on March 22, 1971, Commercial Pipeline Co., Inc. (commercial) filed changes in its FPC Gas Tariff to be effective as of May 19, 1971. The proposed tariff revisions would increase charges for jurisdictional sales and services by approximately $37,311 per annum based on operations for the 12-month period ended December 31, 1970, as adjusted.

Commercial's filing consists of one set of revised tariff sheets providing for an increase in both its base load and excess load price to each of its three jurisdictional customers.

The company states that the principal reasons for the changes in its tariff are (1) to allow funding of additional improvements in its transmission system to solve the problem of unaccounted for gas as required by the Kansas Corporation Commission under the Natural Gas Safety Program; (2) recover the expense of increased purchased gas costs resulting from a rate increase allowed its supplier, Cities Service Gas Co.; and (3) correct the present operating loss and obtain a reasonable rate of return on commercial's properties.

Any person desiring to be heard or to make any protest with reference to this filing should on or before April 12, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The proposed tariff is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-4679 Filed 4-5-71;8:45 am]

[Docket No. CP71-225]

EL PASO NATURAL GAS CO.

Notice of Application

MARCH 30, 1971.

Take notice that on March 22, 1971, El Paso Natural Gas Co. (applicant), Post Office Box 1492, El Paso, TX 79999, filed in Docket No. CP71-225 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain pipeline and measurement facilities and the service rendered thereby, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant seeks permission and approval to abandon Tap 8 Meter Station and Tap 12A Meter Station located on applicant's 10¾-inch Tucson-Phoenix pipeline in Pinal County, Ariz. Applicant states that no natural gas service has been provided through Tap 8 since 1967. The Tap 12A Meter Station is located immediately adjacent to applicant's Elroy No. 1 Meter Station and both of these stations are used for service to Southwest Gas Corp. (Southwest). Applicant states that the two stations can be more efficiently and economically measured by one station and accordingly, applicant seeks to combine deliveries through use of the Elroy No. 1 Meter Station.

Applicant states that it is also authorized to provide natural gas service to Southwest in the Bullhead City area of Mohave County, Ariz., through mainline taps. Among such taps are the Shuck Ranch, Big Bend Acres and Bullhead City No. 1 tap. Applicant states that no deliveries have been made through the Shuck Ranch Tap since 1966 and that growth experienced by Southwest in the Bullhead City area has indicated that the Big Bend Acres and Bullhead City No. 1 taps are no longer adequate to provide the required service in the area. Southwest has requested that all service to the Bullhead City area be combined through the Bullhead Meter Station and accordingly, applicant seeks authorization to abandon these three taps.

Applicant also seeks permission and approval to abandon a measuring and regulating station located in Winkler County, Tex., which heretofore has been used to provide direct sales of natural gas by applicant to Wanda Petroleum Co. (Wanda). Applicant states that the sulphur recovery plant serviced thereby is to be dismantled and Wanda has requested that this natural gas service be discontinued.

Applicant states that the total estimated cost of the removal and repair of the facilities proposed to be abandoned herein is $1,050.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 20, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-4714 Filed 4-5-71;8:48 am]

[Docket No. CP71-228]

NORTHERN NATURAL GAS CO.

Notice of Application

MARCH 30, 1971.

Take notice that on March 23, 1971, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP71-228 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon 1,783 feet of 3-inch branch pipeline and pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 2,498 feet of 4-inch pipeline located in Mills County, Iowa, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to replace 1,783 feet of 3-inch pipeline on its Glenwood, Iowa, branchline with 2,498 feet of 4-inch pipeline. Applicant states that in connection with a highway project, a county road running parallel to this segment of the Glenwood Branchline is to be widened and the branchline must be relocated. Applicant states that it is not proposing increased deliveries of natural gas through the replacement branchline, but the 4-inch line will be adequate to meet the estimated future requirements of the community. The estimated cost of the abandonment and relocation proposed herein is $20,645 which cost applicant states will be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 20, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party

in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-4715 Filed 4-5-71;8:48 am]

[Docket No. E-7614]

PENNSYLVANIA POWER AND LIGHT CO.

Notice of Proposed Rate Schedule Changes

MARCH 29, 1971.

Take notice that on March 15, 1971, Pennsylvania Power and Light Co. (company) filed rate schedule changes for sales to fifteen resale customers located in the State of Pennsylvania. The date on which the rate changes are proposed to become effective is May 14, 1971. Ten of the affected customers take energy at 12 kv., while five customers take delivery at 66 kv.

According to the company, this rate filing is required to bring the level of the company's jurisdictional rates more in line with the rates which are applicable to the company's intrastate customers as a result of four rate adjustments which were made in Pennsylvania in 1970; specifically: (a) A surcharge of about 5 percent made effective March 22, 1970, to recover new and increased State taxes; (b) a general increase in rates of approximately 5 percent which became effective April 2, 1970, and which was the subject of a final Pennsylvania Public Utility Commission Order dated November 23, 1970; (c) rate changes resulting from a fuel adjustment tariff provision which became effective for intrastate service December 3, 1970; and (d) a rate reduction which became effective January 1, 1971, to reflect and pass on to customers the revenue effect of eliminating the Federal surtax. The company contends that these rate changes applicable to Pennsylvania Public Utility Commission jurisdictional customers have permitted the Company to recover the intrastate portion of increases in taxes and fuel costs and to improve the overall rate of return on the used and useful property. The company further contends that its cost of service study establishes that even after the proposed increase, its net operating income from the jurisdictional business will provide less than a 7 percent rate of return on the jurisdictional net investment rate base.

Any person desiring to be heard or to make any protest with reference to the instant application should, on or before April 15, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc.71-4680 Filed 4-5-71;8:45 am]

FEDERAL RESERVE SYSTEM

VALLEY BANCORPORATION

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Valley Bancorporation, which is a bank holding company located in Appleton, Wis., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of Badger State Bank, Denmark, Wis.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

By order of the Board of Governors, March 31, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-4707 Filed 4-5-71;8:48 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Reg.; Temporary Reg. F-97]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the Federal Government in a telecommunications service rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Indiana Public Service Commission in a proceeding involving intrastate rates for telecommunications services provided by the Indiana Bell Telephone Co. (Case No. 32552).

