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PART 70—GRADING AND INSPECTION OF POULTRY AND EDIBLE PRODUCTS THEREOF; AND U.S. CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

Issuance of Grading Certificates

Correction

In F.R. Doc. 71-7519 appearing at page 9841 in the issue of Saturday, May 29, 1971, the following changes should be made:

1. Section 55.47 should read as follows:

§ 55.47 Disposition of grading certificates.

The original and a copy of each grading certificate, issued pursuant to § 55.46, and not to exceed two additional copies thereof if requested by the applicant prior to issuance, shall, immediately upon issuance, be delivered or mailed to the applicant or person designated by him. Other copies shall be filed and retained in accordance with the disposition schedule for grading program records. Additional copies of any such certificate may be supplied to any interested party as provided in § 55.63.

2. The first sentence of § 56.56(a) should read as follows: "Certificates will be issued only upon request therefor by the applicant or the Service."

3. In § 70.201(b), the word "designed" appearing in the eighth line should read "designated".

Chapter II—Food and Nutrition Service, Department of Agriculture

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

Appendix—Second Apportionment of Special Milk Program Funds Pursuant to Child Nutrition Act of 1966, Fiscal Year 1971

Pursuant to section 3 of the Child Nutrition Act of 1966, Public Law 89-642; 80 Stat. 885-6, milk assistance funds available for the fiscal year ending June 30, 1971, are reapportioned among the States as follows:

State	Total apportionment	State agency	Withheld for private schools
Alabama	$2,026,970	$1,959,184	$67,786
Alaska	38,813	38,813	
Arizona	446,611	446,611	
Arkansas	1,079,308	1,030,940	48,368
California	8,411,669	8,411,669	
Colorado	971,734	886,200	85,534
Connecticut	1,775,152	1,775,152	
Delaware	317,928	281,388	36,540
Del. St. Dist. Agency	18,050	18,050	
District of Columbia	589,605	589,605	
Florida	1,982,000	1,982,000	
Georgia	1,637,945	1,597,945	40,000
Hawaii	130,861	92,501	38,360
Idaho	213,947	163,902	50,045
Illinois	6,648,477	6,648,477	
Indiana	2,999,601	2,999,601	
Iowa	1,407,902	1,228,849	179,053
Kansas	1,093,598	1,093,598	
Kentucky	2,077,623	2,077,623	
Louisiana	684,263	684,263	
Maine	517,658	445,492	72,166
Maryland	2,315,708	1,997,136	318,572
Md. Budget & Proc.	58,659	58,659	
Massachusetts	3,464,912	3,464,912	
Michigan	5,663,196	4,752,170	911,026
Minnesota	2,887,044	2,592,088	294,956
Mississippi	1,335,390	1,335,390	
Missouri	2,404,787	2,358,237	46,550
Montana	211,488	183,050	28,438
Nebraska	660,871	551,881	108,990
Nevada	168,575	147,150	21,425
New Hampshire	505,435	433,087	72,348
New Jersey	3,799,015	3,190,337	608,678
New Mexico	678,033	402,504	275,529
New York	9,291,648	9,291,648	
N.Y. Off. Gen. Serv.	424,498	424,498	
North Carolina	3,369,045	3,369,045	
North Dakota	359,518	321,786	37,732
Ohio	6,600,360	5,804,837	795,523
Ohio Dept. Pub. Wel.	193,649	193,649	
Oklahoma	1,121,654	1,121,654	
Oregon	627,676	604,837	22,839
Pennsylvania	5,321,278	4,702,670	618,608
Rhode Island	568,798	568,798	
South Carolina	622,770	528,720	94,050
South Dakota	365,762	365,762	
Tennessee	1,983,257	1,907,277	75,980
Texas	4,209,874	3,948,756	261,118
Utah	339,331	334,491	4,840
Vermont	292,300	279,776	12,524
Virginia	1,952,697	1,809,166	143,531
Washington	1,374,628	1,168,917	205,711
West Virginia	941,875	906,729	35,146
Wisconsin	3,752,364	3,054,204	698,160
Wyoming	116,019	116,019	
Total	103,051,829	96,741,703	6,310,126

(Secs. 2, 3, 6, and 8-16, 80 Stat. 885-890; 42 U.S.C. 1771, 1772, 1775, 1777-1785)

Dated: June 1, 1971.

EDWARD J. HEKMAN,
Administrator.

[FR Doc.71-7860 Filed 6-4-71;8:47 am]

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

[Lemon Reg. 483]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.783 Lemon Regulation 483.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, 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 Lemon 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 lemons, 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 section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 1, 1971.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period June 6, 1971, through June 12, 1971, are hereby fixed as follows:

(i) District 1: Unlimited;

(ii) District 2: 275,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as

when used in the said amended marketing agreement and order.

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

Dated: June 2, 1971.

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

[FR Doc.71–7933 Filed 6–4–71;8:52 am]

PART 959—ONIONS GROWN IN SOUTH TEXAS

Expenses and Rate of Assessment

Findings. (a) Pursuant to Marketing Agreement No. 143 and Order No. 959 (7 CFR Part 959) regulating the handling of onions grown in designated counties in South Texas, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and upon the basis of the recommendation and information submitted by the South Texas Onion Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the expenses and rate of assessment will tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, or engage in public rule making procedure, and that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Shipments of onions have already begun and the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable onions from the beginning of such fiscal period, (2) compliance with this section will not require any special preparation on the part of handlers, and (3) the budget and rate of assessment were recommended by the South Texas Onion Committee at an open meeting held in the production area.

§ 959.211 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1971, by the South Texas Onion Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $53,000.

(b) The rate of assessment to be paid by each handler in accordance with the Marketing Agreement and this part shall be three-fourths cent ($0.0075) per 50-pound sack of onions, or equivalent quantity, handled by him as the first handler thereof during said fiscal period.

(c) Unexpected income in excess of expenses for the fiscal period ending July 31, 1971, may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the said marketing agreement and this part.

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

Dated: June 2, 1971.

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

[FR Doc.71–7904 Filed 6–4–71;8:51 am]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 40—LICENSING OF SOURCE MATERIAL

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

Safeguards Reporting Requirements for Source Material

On February 6, 1971, the Atomic Energy Commission published in the FEDERAL REGISTER (36 F.R. 2567) proposed amendments to its regulations, 10 CFR Part 40, "Licensing of Source Material" and 10 CFR Part 150, "Exemptions and Continued Regulatory Authority in Agreement States Under Section 274," which would extend the requirement for reporting thefts or diversions of source material to additional licensees who possess such material and delete the requirement for reporting exports or imports of source material by persons who do not actually receive or transfer the material.

All interested persons were invited to submit written comments and suggestions in connection with the proposed amendments within 30 days after publication of the notice of proposed rule making in the FEDERAL REGISTER. Upon consideration of the comments received in response to the notice of proposed rule making, and other factors involved, the Commission has adopted the amendments set forth below which are identical to those published for public comment.

The extension of the reporting requirements to all thefts or diversions of licensed source material of more than 15 pounds at any one time, or 150 pounds in any 1 calendar year is expected to better enable the Commission to assure that source material is safeguarded against diversion to unauthorized use. The reporting requirement for imports and exports, as differentiated from transfers and receipts, has been eliminated as unnecessary.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments of title 10, Chapter I, Code of Federal Regulations, Parts 40 and 150, are published as a document subject to codification, to be effective thirty (30) days after publication in the FEDERAL REGISTER.