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: March 30, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71-4729 Filed 4-5-71;8:49 am]

SECURITIES AND EXCHANGE COMMISSION

[31-709]

FIRST PENNSYLVANIA BANKING AND TRUST CO. AND MARINE MIDLAND BANK—NEW YORK

Notice of Filing of Application for Order Declaring Applicants Not To Be Electric Utility Companies

MARCH 24, 1971.

Notice is hereby given that The First Pennsylvania Banking and Trust Co. (First Penn) 15th and Chestnut Streets, Philadelphia, PA 19101, and Marine Midland Bank-New York (Marine) 125 Barclay Street, New York, NY 10015, have filed an application for an order declaring that neither First Penn nor Maine will become "an electric utility company" within the meaning of section 2(a)(3) of the Public Utility Holding Company Act of 1935 (Act) as a result of the transactions set forth in the application. All interested persons are referred to the application, which is summarized below, for a complete statement of the facts.

First Penn is a commercial bank organized under the laws of the State of Pennsylvania. All its outstanding capital stock is owned by First Pennsylvania Corp., a Pennsylvania corporation. Marine is a commercial bank organized under the laws of the State of New York. Substantially all its outstanding capital stock is owned by Marine Midland Banks, Inc., a New York corporation registered under the Bank Holding Company Act of 1956, as amended. Marine Midland Banks, Inc., also owns all or substantially all the outstanding capital stock in nine other commercial banks with headquarters in New York State. Neither of the parent corporations of First Penn or Marine is presently a "holding company" or a "subsidiary company" of a "holding company," each as defined in the Act. If First Penn or Marine were to become an electric utility company for purposes of the Act as a result of the proposed transactions described below, their respective parents would, in the absence of an appropriate exemption, become subject to regulation under the Act.

Consolidated Edison Company of New York, Inc. (Con Ed), is an electric utility company organized under the laws of the State of New York and is subject to the jurisdiction of the Public Service Commission of New York under the Public Service Law of New York.

Con Ed has entered into a purchase agreement with a manufacturer to supply to Con Ed four barge-mounted power plants, each power plant consisting of a barge, eight gas turbine generating units, a transformer and other related and accessory equipment. The aggregate cost of the power plants exclusive of the transformers (the Plants) will be approximately $52 million. Con Ed has assigned its rights to buy the Plants to E. Decker Adams as trustee under a Trust Agreement with First Penn as beneficiary. It is proposed that before any payments for the Plants become due under the purchase agreement, the Trust Agreement would be amended to provide that Marine succeed E. Decker Adams as trustee (the Trustee) and hold the Trust Estate for the benefit of First Penn and of the institutional investors referred to below. The Trustee would then purchase the Plants directly from the manufacturer and charter them to Con Ed under a bareboat Charter Party (the Charter) for a term of 25 years from January 1, 1972 (the Primary Term), preceded by an initial period (the Initial Period), not to exceed 10 months. Con Ed would have the option to extend the Charter for two terms of 5 years each and to buy any of the Plants at the end of the Primary Term or any extended term for their then fair market value.

The Trustee would borrow approximately 80 percent of the funds required to purchase the Plants from institutional investors, who would receive Equipment Trust Notes bearing a fixed rate of interest and maturing at the end of the Primary Term of the Charter. The Equipment Trust Notes would be obligations of the Trustee payable solely out of the assets of the Trust Estate and would be secured by a security interest in the Plants, the Charter, and charter hire due thereunder and all other rights and assets of the Trust Estate. The Equipment Trust Notes would not be guaranteed by Con Ed. The remaining 20 percent of the purchase price would be advanced to the Trustee by First Penn as an investment in the beneficial ownership of the Plants.

The Charter would be a noncancellable net bareboat charter under which Con Ed would be responsible for maintaining, repairing and insuring the Plants and for paying substantially all taxes, assessments and other costs arising from the possession and use thereof. The charter hire to be paid by Con Ed during the Initial Period and the Primary Term would be calculated to provide funds sufficient to pay the principal of and interest on the Equipment Trust Notes and to return First Penn's equity investment. After the Primary Term has expired, First Penn would be entitled to receive any proceeds realized from leasing or selling the Plants to Con Ed or to others.

The application states that neither First Penn, in its individual capacity, nor Marine, in its individual capacity or as Trustee, would operate the Plants or receive any revenue from the sale of electric energy generated by the Plants.

Each of the applicants represents that it is a company primarily engaged in one or more businesses other than the business of an electric utility company and that, by reason of the fact that it will not operate the Plants or generate or sell any electric energy as a result of the proposed transaction, it is not necessary in the public interest or for the protection of investors or consumers that it be considered an electric utility company for the purposes of the Act. First Penn and Marine each requests an order under section 2(a)(3) of the Act declaring that it will not be an electric utility company as a result of the proposed transactions.

Con Ed has applied to the New York Public Service Commission for authority to enter into the Charter. A copy of that Commission's order will be supplied by amendment.

Notice is further given that any interested person may, not later than April 15, 1971, request in writing that a hearing be held in respect of the request for exemption, stating the nature of his interest and the reasons for such request, and the issues of fact or law which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date the Commission may grant exemption requested, or take such other action as it deems appropriate.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ROSALIE F. SCHNEIDER,
Recording Secretary.

[FR Doc.71-4699 Filed 4-5-71;8:47 am]

[Files Nos. 7-3666—7-3674]

JOHNS-MANVILLE CORP. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MARCH 30, 1971.

In the matter of applications of the Detroit Stock Exchange for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Johns-Manville Corp	7-3666
Kimberly-Clark Corp	7-3667
Manufacturers Hanover Corp	7-3668
Merck & Co	7-3669
J. P. Morgan & Co., Inc	7-3670
National Cash Register Co	7-3671
National Gypsum Co	7-3672
National Lead Co	7-3673
Northwest Bancorporation	7-3674

Upon receipt of a request, on or before April 14, 1971, from any interested person the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission,

Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ROSALIE F. SCHNEIDER, *Recording Secretary.*

[FR Doc.71-4696 Filed 4-5-71;8:47 am]

[70-5007]

MISSISSIPPI POWER CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

MARCH 30, 1971.

Notice is hereby given that Mississippi Power Co. (Mississippi), 2992 West Beach, Gulfport, MS 39501, a public-utility subsidiary company of The Southern Co., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Mississippi proposes to issue and sell, subject to the competitive bidding requirements of Rule 50, $15 million principal amount of its First Mortgage Bonds, ---- percent Series to mature not more than 30 years and not less than 5 years from the second day of the calendar month within which the bonds are issued. Mississippi will notify prospective bidders of the maturity of the bonds not less than 72 hours prior to the time of the sale thereof. The price of the bonds will be not less than 99 percent nor more than 102¾ percent of the principal amount thereof and accrued interest. The bonds will be issued under an Indenture dated as of September 1, 1941, between Mississippi and Morgan Guaranty Trust Co. of New York, as Trustee, as heretofore supplemented and to be further supplemented by a Supplemental Indenture to be dated as of May 1, 1971, which contains a prohibition until May 1, 1976, against refunding the issue with the proceeds of funds borrowed at a lower cost of money. The proceeds from the sale of the bonds will be used to finance, in part, Mississippi's 1971 construction program (estimated to be $40,754,000), to repay short-term notes incurred for such purpose (both bank notes and commercial paper) of which $12,400,000 are expected to be outstanding on the date the bonds are sold, and for other lawful purposes.

The fees and expenses to be paid by Mississippi in connection with the issuance and sale of the bonds are to be supplied by amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than April 23, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ROSALIE F. SCHNEIDER, *Recording Secretary.*

[FR Doc.71-4700 Filed 4-5-71;8:47 am]

[Files Nos. 7-3675—7-3683]

OWENS-ILLINOIS, INC., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MARCH 30, 1970.

In the matter of applications of the Detroit Stock Exchange for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Owens-Illinois, Inc	7-3675
J.C. Penny Co., Inc	7-3676
Phelps Dodge Corp	7-3677
P.P.G. Industries, Inc	7-3678
Safeway Stores, Inc	7-3679
Shell Oil Co	7-3680
Smith Kline & French Laboratories, Inc	7-3681
The Standard Oil Co. (Ohio)	7-3682
Swift & Co	7-3683

Upon receipt of a request, on or before April 14, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by the order of the Commission on the basis of the facts stated therein and other information contained in the offlical files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ROSALIE F. SCHNEIDER, *Recording Secretary.*

[FR Doc.71-4697 Filed 4-5-71;8:47 am]

[Files Nos. 7-3684—7-3691]

TI CORP. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MARCH 30, 1971.

In the matter of applications of the Detroit Stock Exchange for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
The Ti Corp. (California)	7-3684
Transamerica Corp	7-3685
The Travelers Corp	7-3686
Unionamerica, Inc	7-3687
Warner-Lambert Co	7-3688
Wells Fargo & Co	7-3689
Western Bancorporation	7-3690
Weyerhaeuser Co	7-3691

Upon receipt of a request, on or before April 14, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Com-

mission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ROSALIE F. SCHNEIDER,
Recording Secretary.

[FR Doc.71-4698 Filed 4-5-71;8:47 am]

DEPARTMENT OF LABOR

Office of the Secretary

EVERETT PIANO CO.

Notice of Revised Certification of Eligibility of Workers To Apply for Adjustment Assistance

Pursuant to the provisions of section 302 of the Trade Expansion Act of 1962, the President's Proclamation 3964 of February 21, 1970 (35 F.R. 3645), and a petition filed and investigation conducted pursuant to the provisions of such section as authorized under 29 CFR Part 90 and notices in 34 F.R. 18342 and 35 F.R. 16613, a certification under section 302 (b) (2) of such Act was made on December 23, 1970, certifying that certain workers, described in the notice of certification (36 F.R. 31), are eligible to apply for adjustment assistance under Chapter 3, Title III, of such Act. On the basis of a further showing pursuant to section 302(b)(2) of such Act and further investigation by the Director of the Office of Foreign Economic Policy, and pursuant to the provisions of section 302(d) of such Act, the Certification set forth in the notice of certification published at 36 F.R. 31 is hereby revised to include additional unemployment or underemployment of a significant number of proportion of workers for whom the increased imports which the Tariff Commission has determined to result from concessions granted under trade agreements are hereby determined to have caused or threatened to cause such unemployment or underemployment.

Such revised certification is hereby made as follows:

Those hourly and salaried employees of the Everett Piano Co. plant at South Haven, Mich., who became or will become unemployed or underemployed after July 11, 1969, are eligible to apply for adjustment assistance under Chapter 3, Title III, of the Trade Expansion Act of 1962.

Signed at Washington, D.C. this 24th day of March 1971.

GEORGE H. HILDEBRAND,
Deputy Under Secretary, International Affairs.

[FR Doc.71-4695 Filed 4-5-71;8:47 am]

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.) and Administrative Order No. 595 (31 F.R. 12981) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as listed.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.20 to 522.25, as amended).

The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

Aalfs Manufacturing Co., LeMars, Iowa; 2-13-71 to 2-12-72; 10 learners (Boys' jeans).

The Amory Garment Co., Amory, Miss.; 1-4-71 to 1-3-72. (Men's and boys' pants).

Andrews Manufacturing Co., Andrews, Tex.; 2-2-71 to 2-1-72 (Women's dresses).

Becker Industries, Becker, Miss.; 2-16-71 to 2-15-72 (Ladies' and girls' pants).

C & J Manufacturing Co., Eastman, Ga.; 1-22-71 to 1-21-72 (Boys' sport and dress shirts).

Chester Manufacturing Co., Henderson, Tenn.; 1-31-71 to 1-30-72 (Juvenile pants).

Colshire Manufacturing Co., Inc., Morgantown, W. Va.; 2-1-71 to 1-31-72 (Men's pajamas).

Corbin, Ltd., Huntington, W. Va.; 1-22-71 to 1-21-72 (Men's trousers and shorts, ladies' slacks and shorts, and men's sport jackets).