1. Paragraphs (a) and (c) of § 40.64 of 10 CFR Part 40 are amended to read as follows:

§ 40.64 Reports.

(a) Except as specified in paragraph (d) of this section, and except for exports of unimportant quantities of source material specified in § 40.13 (b), (c), and (d), each licensee who transfers or receives at any one time 1,000 kilograms or more of uranium or thorium, or any combination thereof, shall complete and distribute a Nuclear Material Transfer Report on Form AEC–741, in accordance with the printed instructions for completing the form. Each licensee who transfers such material shall submit a completed copy of Form AEC–741 to the Commission and three copies to the receiver of the material promptly after the transfer takes place. Each licensee who receives such material shall submit a completed copy of Form AEC–741 to the Commission and to the shipper of the material within ten (10) days after the material is received. The Commission's copies of the reports shall be submitted to the U.S. Atomic Energy Commission, Post Office Box E, Oak Ridge, TN 37830.

* * * * *

(c) Except as specified in paragraph (d) of this section, each licensee who is authorized to possess uranium or thorium pursuant to a specific license shall report promptly to the Director, Division of Nuclear Materials Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545, by telephone, telegram, or teletype any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 15 pounds of such material at any one time or more than 150 pounds of such material in any one calendar year. The initial report shall be followed within a period of fifteen (15) days by a written report submtted to the Director, Division of Nuclear Materials Safeguards, which sets forth the details of the incident and its consequences. Subsequent to the submission of the written report required by this paragraph, the licensee shall promptly inform the Division of Nuclear Materials Safeguards by means of a written report of any substantive additional information, which becomes available to the licensee, concerning an attempted or apparent theft or unlawful diversion of source material.

* * * * *

(Secs. 65, 161 b, o, 68 Stat. 933, 948, 950, as amended; 42 U.S.C. 2095, 2201 (b), (o))

2. Paragraphs (a) and (c) of § 150.17 of 10 CFR Part 150 are amended to read as follows:

§ 150.17 Submission to Commission of source material transfer reports.

(a) Except as specified in paragraph (d) of this section, each person who,

pursuant to an Agreement State License, transfers or receives at any one time 1,000 kilograms or more of uranium or thorium, or any combination thereof, shall complete and distribute a Nuclear Material Transfer Report on Form AEC–741, in accordance with the printed instructions for completing the form. Each person who transfers such material shall submit a completed copy of Form AEC–741 to the Commission and three copies to the receiver of the material promptly after the transfer takes place. Each person who receives such material shall submit a completed copy of Form AEC–741 to the Commission and to the shipper of the material within ten (10) days after the material is received. The Commission's copies of the reports shall be submitted to the U.S. Atomic Energy Commission, Post Office Box E, Oak Ridge, TN 37830.

* * * * *

(c) Except as specified in paragraph (d) of this section, each person who is authorized to possess uranium or thorium pursuant to a specific license from an Agreement State shall report promptly to the Director, Division of Nuclear Materials Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545, by telephone, telegram, or teletype any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 15 pounds of such material at any one time or more than 150 pounds of such material in any one calendar year. The initial report shall be followed within a period of fifteen (15) days by a written report submitted to the Director, Division of Nuclear Materials Safeguards, which sets forth the details of the incident and its consequences. Subsequent to the submission of the written report required by this paragraph, each person subject to the provisions of this paragraph, shall promptly inform the Division of Nuclear Materials Safeguards by means of a written report of any substantive additional information, which becomes available to such person, concerning an attempted or apparent theft or unlawful diversion of source material.

* * * * *

(Secs. 161b, 274m, 68 Stat. 948, 73 Stat. 688; 42 U.S.C. 2201(b), 2021(m))

Dated at Washington, D.C. this 19th day of May 1971.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc.71–7834 Filed 6–4–71;8:45 am]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 71–500]

PART 563—OPERATIONS

Federal Insurance Reserve Requirements

MAY 28, 1971.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend § 563.13 of the rules and regulations for Insurance of Accounts (12 CFR 563.13) for the purpose of liberalizing the requirements relating to maintenance of Federal insurance reserve accounts by insured institutions, in the following respects:

1. By requiring that an insured institution meet the higher "bench-mark" requirement for a given insurance anniversary year only on the closing date following the insurance anniversary date; and

2. By suspending, for closing dates occurring during the months of May through October 1971, all requirements for insured institutions to make transfers to Federal insurance reserve accounts.

Accordingly, on the basis of such consideration and for such purpose, the Federal Home Loan Bank Board hereby amends said § 563.13 by revising paragraph (a) thereof to read as follows, effective May 28, 1971:

§ 563.13 Required amounts and maintenance of Federal insurance reserve.

(a) *Minimum reserve level.* (1) After the fiscal year in which a certificate of insurance is issued to an insured institution, it shall build up its Federal insurance reserve account so that as of the close of business on the closing date following the anniversary of the date of insurance of accounts stated in the table set forth in this subparagraph, such reserve account shall be at least equal to the following percentage of the total of its savings accounts on each such closing date:

Percentage:	*Anniversary*
0.50	2
0.75	3
1	4
1.25	5
1.50	6
1.75	7
2	8
2.25	9
2.50	10
2.75	11
3	12
3.25	13
3.50	14
3.75	15
4	16
4.25	17
4.50	18
4.75	19
5 percent at the 20th anniversary and thereafter.	

(2) After the fiscal year in which a certificate of insurance is issued to an insured institution, it shall build up its net worth so that as of the close of business on the closing date following the anniversary of the date of insurance of accounts stated in the table set forth in subparagraph (1) of this paragraph, its net worth shall be at least equal to the appropriate Federal insurance reserve account requirement plus 15 percent of its scheduled items in 1964 and plus 20 percent of its scheduled items thereafter.

(3) Notwithstanding the provisions of subparagraph (1) of this paragraph, no insured institution shall be required to make any transfer to its Federal insurance reserve account on any closing date occurring during the months of May through October 1971. For the purposes of compliance with the provisions of subparagraph (2) of this paragraph during such period, the term "appropriate Federal insurance reserve account requirement" shall refer to the requirement as of the immediately preceding closing date.

* * * * *

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

Resolved further that, since affording notice and public procedure on the above amendment would delay it from becoming effective for a period of time and since it is in the public interest that such amendment become effective as soon as possible, the Board hereby finds that notice and public procedure thereon are contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and, since such amendment relieves restriction, publication of such amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date thereof is unnecessary; and the Board hereby provides that such amendment shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc.71–7884 Filed 6–4–71;8:49 am]

Chapter VII—National Credit Union Administration

PART 748—MINIMUM SECURITY DEVICES AND PROCEDURES

On March 16, 1971, notice of proposed rule making regarding minimum security devices and procedures required for federally insured credit unions was published in the FEDERAL REGISTER, 36 F.R. 4996–5001. After consideration of all such relevant matter as was presented by interested persons, the regulation as so proposed is hereby adopted, subject to the following changes:

1. In § 748.0, paragraph (a), line 11, insert the word "federally" following the word "which".

2. In § 748.0, paragraph (b) is changed.

3. Section 748.1 is changed.

4. In § 748.2, line 1, change "On or before May 1, 1971" to "Within 60 days of the effective date of this part"; in line 6 change the word "the" to "that."