Covington Industries, Inc., Florala, Ala.; 2-24-71 to 2-23-72; 10 learners (Men's slacks).

Crystal Springs Shirt Corp., Crystal Springs, Miss.; 1-25-71 to 1-24-72 (Boys' shirts).

Dillon Manufacturing Co., Savannah, Tenn.; 2-10-71 to 2-9-72 (Men's and women's washable service apparel).

Donlin Sportswear, Inc., New Tazewell, Tenn.; 1-27-71 to 1-26-72 (Men's shirts).

Eastwill Sportswear Co., Inc., Greenwood, S.C.; 2-2-71 to 2-1-72 (Men's and boys' shirts).

Edison Textiles, Inc., Edison, Ga.; 2-9-71 to 2-8-72 (Infants' and girls' panties and sportswear).

Edward Hyman Co., Hazlehurst, Miss.; 1-4-71 to 1-3-72 (Men's work clothing).

Elder Manufacturing Co., McLeansboro, Ill.; 2-7-71 to 2-6-72 (Men's and boys' shirts).

Emporia Garment Co., Inc., Emporia, Va.; 2-16-71 to 2-15-72 (Children's dresses).

The Enro Shirt Co., Inc., Madisonville, Ky.; 2-1-71 to 1-31-72 (Sport shirts).

Fairfield Manufacturing Co., Winnsboro, S.C.; 2-20-71 to 2-19-72 (Ladies' dresses).

Flushing Shirt Manufacturing Co., Inc., Grantsville, Md.; 1-11-71 to 1-10-72 (Men's shirts).

Glamorise Foundations, Inc., Dermott, Ark.; 2-3-71 to 2-2-72 (Ladies' brassieres).

Guntown Slacks, Inc., Guntown, Miss.; 1-12-71 to 1-11-72 (Men's and boys' slacks).

The Jay Garment Co., Brookville, Ind.; 2-3-71 to 2-2-72 (Boys' and Men's pants).

The Jay Garment Co., Portland, Ind.; 2-5-71 to 2-4-72 (Men's work clothing).

The Jay Garment Co., Clarksville, Tenn.; 2-9-71 to 2-8-72 (Men's work clothing).

Jomax Garment Co., Inc., York, Pa.; 2-13-71 to 2-12-72 (Ladies' dresses).

Kentown Corp., Barnardsville, N.C.; 2-7-71 to 2-6-72; (Women's dresses).

Kinston Shirt Co., Kinston, N.C.; 1-31-71 to 1-30-72 (Men's shirts and pajamas).

L & H Shirt Co., Cochran, Ga.; 1-22-71 to 1-21-72 (Boys' dress and sport shirts).

Lamar Manufacturing Co., Millport, Ala.; 1-18-71 to 1-17-72; (Men's and boys' pants).

Levi Strauss & Co., Warsaw, Va.; 1-30-71 to 1-29-72 (Men's work pants).

Marcus Manufacturing Co., Nowata, Okla.; 1-18-71 to 1-17-72; 10 learners (Men's slacks).

Michael Berkowitz Co., Inc., Waynesburg, Pa.; 2-16-71 to 2-15-72 (Ladies' and men's pajamas).

Mid South Manufacturing Co., Richton, Miss.; 2-11-71 to 2-10-72 (Men's work pants).

Mode O'Day Co., Plant No. 6, Ottawa, Kans.; 2-16-71 to 2-15-72; 10 learners (Women's, misses', juniors', and children's dresses).

Mount Airy Pants Factory, Mount Airy, Md.; 1-29-71 to 1-28-72; 10 learners (Men's work pants).

Pawnee Pants Manufacturing Co., Inc., Olyphant, Pa.; 1-25-71 to 1-24-72 (Men's and boys' pants).

Prairie Manufacturing Co., East Prairie, Mo.; 2-10-71 to 2-9-72; 10 learners (Men's pants).

Princess Kent, Inc., Fort Kent, Maine; 1-15-71 to 1-14-72; 10 learners (Children's nightwear).

Publix Shirt Corp. Hazelton, Pa.; 2-3-71 to 2-2-71 (Men's and boys' shirts).

Publix Tenn. Corp., Huntingdon, Tenn.; 1-6-71 to 1-5-72 (Men's and boys' shirts).

The Raleigh Corp., Raleigh, Miss.; 2-12-71 to 2-11-72 (Ladies' slacks).

Ridgely Manufacturing Co., Ridgely, Tenn.; 1-8-71 to 1-7-72 (Army field jackets).

Rosebud Manufacturing Co., Vidalia, Ga.; 2-1-71 to 1-31-72 (Women's lingerie).

Rowland Manufacturing Co., Rowland, N.C.; 2-11-71 to 2-10-72 (Men's and boys' sport shirts).

Salant & Salant, Inc., Lawrenceburg, Tenn.; Loretto, Tenn.; 1-20-71 to 1-19-72, (Men's work shirts, men's and boys' jackets and jeans).

Salant & Salant, Inc., Parsons, Tenn.; 1-16-71 to 1-15-72 (Men's and boys' pants).

Salemburg Manufacturing Co., Salemburg, N.C.; 2-17-71 to 2-16-72 (Women's dresses).

Samsons Manufacturing Corp., Wilson, N.C.; 2-9-71 to 2-8-72 (Men's shirts).

Seminole Manufacturing Co., Aberdeen, Miss.; 1-18-71 to 1-17-72 (Men's and boys' pants).

Seminole Manufacturing Co., Columbus, Miss.; 1-18-71 to 1-17-72 (Men's and boys' pants).

Sharon Manufacturing Co., Sharon, Tenn.; 2-24-71 to 2-23-72 (Children's pajamas).

Smith Brothers Manufacturing Co., Columbus, Kans.; 2-13-71 to 2-12-72; 10 learners (Boys' jeans).

Smith Brothers Manufacturing Co., Carthage, Mo.; 2-10-71 2-9-72 (Men's overalls and coveralls, and men's and boys' jeans).

Smith Brothers Manufacturing Co., Lamar, Mo.; 2-10-71 to 2-9-72 (Men's work jackets and men's and boys' jeans).