5. Section 748.3 is changed.

6. Section 748.4, paragraph (a), is changed.

7. Section 748.4, paragraph (b), is changed.

8. Section 748.5, paragraph (a), is changed.

9. Section 748.5, paragraph (b), is changed.

10. Section 748.5, paragraph (c), line 1, insert the word "federally" following the word "Each".

11. Section 748.6 is changed.

12. Section 748.7 is changed.

13. In § 748.8, line 2, change "an insured" to "a federally insured".

14. Section 748.9, the introductory text of paragraph (a), is changed.

15. In § 748.9, paragraph (a)(1), line 9, change "the credit union" to "the federally insured credit union's".

16. In § 748.9, paragraph (a)(2), line 23, change "the credit union" to "the federally insured credit union's"; and in line 27, change "the credit union" to "that credit union's".

17. In § 748.9, paragraph (b), lines 2 and 3, change "each credit union" to "each federally insured credit union's".

18. In § 748.9, paragraph (b)(1), line 5, change "the credit union" to "the federally insured credit union's".

19. In § 748.9, paragraph (b)(2), line 8, change "a credit union" to "a federally insured credit union's."

20. In § 748.9, paragraph (b)(3), line 1, change "Safeguard" to "Safeguarded".

21. Section 748.9, paragraph (c)(2), is changed.

22. In § 748.9, paragraph (d), line 4, change "June 30, 1971" to "the effective date of this part".

23. In § 748.9, paragraph (e), line 7, change "June 30, 1971" to "the effective date of this part".

24. Section 748.9, paragraph (e)(1) is changed.

25. Section 748.9, paragraph (e)(2), is changed.

26. In § 748.9, paragraph (e)(3), line 4, change "June 30, 1971" to "the effective date of this part".

27. In § 748.1 the paragraph defining "Branch" is changed.

Effective date. This regulation is effective June 15, 1971.

HERMAN NICKERSON, JR.,
Administrator.

JUNE 1, 1971.

Sec.
748.0 Scope.
748.1 Definitions.
748.2 Designation of a security officer.
748.3 Security devices.
748.4 Security procedures.
748.5 Filing of reports.
748.6 Corrective action.
748.7 Storage of vital records.
748.8 Penalty provision.
748.9 Minimum standards for security devices.
748.10 Proper employee conduct during and after a robbery.

AUTHORITY: The provisions of this Part 748 issued under sec. 205–E, 84 Stat. 1002, Public Law 91–468.

§ 748.0 Scope.

(a) This part establishes minimum standards which federally insured credit unions shall comply with in respect to their actions and the installation, maintenance, and operation of security devices and procedures to discourage robberies, burglaries, and larcenies, to assist in the identification and apprehension of persons who commit such actions, and to provide standards for storing vital records; sets time limits within which federally insured credit unions shall comply with these standards; and provides for the submission of reports with respect to compliance.

(b) It is realized that federally insured credit unions will be of various sizes, from small ones that operate from an officer's home with limited assets to large ones with many millions of dollars of assets that are involved in a complex operation. It is the intent of this regulation to make the security requirements fit the circumstance of the credit union. Accordingly, small federally insured credit unions may be required to have a considerably less elaborate security program as compared to large federally insured credit unions. Therefore, the circumstances of each federally insured credit union will be reviewed on its own merits in determining compliance with each section of this part. If a federally insured credit union does not believe it can comply with any section of this part, such credit union shall submit the reasons therefor to the Regional Director for approval or disapproval.

§ 748.1 Definitions.

"Branch" includes any branch credit union, branch office, branch agency, additional office, or any branch place of business located in any State of the United States, the District of Columbia, the several territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, at which member accounts are established or money lent.

"Business hours" means the time during which an office is open for the normal transaction of business with members of federally insured credit unions.

"Office" includes the principal office of a federally insured credit union and any branch thereof.

"Regional Director" means the Regional Director of the National Credit Union Administration in the region where the federally insured credit union is located who is responsible for the supervision of the federally insured credit union's activities for insurance purposes.

"Teller station or window" means a location in a place of business in which a federally insured credit union's members routinely conduct transactions with that credit union which involve the exchange of funds, including a walkup or drive-in teller's station or window.

§ 748.2 Designation of security officer.

Within 60 days of the effective date of this part, or within 30 days after the effective date of insurance of a federally insured credit union, whichever is later, the Board of Directors of each such credit union shall designate an officer or other employee of that credit union who shall be charged, subject to the supervision by the credit union's Board of Directors, with responsibility for installation, maintenance, and operation of security devices and for the development and administration of a security program which equals or exceeds the standards prescribed by this part.

§ 748.3 Security devices.

(a) *Installation, maintenance, and operation of appropriate devices.* Within 180 days of the effective date of this part, or within 90 days after the effective date of insurance of funds, whichever is later, the security officer of each federally insured credit union, under such direction as shall be given him by that credit union's Board of Directors, shall survey the needs for security devices in each of the credit union's offices and shall provide for the installation, maintenance, and operation in each such office of:

(1) A lighting system for illuminating during the hours of darkness the area around the vault or safe if the vault or safe is visible from outside the office;

(2) Tamper-resistant locks such as dead bolt, ring and bar, double cylinder, or similar types on exterior doors and exterior windows designed to be opened;

(3) An alarm system or other appropriate device for promptly notifying the nearest responsible law enforcement officers, guards, or security personnel of an attempted or perpetrated robbery or burglary; and

(4) Such other devices as the security officer, after seeking the advice of law enforcement officers and any other appropriate source, shall deem to be appropriate for discouraging robberies, burglaries, and larcenies and for assisting in the identification and apprehension of persons who commit such crimes.

(b) *Considerations relevant to determining appropriateness.* For the purpose of subparagraphs (3) and (4) of paragraph (a) of this section, considerations

relative to determining appropriateness include, but are not limited to:

(1) The incidence of crimes against the particular office or financial institutions in the area in which the office is or will be located;

(2) The amount of currency or other valuables exposed to robbery, burglary, or larceny;

(3) The distance of the office from the nearest law enforcement offices, guards, or security personnel and the time required for such personnel to arrive at the office;

(4) The cost of security devices;

(5) Other security measures in effect at the office or within the area, such as the office being located within the compound of a military installation, within the complex of a business or factory which has security, etc.; and

(6) The physical characteristics of the office structure and its surroundings.

(c) *Implementation.* It is appropriate for officers of federally insured credit unions in areas with a high incidence of crime to install more devices and institute more procedures which would not be practicable because of cost for small offices in areas substantially free of crimes against financial institutions. Each federally insured credit union shall consider the appropriateness of installing, maintaining, and operating security devices and where used should give a general level of protection at least equivalent to the standards described in § 748.9. In those institutions where security devices are already installed it is not intended that they be replaced but every effort will be made to bring them up to the standards set forth in § 748.9. In any case, on the basis of the factors listed in paragraph (b) of this section or similar ones, where the use of other measures or the decision that technological change allows the use of other measures judged to give equivalent protection, it is decided not to install, maintain, and operate devices at least equivalent to these standards, the federally insured credit union shall preserve in its own records a statement of the reasons for such decision and forward a copy of that statement to the Regional Director. In the case of federally insured State-chartered credit unions, this statement shall be mailed to the Regional Director. If the appropriate State supervisory authority desires, this statement shall be mailed to the Regional Director via the State supervisory authority. In any event, a copy of the statement shall always be sent to the appropriate State supervisory authority.