Soperton Manufacturing Co., Soperton, Ga.; 2-9-71 to 2-8-72 (Men's sport shirts).

Sparta Garment Co., Sparta, Ga.; 2-1-71 to 1-31-72 (Men's and boys' pants).

W. E. Stephens Manufacturing Co., Inc., Watertown, Tenn.; 1-14-71 to 1-13-72; 10 learners (Men's and boys' shirts and ladies' and girls' shorts, pedal pushers, and slacks).

Stitchcraft, Inc., Athens, Ga.; 1-25-71 to 1-24-72 (Ladies' dresses).

Sturgis Clothing Co., Sturgis, Ky.; 2-1-71 to 1-31-72 (Men's pants).

Tennessee Overall Co., Inc., Tullahoma, Tenn.; 1-29-71 to 1-28-72 (Men's pants).

Warner's, Moultrie, Ga.; 1-5-71 to 1-4-72 (Women's corsets and brassieres).

Wilker Bros. Co., Inc., McKenzie, Tenn.; 1-17-71 to 1-16-72 (Men's and boys' pajamas).

The following plant expansion certificates were issued authorizing the number of learners indicated.

Bernice Industries, Corp., Bernice, La.; 2-1-71 to 7-31-71; 65 learners (Boys' shirts).

Brew-Schneider Manufacturing Co., Inc., Blakely, Ga.; 1-18-71 to 7-17-71; 10 learners (Men's and ladies' washable service garments).

Edison Textiles, Inc., Fort Gaines, Ga.; 2-1-71 to 8-31-71; 20 learners (Children's panties, shorts, slacks, and sun suits).

Hamburg Shirt Corp., Hamburg, Ark.; 2-8-71 to 8-7-71; 75 learners (Boys' shirts).

South Highland Mills, Inc., Cumberland, Md.; 2-24-71 to 8-23-71; 8 learners (Infants and children's wear).

Woolfolk Manufacturing Corp., Louisa, Va.; 2-24-71 to 8-23-71; 20 learners (Men's and boys' pants).

Cigar Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.80 to 522.85, as amended).

Jno. H. Swisher & Son, Inc., Cullman, Ala.; 2-1-71 to 1-31-72; 10 percent of the total number of factory production workers for normal labor turnover purposes (Cigars).

Jno. H. Swisher & Son, Inc., Jacksonville, Fla.; 2-1-71 to 1-31-72; 10 percent of the total number of factory production workers for normal labor turnover purposes (Cigars).

Jno. H. Swisher & Son, Inc., Waycross, Ga.; 2-1-71 to 1-31-72; 10 percent of the total number of factory production workers for normal labor turnover purposes (Cigars).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.60 to 522.65, as amended).

Banner Elk Glove Co., Banner Elk, N.C.; 2-14-71 to 2-13-72; 10 learners for normal labor turnover purposes (Work gloves).

Indianapolis Glove Co., Inc., Mount Ida, Ark.; 1-22-71 to 1-21-72; 10 percent of the total number of machine stitchers for normal labor turnover purposes (Work gloves).

Monte Glove Co., Pheba, Miss.; 1-14-71 to 1-13-72; 10 learners for normal labor turnover purposes (Work gloves).

Mountain City Glove Co., Inc., Shouns, Tenn.; 1-29-71 to 1-28-72; 10 percent of the total number of machine stitchers for normal labor turnover purposes (Work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.40 to 522.43, as amended).

Charles H. Bacon Co., Inc., Loudon, Tenn.; 1-15-71 to 1-14-72; 5 percent of the total number of factory production workers for normal labor turnover purposes (Seamless hosiery).

Danville Knitting Mills, Danville, Va.; 1-4-71 to 1-3-72; 5 percent of the total number of factory production workers for normal labor turnover purposes (Boys' seamless hosiery).

James Knitting Co., Inc., Greeneville, Tenn.; 2-20-71 to 2-19-72; 5 learners for normal labor turnover purposes (Ladies' hosiery).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.30 to 522.35, as amended).

East Tennessee Undergarment Co., Inc., Elizabethton, Tenn.; 2-3-71 to 2-2-72; 5 percent of the total number of factory production workers for normal labor turnover purposes (Ladies' and children's undergarments).

The H. W. Gossard Co., Bristow, Okla.; 1-20-71 to 1-19-72; 5 percent of the total number of factory production workers for normal labor turnover purposes (Women's underwear and nightwear).

Hazlehurst Manufacturing Co., Inc., Hazlehurst, Ga.; 2-21-71 to 2-20-72; 5 percent of the total number of factory production workers for normal labor turnover purposes (Women's and children's underwear and nightwear).

Mistee Lingerie, Inc., Boyertown, Pa.; 2-5-71 to 2-4-72; 5 percent of the total number of factory production workers for normal labor turnover purposes (Ladies' lingerie).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods and the number of learners authorized to be employed, are indicated.

Adele Manufacturing Corp., Rio Grande, P.R.; 12-28-70 to 12-27-71; 10 learners for normal labor turnover purposes in the occupations of sewing machine operating and final pressing, each for a learning period of 320 hours at the rate of $1.08 an hour (Men's cotton shorts).

Alfredo Manufacturing Corp., Rio Grande, P.R.; 12-28-70 to 12-27-71; 13 learners for normal labor turnover purposes in the occupations of sewing machine operating and final pressing, each for a learning period of 320 hours at the rate of $1.08 an hour (Men's cotton pajamas).

Binnie Bon, Inc., Adjuntas, P.R.; 1-4-71 to 7-3-71; 10 learners for plant expansion purposes in the occupation of sewing machine operating for a learning period of 320 hours at the rate of $1.29 an hour (Brassieres).

Rio Monte Manufacturing Corp., Rio Grande, P.R.; 12-28-70 to 12-27-71; 15 learners for normal labor turnover purposes in the occupations of sewing machine operating and final pressing, each for a learning period of 320 hours at the rate of $1.08 an hour (Men's cotton pajamas).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review of reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR, Part 528.