§ 748.4 Security procedures.

(a) *Development and administration.* On or before October 1, 1971, or within 90 days after the effective date of insurance of the credit union by the National Credit Union Administration, whichever is later, each federally insured credit union shall develop and provide for the administration of a security program to protect each of its offices, branches, or places of business from robberies, burglaries, and larcenies and to assist in the identification and apprehension of persons who commit such crimes. The security program shall be reduced to writing, approved by the federally insured credit union's Board of Directors, and retained by that credit union in such form as will readily permit determination of its adequacy and effectiveness, and a copy shall be filed with the Regional Director with the certification required by § 748.5 and with the appendix to this part pertaining to the Report on Security Measures. In the case of federally insured State-chartered credit unions, these items shall be mailed to the Regional Director. If the appropriate State supervisory authorities desires, these items shall be mailed to the Regional Director via the State supervisory authority. In any event, copies of these items shall always be sent to the appropriate State supervisory authority.

(b) *Contents of the security program.* Such security program shall:

(1) Provide for establishing a schedule for the inspection, testing, and servicing of all security devices installed in each office; provide for designating the officer or other employee who shall be responsible for seeing that such devices are inspected, tested, serviced, and kept in good working order and require such officer or other employee to keep a record of such inspections, testings, and servicings;

(2) Require that each office's currency be kept at a reasonable minimum and provide procedures for safely removing excess currency (currency kept on hand overnight should not be in excess of an amount that would be recoverable under the surety bond);

(3) Require that the currency at each teller's station or window be kept at a reasonable minimum and provide procedures for safely removing excess currency and negotiable securities to a locked vault, safe, or other protected place that provides as a minimum the level of protection set forth in § 748.7 against the hazard of fire and as set forth in § 748.9 against the hazard of burglary and hold-up;

(4) Require that the currency at each teller's station or window or place where funds are disbursed or received include bait money, i.e., used Federal Reserve notes, the denominations, banks of issue, serial numbers, and series years of which are recorded, verified by a second officer or employee, and kept in a safe place;

(5) Require that all currency and negotiable securities be placed in a vault or safe at the earliest time practicable after business hours; that the vault or safe be locked at the earliest practicable time after business hours and be opened at the latest time practicable before business hours. In those cases where the federally insured credit union is so small that it is determined to be economically not feasible to purchase a safe or vault, funds or securities in excess of $500 will not be kept by the credit union but deposited in an authorized depository.

(6) Provide where practicable for designation of a person or persons to open each office or branch and require him or them to inspect the premises to ascertain that no unauthorized persons are present and to signal to the employees that the premises are safe before permitting them to enter;

(7) Provide for designation of a person or persons who will assure that all security devices are turned on and are operating during the periods and at such times as such devices are intended to be used and that all locks on windows, doors, and methods of ingress and egress are properly locked;

(8) Provide for a person (or persons, where practicable) to inspect after the closing hour all areas of each office where currency and negotiable securities are normally handled or stored in order to assure that such currency and negotiable securities have been put away, that no unauthorized persons are present in such areas, and that the vault or safe and all other receptacles with locks are securely locked and secured;

(9) Provide that securities not kept in a safe or vault shall be kept in a safe deposit box which requires two authorized signatures to open in a financial institution;

(10) Provide that armored car service where practicable shall be used in transporting money to and from the bank or armed guards, where practicable, should accompany employees when they transport funds between the federally insured credit union and the bank. Funds should not be transported to the bank by less than two persons.

(11) Provide that windows and doors that are not readily observable from the outside and through which unauthorized entry may be attempted shall, where practicable, be protected by burglary-resistant bars or grills;

(12) Provide that arrangements will be made, if feasible, with local police, internal security guards, or other security personnel to inspect the exterior of the office with reasonable frequency and to be present before opening and just after closing hours;

(13) Provide that the installation of an alarm system which can be activated by an employee without endangering his life, prefrably a silent system connected with the police or a security agency, should be considered and installed where conditions indicate such necessity and it is economically feasible. During hours when the office is closed, an alarm should be considered that can be activated upon unauthorized or forced entry.

(14) Provide that a study be made to determine whether a surveillance system is needed and is practicable, considering such things as photographic recording and monitoring devices. Such systems are not only helpful in identifying and apprehending the burglar or robber but also serve as a deterrent to the

planning of a burglary or robbery. Notices of such devices will be prominently displayed.

(15) Provide that employees will be fully instructed as to the procedures and actions to follow during the course of a robbery, including the importance of a good description of the robber. They will be thoroughly familiar with the importance of refraining from any action or reaction that might endanger their lives or the lives of any other employees in the office at the time. (See § 748.10)

(16) Provide that employees will be given initial training and periodic retraining in their responsibilities under the securty program, including the proper use of any security devices.

(17) Provide that if a federally insured credit union's office is located in a building owned by the employer of the members, consideration will be given to locating the office on an upper floor where practicable.

(18) Provide that consideration will be given to using clear wired glass in doors and windows facing corridors or streets so that persons passing will have a good view of the federally insured credit union's office.

(19) Be cognizant of the fact that the Federal Bureau of Investigation has a decal which states that the FBI has jurisdiction to investigate robberies, burglaries, and larcenies committed against federally insured credit unions. Where the FBI has jurisdiction, arrangements will be made through the local FBI office to acquire these decals and they will be posted in a conspicuous place.

§ 748.5 Filing of reports.

(a) Compliance reports: Within 180 days of the effective date of this part or within 90 days after the effective date of insurance of funds, whichever is later, each federally insured credit union shall file with its Regional Director a statement certifying to its compliance with the requirements of this part. Thereafter such a statement will be presented to the federal examiner. The statement shall be dated and signed by the President of the federally insured credit union or other managing officer of that credit union and may be in a form substantially as follows:

> I hereby certify to the best of my knowledge and belief that this credit union has developed and administers a security program that equals or exceeds the standards prescribed by Section 748.4 of the Rules and Regulations; that such security program has been reduced to writing, approved by this credit union's Board of Directors, and retained by this cerdit union in such form as will readily permit determination of its adequacy and effectiveness; and that this credit union's security officer, after seeking the advice of law enforcement officers, has provided for the installation, maintenance, and operation of security devices, if appropriate, as prescribed by Section 748.3 of the Rules and Regulations in each of the credit union's offices.

In the case of federally insured State-chartered credit unions, this statement shall be mailed to the Regional Director at the same time as the annual payment of its insurance premium as provided in title II of the Federal Credit Union Act. If the appropriate State supervisory authority desires, this statement shall be mailed to the Regional Director via the State supervisory authority. In any event, a copy of the statement shall always be sent to the appropriate State supervisory authority.

(b) Crime and catastrophic act reports: Each time a crime or catastrophic act listed in the appendix is committed or attempted or occurs at an office operated by a federally insured credit union, that credit union shall, within 5 working days, file a report with the Regional Director in conformity with the requirements of the appendix to this part. State-chartered credit unions shall, in addition, file one copy of such report with the appropriate State supervisory authority. Three copies of such report shall be filed by each federally insured credit union with the Regional Director. If all information required in such report is not available within 5 days, then all available information shall be forwarded as a preliminary report within such 5-day period and the remainder forwarded as soon as it is compiled.

(c) Each federally insured credit union shall file such other reports as the Administrator may from time to time require.

§ 748.6 Corrective action.

Whenever the Administrator determines that the security devices or procedures used by a federally insured credit union are deficient in meeting the requirements of this part or that the requirements of this part should be varied in the circumstances of a particular office, he may take or require that credit union to take the necessary corrective action. If the Administrator determines that such corrective action is appropriate or necessary, that credit union will be so notified and will be furnished a statement of what the credit union must do to comply with the requirements of this part.

§ 748.7 Storage of vital records.

Records considered vital, as defined in the Accounting Manual for Federal Credit Unions, for the continued operation of a federally insured credit union in the event of their loss (such as ledgers, etc.) must be secured in a fire-resistant container or vault prior to the securing of the office or building each day. Fire-resistant vaults used for the protection of federally insured credit unions' records as determined by the Board of Directors shall be constructed in accordance with specifications established by the National Fire Protection Association for a Class 2-hour rating and must comply with any other applicable local fire regulations. As a minimum, fire-resistant vault doors shall be listed with the Underwriters Laboratories as a 2-hour vault door and frame and equipped with an Underwriters Laboratories listed Group 2 combination lock. Fire-resistant containers used for the protection of such records shall meet the minimum specifications established by the Underwriters Laboratories for a UL 1-hour label. For the purpose of certification that fire-resistant vaults or containers meet these standards, a written certification from a contractor, manufacturer, or supplier to the credit union that the equipment equals or exceeds the requirements established above will satisfy the federally insured credit union's compliance with this regulation.

§ 748.8 Penalty provision.

Pursuant to section 2053 of Public Law 91–468 of 1970, a federally insured credit union which violates any provision of this part shall be subject to a civil penalty not to exceed $100 for each day of the violation.

§ 748.9 Minimum standards for security devices.

General: The following minimum standards for security devices should be met if it is determined that the criteria established in this Part 748 requires that such security devices be installed.

(a) *Surveillance systems.* Surveillance systems should be equipped with one or more photographic recording, monitoring, or like devices capable of reproducing images of persons in the federally insured credit union's office with sufficient clarity to facilitate (through photographs capable of being enlarged to produce a 1-inch vertical head size of persons whose images have been reproduced) the identification and apprehension of robbers or other suspicious characters. The device should be reasonably silent in operation and designed and constructed so that necessary services, repairs, or inspections can be readily made. Any camera used in such a system should be capable of taking at least one picture every two seconds and, if it uses film, should contain enough unexposed film at all times to be capable of operating for not less than 3 minutes.

(1) *Installation, maintenance, and operation of surveillance systems providing surveillance of other than walkup or drive-in teller stations or windows.* Surveillance devices for other than walkup or drive-in teller stations or windows should be located so as to produce identifiable images of persons either leaving the federally insured credit union's office or in a position to transact business at each station or window and should be capable of activation by initiating devices located at each teller's station or window.

(2) *Installation, maintenance, and operation of surveillance systems providing surveillance of walkup or drive-in teller stations or windows.* Surveillance devices for walkup or drive-in teller stations or windows should be located in such a manner as to reproduce identifiable images of persons in a position to transact business at each such station or window and area of such station or window that is vulnerable to robbery or larceny. Such devices should be capable of activation by one or more initiating devices located within or in close proximity to such

station or window. Such devices could be omitted in the case of a walkup or drive-in teller's station or window in which the teller is effectively protected by bullet-resistant barrier from persons outside the station or window, but if the teller is vulnerable to larceny or robbery by members of the public who enter the federally insured credit union's office the teller should have access to a device to activate a surveillance system that covers the area of vulnerability or the exits of that credit union's office.

(b) *Robbery alarm systems.* A robbery alarm should be provided for each federally insured credit union's office at which the police ordinarily can arrive within 5 minutes after an alarm is activated. Robbery alarm systems should be:

(1) Designed to transmit to the police, either directly or through an intermediary, a signal (not detected by unauthorized persons) indicating that a crime against the federally insured credit union's office has occurred or is in progress;

(2) Capable of activation by initiating devices located at each teller's station or window (except walkup or drive-in teller's stations or windows in which the teller is effectively protected by a bullet-resistant barrier and effectively isolated from persons, other than fellow employees, inside a federally insured credit union's office of which such station or window may be a part);

(3) Safeguarded against accidental transmission of an alarm;

(4) Equipped with a visual and audible signal capable of indicating improper functioning of or tampering with the system; and

(5) Equipped with an independent source of power (such as a battery) sufficient to assure continuously reliable operation of the system for at least 24 hours in the event of failure of the usual source of power.

(c) *Burglar alarm systems.* Burglar alarm systems should be:

(1) Capable of detecting promptly an attack on the outer door, walls, floor, or ceiling of each vault, and each safe not stored in a vault, in which currency, negotiable securities, or similar valuables are stored when the office is closed, and any attempt to move any such safe;

(2) Designed to transmit to the police, either directly or through an intermediary, a signal (not detectable by unauthorized persons) indicating that any such attempt is in progress; and designed to activate a loud sounding bell or other device that is audible inside the federally insured credit union's office; and for a distance of approximately 500 feet outside that credit union's office;

(3) Safeguarded against accidental transmission of an alarm;

(4) Equipped with a visual and audible signal capable of indicating improper functioning of or tampering with the system; and

(5) Equipped with an independent source of power (such as a battery) sufficient to assure continuously reliable operation of the system for at least 80 hours in the event of failure of the usual source of power.

(d) *Walkup and drive-in teller's stations or windows.* Walkup and drive-in teller's stations or windows contracted for after the effective date of this part should be constructed in such a manner that tellers are effectively protected by bullet-resistant barriers from robbery or larceny by persons outside such stations or windows. Such barriers should be of glass at least 1 3/16 inches thick,[1] or of material of at least equivalent bullet-resistance. Pass-through devices should be designed and constructed so as not to afford a person outside the station or window a direct line of fire at a person inside the station or window.

(e) *Vaults, safes, and night depositories.* Vaults and safes (if not to be stored in a vault) in which currency, negotiable securities, or similar valuables are to be stored when the office is closed, and night depositories, contracted for after the effective date of this part, should meet or exceed the following standards:

(1) *Vaults.* Vault walls, roof, and floor contracted for after the effective date of this part, should be made of steel-reinforced concrete, at least 18 inches thick or the equivalent; vault doors should be made of steel or other drill and torch-resistant material, at least 3½ inches thick, and be equipped with a dual combination lock and a time lock and a substantial, lockable daygate; or vaults and vault doors shall be constructed of materials that afford at least equivalent burglary-resistance.

(2) *Safes.* Safes contracted for after the effective date of this part, should weigh at least 750 pounds empty or be securely anchored to the premises where located. The door should be equipped with a combination lock and with a relocking device that will effectively lock the door if the combination lock is punched. The body should consist of steel, at least 1 inch in thickness, with an ultimate tensile strength of 50,000 pounds per square inch, either cast or fabricated, and be fastened in a manner equal to a continuous ¼-inch penetration weld having an ultimate tensile strength of 50,000 pounds per square inch. One hole not exceeding 3/16-inch diameter may be provided in the body to permit insertion of electrical conductors but should be located so as not to permit a direct view of the door or locking mechanism. The door should be made of steel that is at least 1½ inches thick and at least equivalent in strength to that specified for the body; or safes should be constructed of materials that afford at least equivalent burglary-resistance.