Signed at Washington, D.C., this 23d day of March 1971.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[FR Doc.71-4694 Filed 4-5-71;8:47 am]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

APRIL 1, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42163—*Iron or steel articles from Pompton Lakes, N.J.* Filed with Southwestern Freight Bureau, agent (No. B-223), for interested rail carriers. Rates on iron or steel articles, in carloads, as described in the application, from Pompton Lakes, N.J., to points in Louisiana and Texas.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 211 to Southwestern Freight Bureau, agent, tariff ICC 4753.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-4726 Filed 4-5-71;8:49 am]

[Notice 272]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 31, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field

office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 3083 (Sub-No. 39 TA), filed March 25, 1971. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, 277 Monroe Avenue, Post Office Box 66, Memphis, TN 38101. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin*, between Culpepper, Va., on the one hand, and, on the other, Atlanta, Ga., Baltimore, Md., Birmingham, Ala., Boston, Mass., Buffalo, N.Y., Charlotte, N.C., Chicago, Ill., Cincinnati, Ohio; Cleveland, Ohio, Dallas, Tex., Denver, Colo., Detroit, Mich., El Paso, Tex., Helena, Mont., Houston, Tex., Jacksonville, Fla., Kansas City, Mo., Little Rock, Ark., Los Angeles, Calif., Louisville, Ky., Miami, Fla., Memphis, Tenn., Minneapolis, Minn., Nashville, Tenn., New Orleans, La., New York, N.Y., Oklahoma City, Okla., Omaha, Nebr., Philadelphia, Pa., Pittsburgh, Pa., Portland, Oreg., St. Louis Mo., Salt Lake City, Utah; San Antonio, Tex., San Francisco, Calif., Seattle, Wash., Washington, D.C., for 180 days. Supporting shipper: General Services Administration, Transportation and Communications Service, Traffic Services Division, Washington, D.C. 20405. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 933 Federal Office Building, 167 North Main Street, Memphis, TN 38103.

No. MC 30844 (Sub-No. 351 TA), filed March 25, 1971. Applicant: KROBLIN REFRIGERATED XPRESS, INC., Post Office Box 5000, 2125 Commercial Street (50702), Waterloo, IA 50704. Applicant's representative: Paul Rhodes (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as defined in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except liquid commodities, in bulk and except hides), from the plantsite and storage facilities utilized by Beefland International, Inc., at Council Bluffs, Iowa, and Omaha, Nebr., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Vermont, Rhode Island, and Washington, D.C. Restricted to traffic originating at the plantsite and storage facilities utilized by Beefland International, Inc., at Council Bluffs, Iowa, and Omaha, Nebr., for 180 days. Supporting shipper: Beefland International, Inc., 2700 23d Avenue, Council Bluffs, IA 55501. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, IA 52801.

No. MC 32367 (Sub-No. 20 TA), filed March 25, 1971. Applicant: RED & WHITE MARKET & TRANSFER, INC., 607 South Burlington Avenue, Hastings, NE 68901. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Engines*, from Port Huron and Farmington, Mich., to Hastings, Nebr., for the account of Industrial Irrigation Services, Hastings, Nebr., for 180 days. Supporting shipper: Charles C. Osborne, President, Industrial-Irrigation Services, 221 East J on Highway 6, Hastings, NE 68901. Send protests to: District Supervisor Max H. Johnston, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building and Courthouse, Lincoln, NE 68508.

No. MC 107295 (Sub-No. 496 TA), filed March 25, 1971. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ventilators, vents, louvers, shutters, suspension ceiling systems, ceiling grid, wall studding, channels, closet rods, caps, dampers, screens, grilles, glass frames and stops, and parts and fittings thereof and when shipped with any of the named commodities, accessories and promotional materials*, from the plantsite and storage facilities of Leslie-Locke Building Products Co. at Tucker, Ga., to points in Alabama, Florida, Connecticut, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, Fort Worth, Tex., Chicago, and Mount Carroll, Ill., and Lodi, Ohio, for 180 days. Supporting shipper: Leslie-Locke Building Products Co., Ohio Street, Lodi, Ohio 44254. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, IL 62704.

No. MC 109689 (Sub-No. 223 TA), filed March 25, 1971. Applicant: W. S. HATCH CO., 643 South 800 West Street, Woods Cross, UT 84087, also mail: Post Office Box 1825, Salt Lake City, UT 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrofluoric acid*, in bulk, from Nichols, Calif., to Silver Peak, Nev., for 150 days. Supporting shipper: Allied Chemical Corp., Post Office Box 1139R, Morristown, NJ 07960 (Robert G. Thorn, Manager Distribution and Analysis). Send protests to: John T. Vaughan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Building, Salt Lake City, UT 84111.

No. MC 115705 (Sub-No. 1 TA), filed March 25, 1971. Applicant: ERNEST LABUMBARD, Route No. 1, Gladstone, MI 49837. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Fort Wayne, Ind., to warehouse facilities of Douglas Distributing Co., at or near Sault Ste. Marie, Mich., no tacking nor interlining intended, for 150 days. Supporting shipper: Albert J. Douglas, Owner, Douglas Distributing Co., 709 Johnstone Street, Sault Ste. Marie, MI 49783. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commisison, Bureau of Operations, Federal Building, Room 225, Lansing, MI 48933.

No. MC 119493 (Sub-No. 68 TA), filed March 25, 1971. Applicant: MONKEM COMPANY, INC., West 20th Street Road, Post Office Box 1196, Joplin, MO 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer ingredients, fertilizer materials, pesticides, fungicides and herbicides*, in bags, packages, and containers, from East St. Louis, Ill., to points in Missouri, Kansas, Oklahoma, Arkansas, Nebraska, and Iowa, for 150 days. Supporting shipper: Swift Agricultural Chemicals Corp., 2 North Riverside Plaza, Chicago, IL 60606. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 119669 (Sub-No. 22 TA), filed March 25, 1971. Applicant: TEMPCO TRANSPORTATION, INC., 546 South 31 A, Columbus, IN 47201. Applicant's representative: Donald McCameron (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from Pampa, Tex., to points in New Jersey (Camdem, Elizabeth, Florence, Kearney, and Woodbridge); Connecticut (Norwich); Massachusetts (Somerville, Boston, and Westwood); New York (New York City and Rochester); Virginia (Richmond, Roanoke, and Norfolk); Pennsylvania (Philadelphia and Pittsburgh); Tennessee (Chattanooga); Maryland (Baltimore); North Carolina (Charlotte and Raleigh); South Carolina (Columbia) and Georgia (Atlanta); for 180 days. Supporting shipper: Armour and Co., Chicago, Ill. Send protests to: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, IN 46204.