(3) *Night depositories.* Night depositories (excluding envelope drops not used to receive substantial amounts of currency) contracted for after the effective date of this part, should consist of a receptacle chest having cast, or welded, steel walls, top and bottom, at least 1 inch thick; a combination locked steel door at least 1½ inches thick; and a chute, made of steel that is at least 1 inch thick, securely bolted or welded to the receptacle and to a depository entrance of strength similar to the chute; or night depositories should be constructed of materials that afford at least equivalent burglary-resistance. The depository entrance should be equipped with a lock. Night depositories should be equipped with a burglar alarm and be designed to protect against the "fishing" of a deposit from the deposit receptacle and to protect against the "trapping" of a deposit for extraction.

Each device mentioned in this section should be installed and regularly inspected, tested, and serviced by competent persons so as to assure realization of its maximum performance capabilities. Activating devices for surveillance systems and robbery alarms should be operable with the least risk of detection by unauthorized persons that can be practicably achieved.

§ 748.10 Proper employee conduct during and after a robbery.

With respect to proper employee conduct during and after a robbery, employees should be instructed—

(a) To avoid actions that might increase danger to themselves or others;

(b) To activate the robbery alarm system and the surveillance system during the robbery, if it appears that such activation can be accomplished safely;

(c) To observe the robber's physical features, voice, accent, mannerisms, dress, the kind of weapon he has, and any other characteristics that would be useful for identification purposes;

(d) That if the robber leaves evidence (such as a note) to try to put it aside and out of sight, if it appears that this can be done safely; retain the evidence, do not handle it unnecessarily, and give it to the police when they arrive; and refrain from touching, and assist in preventing others from touching, articles or places the robber may have touched or evidence he may have left, in order that fingerprints of the robber may be obtained;

(e) To give the robber no more money than the amount he demands and include "bait" money in the amount given;

(f) That if it can be done safely, to observe the direction of the robber's escape and the description and license plate number of the vehicle used, if any;

(g) To telephone the police, if they have not arrived, and the nearest office of the Federal Bureau of Investigation, or inform a designated officer or other employee who has this responsibility that a robbery has been committed;

(h) That if the robber leaves before the police arrive, to assure that a designated officer or other employee waits outside the office, if it is safe to do so, to

[1] It should be emphasized that this thickness is merely bullet-resistant and not bullet-proof.

inform the police when they arrive that the robber has left;

(i) To attempt to determine the names and addresses of other persons who witnessed the robbery or the escape and request them to record their observations or to assist a designated officer or other employee in recording their observations; and

(j) To refrain from discussing the details of the robbery with others before recording the observations respecting the robber's physical features and other characteristics as hereinabove described and the direction of escape and description of vehicle used, if any.

APPENDIX

NATIONAL CREDIT UNION ADMINISTRATION REPORT ON SECURITY MEASURES

Pursuant to the Federal Credit Union Act

Credit Union Name_____
Address _____
City _____
State_____ Zip_____
_____Federally Chartered
_____State Chartered
Does Credit Union Occupy:
(a) Own building_____
(b) Sponsor's space_____
(c) Outside rental space_____
(d) Other_____
FINANCIAL:
Assets__ Loan Balance__ Share Balance__
No. of Members__ Potential Membership__
President _____
Treasurer/Manager _____
Name of Security Officer_____
Number of Employees:
Full Time_____ Part Time_____
LOSSES: (Last 5 Years)

Type	Date	Amount	Covered by insurance?
_____			Yes/No.
_____			Yes/No.
_____			Yes/No.
_____			Yes/No.
_____			Yes/No.

I. Armed Guard Protection

1. In office during office hours:
a. _____ Yes. Number _____
b. _____ No.
2. In office during nonbusiness hours:
a. _____ Yes. Number _____.
b. _____ No.

II. Surveillance System

A. Type of equipment:
1. _____ Photographic camera. Number used _____.
2. _____ Television cameras and recorders—Number of TV cameras used _____.
3. _____ Other, specify type and number _____.
B. Specifications:
1. Size of film, if applicable:
a. _____ 16 mm. or larger.
b. _____ Other, specify _____.
2. Photographing capabilities:
a. _____ Rapid speed for photographing at _____ frames per minute.
b. _____ Slow speed for continuous surveillance at _____ frames per hour.
C. Coverage (check all applicable categories):
a. _____ Exits. Number of devices used _____.
b. _____ Teller positions. Number of devices used _____.
D. Operation:
1. Method of activation (check all applicable items):
a. _____ Automatic and continuous.
b. _____ Activating device at each teller position.
c. _____ Other, specify _____.
2. Audibility of system when in operation:
a. _____ Relatively silent so as not to attract attention.
b. _____ Readily audible.
3. Visible to public view?
a. _____ Yes.
b. _____ No.
4. Public informed through decals or other means of use of surveillance system?
a. _____ Yes.
b. _____ No.
E. Installation and maintenance:
1. Installation by:
a. _____ Equipment supplier.
b. _____ Central station alarm service.
c. _____ Other, specify_____.
2. Maintenance by:
a. _____ Credit Union employee.
b. _____ Installer.
c. _____ Other, specify_____.

III. Accessibility of Law Enforcement Officers

(In developing this information, it may be necessary to consult with local law enforcement officials.)

A. _____ Distance from credit union office to nearest local law enforcement station having jurisdiction.
B. _____ Estimate of shortest time within which enforcement officers could be expected to arrive at office after being summoned.

IV. Burglar Alarm Systems

A. Installation:
1. _____ By equipment supplier.
2. _____ By central station alarm company.
3. _____ By other, specify _____.
B. Signal transmission method:
1. _____ Wires or cables.
2. _____ Wireless equipment (for some or all signals).
3. Means to instantly indicate circuit failure, malfunction or tampering attempts in system?
a. _____ Yes.
b. _____ No.
4. Emergency power supply for use in case of failure of regular power supply.
a. _____ Yes.
b. _____ No.
C. Reporting location for alarms:
1. _____ At central station alarm company that is in service 24 hours per day.
2. _____ At local law enforcement office that is in service 24 hours per day.
3. _____ Other, specify _____.
D. Activation of robbery alarms:
1. _____ At teller stations.
2. _____ Elsewhere, specify _____.
E. Does burgular alarm system have a loud bell outside the credit union office?
1. _____ Yes.
2. _____ No.
F. Can activating devices be unobtrusively operated?
1. _____ Yes.
2. _____ No.
G. Door-type, window-type, or other intrusion detection alarms:
1. _____ Yes, specify type _____.
2. _____ No.
3. Noise-generating device audible outside office?
a. _____ Yes.
b. _____ No.

V. Fire Alarms Systems

A. Installation:
1. _____ By equipment supplier.
2. _____ By central station alarm company.
3. _____ By other, specify _____.
B. Signal transmission method:
1. _____ Wires or cables.
2. _____ Wireless equipment (for some or all signals).
3. Emergency power supply for use in case of failure of regular power supply.
a. _____ Yes.
b. _____ No.
C. Reporting location for alarms:
1. _____ At central station alarm company that is in service 24 hours per day.
2. _____ At local fire station that is in service 24 hours per day.
3. _____ Other, specify _____.
D. Activation of fire alarms:
1. _____ Specify where sensors are_____.
2. _____ Specify where else can be (manually) activated _____.
E. Does fire alarm system have a loud bell outside the credit union office?
1. _____ Yes.
2. _____ No.
F. Type of sensors:
1. _____ Smoke detection.
2. _____ Rate of temperature rise.
3. _____ Products of combustion.
4. _____ Other, specify type _____.
G. Other fire protection devices:
1. _____ Extinguishers.
2. _____ Sprinkler systems.
3. _____ Insulated files and cabinets.
4._____ Other, explain _____.