No. MC 125045 (Sub-No. 8 TA), filed March 25, 1971. Applicant: SHERMAN MOLDE, doing business as MOLDE TRUCKING COMPANY, 955 11¼ Street SW., Rochester, MN 55901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes,

transporting: *Ice cream, frozen ice cream novelties, and frozen novelty confections,* from the plantsites or warehouse facilities of Marigold Foods, Inc., located at Minneapolis, St. Paul, and Rochester, Minn., to points in Wisconsin, Iowa, and South Dakota; and, on return, commodities as described above from Green Bay, Wis., and Fort Dodge, Iowa, to the above-specified plantsites or warehouse facilities located in Minnesota. Restricted to a service to be performed under a continuing contract or contracts with Marigold Foods, Inc., of Minneapolis, Minn., for 180 days. Supporting shipper: Marigold Foods, Inc., 2929 University Avenue SE., Minneapolis, MN 55414. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Court House, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 127342 (Sub-No. 5 TA), filed March 25, 1971. Applicant: WILBUR McLAUGHLIN, doing business as TONICA TRANSIT COMPANY, Post Office Box 77, Tonica, IL 61370. Applicant's representative: Arnold L. Burke, Suite 2220, 69 West Washington Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, from Lowell, Ill., on the one hand to points in Wisconsin, Michigan, Indiana, Missouri, and Iowa on the other, under a continuing contract or contracts with Ristokrat Clay Products Co., for 180 days. Supporting shipper: Peter E. Cresto, President, Ristokrat Clay Products Co., Post Office Box 4, Tonica, IL 61370. Send protests to: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 128831 (Sub-No. 3 TA) (Correction), filed March 10, 1971, and published FEDERAL REGISTER issue of March 24, 1971, and republished in part as corrected this issue. Applicant: DIXON RAPID TRANSFER, INC., East River Road, Dixon, IL 61021. Applicant's representative: James Canfield, 1100 Rockford Trust Building, Rockford, IL 61101. NOTE: The purpose of this partial republication is to show applicants correct name as Dixon *Rapid* Transfer, Inc., in lieu of Dixon Transfer, Inc., the rest of the application remains the same.

No. MC 135217 (Sub-No. 1 TA), filed March 25, 1971. Applicant: ELBERT STAGGS, Route 1, Unionville, MO 63565. Applicant's representative: N. William Phillips, 103 North Market, Milan, MO 63556. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, lime and rock*, in bulk, in dump vehicles, between Putnam, Mercer, Adair, Schuyler, and Sullivan Counties, Mo., on the one hand, and, on the other, points in Davis, Appanoose, and Wayne Counties, Iowa, for 180 days. Supporting shippers: Farnsworth Quarry, Cincinnati, Iowa 52549; Putnam County Stone, Inc., a Missouri Corp., Unionville, Mo. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office, 911 Walnut Street, Kansas City, MO 64106.

No. MC 135227 (Sub-No. 1 TA) (Correction), filed February 24, 1971, and published FEDERAL REGISTER issue of March 9, 1971, and republished in part as corrected this issue. Applicant: CHARLES CLARK, doing business as SPECIAL DISPATCH, 240 West Ohio, Post Office Box 460, Indianapolis, IN 46206. Applicant's representative: Keith F. Henley, 88 East Broad Street, Suite 1660, Columbus, OH 43215. NOTE: The purpose of this partial republication is to set forth applicants correct name as *Charles Clark, doing business as Special Dispatch*, in lieu of Chester Clark, doing business as Special Dispatch, the rest of the application remains the same.

No. MC 135344 (Sub-No. 1 TA), filed March 25, 1971. Applicant: COMET TRUCKING, INC., 295 East Fourth North Street, American Fork, UT 84003. Applicant's representative: Myrna Mae Nebeker, 212 Phillips Petroleum Building, Salt Lake City, UT 84101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel furnace components*, from Salt Lake City, Utah, to points in the United States including Alaska and Hawaii, under a continuing contract with Envirotech Systems, Inc., for 180 days. Supporting shipper: Envirotech Systems, Inc., 100 Valley Drive (C. J. Van Duker, Transportation Manager). Send protests to: John T. Vaughan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Building, Salt Lake City, UT 84111.

No. MC 127777 (Sub-No. 11 TA), filed March 25, 1971. Applicant: MOBILE HOME EXPRESS, INC., Post Office Box 547, Wausau, WI 54401. Applicant's representative: Theodore Polydoroff, 1140 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers*, designed to be drawn by passenger automobiles, in initial movements, and (2) *buildings*, complete or in sections, mounted on wheeled undercarriages, in initial movements, from Waupaca, Wis., to points in Minnesota, for 180 days. Supporting shipper: Mill-Craft Housing Corp., Post Office Box 9, Neenah, WI 54956. Send protests to: Barney L. Hardin, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 139 West Wilson Street, Room 206, Madison, WI 53703.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-4727 Filed 4-5-71;8:49 am]

[Notice 676]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 1, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72760. By order of March 30, 1971, the Motor Carrier Board approved the transfer to McIntyre Trucking Co., a corporation, Jersey City, N.J., of the operating rights in permits Nos. MC-3961 and MC-3961 (Sub-No. 4) issued August 9, 1955, and April 24, 1967, respectively, to John McIntyre, doing business as J. & H. McIntyre, Jersey City, N.J., authorizing the transportation of iron and steel articles, from Newark, N.J., to points in Richmond, Kings, Queens, Nassau, Suffolk, New York, and Bronx Counties, N.Y., and Montgomery, Lehigh, and Northampton Counties, Pa.; and from the plantsite of Capitol Steel Corp. in Jersey City, N.J., to points in Orange, Putnam, Rockland, and Westchester Counties, N.Y.; and steel products, not including structural steel, from Jenkintown, Pa., to Elizabeth, Newark, Trenton, West Trenton, Camden, and Fort Dix, N.J. Robert B. Pepper, registered Practitioner, 174 Brower Avenue, Edison, NJ, representative for applicants.

No. MC-FC-72763. By order of March 30, 1971, the Motor Carrier Board approved the transfer to Jack B. Watkins, 5221 Foster, Overland Park, Kans. 66202, of the operating rights in certificate No. MC-118985 (Sub-No. 2), issued June 27, 1968, to B. T. Hall, doing business as B. T. Hall Trucking, 2753 North 32d, Kansas City, KS 66104, authorizing the transportation of sand and gravel, in bulk, from Muncie, Kans., and points within 5 miles thereof, to points in a specified part of Missouri.

No. MC-FC-72766. By order of March 31, 1971, the Motor Carrier Board approved the transfer to Winners Circle Trucking Co., Inc., Marietta Ga., of the operating rights in permit No. MC-134327 issued May 18, 1970 to Paul Palmer and Gene E. White, a partnership, doing business as Winners Circle Trucking Co., Atlanta, Ga., authorizing the transportation of concrete building sections, knocked down, and materials and supplies used in the installation thereof between a specified plantsite

near Lavonia, Ga., on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, Florida, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia, and materials and supplies used in the production or erection of concrete products, with exceptions, between specified plantsites near Lavonia, Ga., at Bound Brook, N.J., and at Metarrie, La. William Addams, Suite 527, 1776 Peachtree Street NW., Atlanta, GA 30309, attorney for applicants.

No. MC–FC–72768. By order of March 31, 1971, the Motor Carrier Board approved the transfer to Howard's Lumber, Inc., 444 South Main Street, Bishop, CA 93514, of the operating rights in Certificate No. MC–128752 (Sub-No. 1) issued February 21, 1968, to H. C. Hoffman, doing business as Howard's Lumber and Building Supply, 2625 Sunset Road, Bishop, CA 93514, authorizing the transportation of building stone and decorative rock, from Crestview, Calif., and points in Inyo and Mono Counties, Calif., to Lone Pine, Calif., and from Crestview, Lone Pine, and Bishop, Calif., and points in Inyo and Mono Counties, Calif., to Albuquerque, N. Mex., and points in Arizona and Nevada (except points in Washoe, Ormsby, Douglas, Lyon, and Storey Counties, Nev.).

No. MC–FC–72772. By order of March 31, 1971, the Motor Carrier Board approved the transfer to Mathis Distributing Co., a corporation, Tuckerton, N.J., of Certificate No. MC–1384, issued to C. Eugene Cranmer and George T. Grant, a partnership, doing business as Mathis Distributing Co., Tuckerton, N.J., authorizing the transportation of: General commodities, with the usual exceptions, and household goods, as defined by the Commission, between specified points and areas in Pennsylvania and New Jersey. Morton E. Kiel, Attorney, 140 Cedar Street, New York, NY 10006, Stephen J. Boyle, Attorney, 6107 Long Beach Boulevard, Brant Beach, N.J. 08008.

No. MC–FC–72778. By order of March 31, 1971, the Motor Carrier Board approved the transfer to Southern Ohio Truck Lines, Inc., Hamilton, Ohio, of certificate No. MC–124218 (Sub No. 14) issued to Unit Transportation, Inc., Hamilton, Ohio, authorizing the transportation of: Paper and paper products and steel strapping, and items used in the manufacture of same, between specified points in Ohio, New York, and Pennsylvania. Kenneth T. Johnson, attorney, Bank of Jamestown Building, Jamestown, NY 14701.

No. MC–FC–72779. By order of March 31, 1971, the Motor Carrier Board approved the transfer to Heinz Brothers, Inc., West New York, N.J., of the operating rights in certificate No. MC–77381 issued March 25, 1968, to Peter Heinz and Matthew Heinz, a partnership, doing business as Heinz Bros., Guttenberg, N.J., authorizing the transportation of household goods, between points in Hudson County, N.J., on the one hand, and, on the other, points in New York, Pennsylvania, Connecticut, and Massachusetts; and hothouse plants and nursery products, from North Bergen, N.J., to New York, N.Y. Edward F. Bowes, 744 Broad Street, Newark, NJ 07102, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–4728 Filed 4–5–71;8:49 am]

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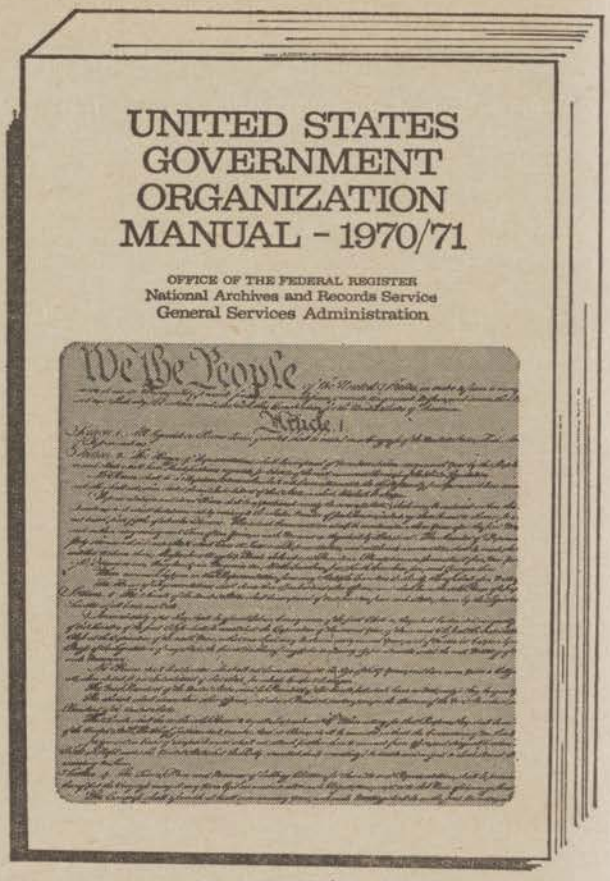
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