VI. Vaults and Safes

A. Vault construction:
1. Material:
a. _____ Concrete and steel, thickness _____ (in inches).
b. _____ Other, specify _____ and thickness _____ (in inches).
2. _____ Thickness of vault doors (in inches).
B. Vault equipment:
1. Combination dial locks:
a. _____ Yes.
b. _____ No.
2. "Time" lock:
a. _____ Yes.
b. _____ No.
3. Lockable day-gate:
a. _____ Yes.
b. _____ No.
4. Alarm:
a. _____ Yes.
b. _____ No.
C. If vault is visible from outside office, is it in illuminated area?
1. _____ Yes.
2. _____ No.
D. Safes:
1. Alarm:
a. _____ Yes.
b. _____ No.
2. Type:
a. _____ Record (Fire).
b. _____ Money (Burglar).
3. Rating:
a. _____

VII. Other Security Devices

A. Night depository:
1. Alarm:
a. _____ Yes.
b. _____ No.
2. Construction:
a. _____ In conformance with standards in § 748.9.
b. _____ Other, specify.

B. Safe deposit boxes:
a. ____ Yes. Number ____.
b. ____ No.

C. Are all exterior doors and windows that can be opened equipped with tamper-resistant locks?
a. ____ Yes.
b. ____ No.

D. Is a *security* lighting system used?
a. ____ Yes, briefly describe____
b. ____ No.

E. Is there a program and a schedule for periodic inspection, testing, and servicing of all security devices?
a. ____ Yes. What is the testing frequency? ____
b. ____ No.

F. Is there a program for training and periodic retraining regarding the security programs?
a. ____ Yes. What is the meeting frequency? ____
b. ____ No.

G. Is your security program committed to writing?
a. ____ Yes. What changes were made during the past year?
____
____
b. ____ No.

H. Is your credit union using grating and/or steel bars on windows?
a. ____ Yes.
b. ____ No.

I. Is your credit union using a member identification system?
a. ____ Yes. Please describe ____
b. ____ No.

J. Other than listed above, is your credit union using any security devices to protect credit union employees?
a. ____ Yes. Please list____
b. ____ No.

Signature ____
Name (type) ____
Title ____
Date ____

NATIONAL CREDIT UNION ADMINISTRATION
REPORT OF CRIME OR CATASTROPHIC ACT

Pursuant to the Federal Credit Union Act

1. Name and address of head office:____

2. If crime being reported occurred at a branch office, give name and address:____ name and address:____

3. Type of crime or catastrophic act:
a. ____ Robbery.
b. ____ Burglary.
c. ____ Nonemployee larceny.
d. ____ Embezzlement.
e. ____ Fire.
f. ____ Other, specify____

4. ____ 19__ Date of loss.

5. ____ Day of week.

6. ____ Time of day. (If actual not known, estimate.)

7. Amount of loss:
a. $____ Currency loss.
b. $____ Securities loss.
c. $____ Damage to credit union property. (May be estimate.)
d. $____ Other, specify ____
$____ Total loss.

IF CRIME OF ROBBERY HAS BEEN PERPETRATED OR ATTEMPTED ANSWER THIS SECTION

8. ____ Number of robbers participating in crime.

9. Weapons:
a. ____ Robbers had weapons or it appeared they may have had weapons. Specify ____
b. ____ There was no evidence of weapons.
c. ____ Other intimidation was used. Specify ____

10. Were robbers wearing masks or otherwise disguised?
a. ____ No.
b. ____ Yes. Indicate how ____

11. Was a description of the robbers obtained and recorded?
a. ____ Yes.
b. ____ No. Why?____

12. Was a description and/or license number of vehicle(s) obtained?
a. ____ Yes.
b. ____ No. Why?____

13. ____ Estimated minutes between beginning and end of robbery.

14. Modus Operandi:
a. ____ Robber(s) passed a note to teller demanding money.
b. ____ Robber(s) vocally demanded money.
c. ____ Robber(s) subdued employees and took money from containers.
d. ____ Other, specify____

15. Harm to persons:
a. ____ Neither employees nor members were physically harmed.
b. ____ Persons were harmed. Give details ____

16. A hostage or threat of holding a hostage was used:
a. ____ No.
b. ____ Yes. Give details____

17. Was cash or valuables taken from other than teller drawers?
a. ____ No.
b. ____ Yes. Specify____

18. Was "bait" money given out or taken during the robbery and was the identification of this money furnished to the law enforcement officers?
a. ____ Yes.
b. ____ No. Why?____

19. Was the cash contained in the teller drawer(s) within the maximum permitted by the credit union's security program?
a. ____ Yes.
b. ____ No. Why?____

20. Cameras (or other surveillance devices):
a. ____ Camera(s) recorded useful pictures during this robbery____
b. ____ Camera(s) did not record useful picture during this robbery. Why?____

21. Robbery alarm:
a. ____ Alarm was effective during this robbery. How?____
b. ____ Alarm was not effective during this robbery. Why?____

22. Robber left note or other item which was retained and preserved for use of enforcement officers?
a. ____ Yes. What?____
b. ____ No. Explain if necessary____

23. Was conduct and performance of employees in conformance with the credit union's security procedure?
a. ____ Yes.
b. ____ No. Explain____

IF CRIME OF BURGLARY HAS BEEN PERPETRATED OR ATTEMPTED ANSWER THIS SECTION

24. How did burglars gain entrance to the premises?
a. ____ Break-in. Where and how?____
b. ____ Other, specify____

25. Vault:
a. ____ No apparent attempt was made to gain access to vault.
b. ____ Vault wall, floor or ceiling was penetrated or attempted. How?____
c. ____ Vault door was opened or penetrated. How?____
d. ____ Other, specify____

26. Were the lights turned on?
a. ____ Yes.
b. ____ No. Explain____

27. Were safety deposit boxes broken into or opened?
a. ____ No.
b. ____ Yes. Indicate extent and how____

28. Money safe:
a. ____ No apparent attempt made to gain access to contents.
b. ____ A penetration or an attempted penetration of safe was made. How?____
c. ____ Safe door opened or an attempt made to open. How?____
d. Other, specify____

29. Night depository:
a. ____ No attempt was made to gain access to contents.
b. ____ Contents taken or attempted by "Fishing" or "Trapping" methods. How, if known?____
c. ____ Night depository penetrated or access door opened. Explain____
d. Other, specify____

30. Burglary alarms:
a. ____ Alarms were of value in connection with this crime. How? ____
b. ____ Alarms were not of value in connection with this crime. Why? ____

31. ____ Estimated length of time during which burglary was being committed.

IF CRIME OF NONEMPLOYEE LARCENY HAS BEEN PERPETRATED OR ATTEMPTED ANSWER THIS SECTION

32. Modus Operandi of larceny:
a. ____ Money or valuables left exposed where thief had access. Explain ____
b. ____ Theft by trick or pretext. Explain ____
c. ____ Other, specify ____

IF CRIME OF EMBEZZLEMENT OR MYSTERIOUS DISAPPEARANCE HAS BEEN PERPETRATED OR ATTEMPTED ANSWER THIS SECTION

33. Modus Operandi of Act:
a. ____ Money or valuables left exposed where thief had access. Explain ____
b. ____ Theft by trick or pretext. Explain ____
c. ____ Other, specify ____

IF LOSS BY CATASTROPHIC ACT HAS OCCURRED ANSWER THIS SECTION

34. Cause ____
a. Type of damage (fire, wind, smoke, water, etc.)____

b. Items damaged _____
_____

ALL CREDIT UNIONS ANSWER THIS SECTION

35. _____ Length of time after beginning of crime/catastrophic act when call for help was transmitted to appropriate law enforcement agency.
36. _____ Length of time after beginning of crime before first law enforcement personnel arrived at the credit union.
37. Did law enforcement personnel arrive at credit union office before violators departed?
a. _____ Yes.
b. _____ No.
38. Arrests of violators:
a. _____ None have been arrested as of the date of this report.
b. _____ Some or all arrested before they escaped from the office.
c. _____ Some or all arrested subsequent to leaving the office.
39. Would improvements in protection facilities or employee performance be helpful in preventing or handling any future similar occurrences?
a. _____ No.
b. _____ Yes. Indicate what and any plans the credit union has to take corrective action _____
_____
40. Set forth below any information about the crime or the protection measures that is not adequately covered previously: (Use additional pages and/or furnish photographs or sketches if necessary to completely describe the crime being reported.)

Signature _____
Name (type) _____
Title _____
Date _____

[FR Doc.71-7844 Filed 6-4-71;8:46 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 69-WE-12-AD; Amdt. 39-1225]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707/720 Series Airplanes

Pursuant to the authority delegated to me by the Administrator (31 F.R. 13697) an airworthiness directive was adopted on April 27, 1971, and made effective immediately by telegram as to all known U.S. operators of Boeing 707/720 series airplanes. The directive requires a special inspection, after each actual or simulated No. 3 or No. 4 engine power failure, or flight with No. 3 or No. 4 engine shutdown, or prior to ferry flight with No. 3 or No. 4 engine inoperative, of the rudder actuator attach fittings.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. Operators of Boeing 707/720 series airplanes by individual telegrams dated April 27, 1971. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

"Pursuant to the authority of the Federal Aviation Act of 1958,, delegated to me by the Administrator, the following airworthiness directive amendment to AD 71-9-2 applicable to operators of Boeing 707/720 airplanes is effective immediately upon receipt of this telegram because of possible failure of rudder actuator support fitting following power failure on the No. 3 or No. 4 engine.

Add a new paragraph (1) as follows:

Following each actual or simulated No. 3 or No. 4 engine power failure, or flight with No. 3 or No. 4 engine shutdown, or prior to ferry flight with No. 3 or No. 4 engine inoperative, perform either an ultrasonic inspection or, with bushings removed, an eddy current inspection before further flight to detect any evidence of a crack in the rudder actuator support fitting. Any fitting exhibiting evidence of a crack must be replaced per (f) above, or reworked per (g) above, before further flight.

This amendment becomes effective June 8, 1971, for all persons except those to whom it was made effective immediately by telegram dated April 27, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on May 27, 1971.

ARVIN O. BASNIGHT,
Director, FAA Western Region.

[FR Doc.71-7850 Filed 6-4-71;8:47 am]

[Airspace Docket No. 71-EA-23]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On page 5620 of the FEDERAL REGISTER for March 25, 1971, the Federal Aviation Administration published a proposed rule which would alter the Utica, N.Y., control zone (36 F.R. 2134) and transition area (36 F.R. 2286).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., July 22, 1971.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on May 20, 1971.

GEORGE M. GARY,
Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Utica, N.Y., control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center, 43°08'45" N., 75°22'55" W. of Oneida County Airport, Utica, N.Y.; within 2 miles each side of the 317° bearing from the Utica RBN, extending from the 5-mile-radius zone to 3 miles northwest of the RBN; within 2 miles each side of the Utica VORTAC 306° radial, extending from the 5-mile-radius zone to 1 mile northwest of the VORTAC, excluding the portion within the Rome, N.Y., control zone.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Utica, N.Y., 700-foot floor transition area; "and within 2 miles each side of the Utica VOR 306° radial extending from the 12-mile radius to the VOR; within 2 miles each side of a bearing 137° from the Utica radio beacon extending from the 12-mile radius to 8 miles southeast of the radio beacon; within 2 miles each side of a bearing 132° from the Utica radio beacon extending from the 12-mile radius to 9 miles southeast of the radio beacon", and insert the following in lieu thereof; "and within 3.5 miles each side of the 137° bearing from the Utica RBN, extending from the 12-mile-radius area to 11.5 miles southeast of the RBN".

[FR Doc.71-7851 Filed 6-4-71;8:47 am]

[Airspace Docket No. 71-SO-49]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On April 23, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 7688), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Anniston, Ala., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the Anniston, Ala., transition area is amended as follows: "* * * excluding the portion within R-2101 * * *" is deleted and "* * * within an 8-mile radius of St. Clair County Airport, Pell City, Ala. (lat. 33°33'22" N., long. 86°14'58" W.); excluding the portion within R-2101 * * *." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on May 27, 1971.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[FR Doc.71-7852 Filed 6-4-71;8:47 am]

[Airspace Docket No. 71-SO-62]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Areas

On April 23, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 7688), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the La Grange and Winder, Ga., transition areas.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition areas are amended to read:

LA GRANGE, GA.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Callaway Airport (lat. 33°00'30" N., long. 85°04'20" W.); within 1.5 miles each side of La Grange VORTAC 110° radial, extending from the 6-mile-radius area to the VORTAC.

WINDER, GA.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Winder Airport (lat. 33°58'52" N., long. 83°40'02" W.); within 2 miles each side of Athens VORTAC 277° radial, extending from the 6-mile-radius area to 13.5 miles west of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on May 27, 1971.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[FR Doc.71-7853 Filed 6-4-71;8:47 am]

[Airspace Docket No. 71-EA-64]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On May 1, 1971, F.R. Doc. 71-6134 was published in the FEDERAL REGISTER (36 F.R. 8210) effective on July 22, 1971.

This document amended Parts 71 and 75 of the Federal Aviation Regulations by making editorial changes in the descriptions of Control Areas 1143, 1145, and 1146; the Cod and Haddock domestic reporting points; and the Boston, Mass., terminal jet advisory area occasioned by decommissioning of the Nantucket, Mass., CONSOLAN station and replacing it with a radio beacon (RBN).

Subsequent to the publication of this document, it was discovered that the description of the Nantucket transition area also included reference to the Nantucket CONSOLAN. Accordingly, action is taken herein to change the description of the Nantucket transition area by deleting reference to the Nantucket CONSOLAN and substituting Nantucket RBN therefor.

Since this amendment is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER (6-5-71), F.R. Doc. 71-6134 (36 F.R. 8210) is amended by adding the following item:

4. In § 71.181 (36 F.R. 2140) the Nantucket, Mass., transition areas is amended by deleting the phrases "Nantucket CON SOLAN (Monitor site at latitude 41°-15'35" N., longitude 70°09'19" W.)" and "Nantucket CONSOLAN station" and substituting therefor "Nantucket RBN" in each instance.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on May 27, 1971.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-7854 Filed 6-4-71;8:47 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

HYDROGENATED α-METHYLSTYRENE-VINYLTOLUENE COPOLYMER RESINS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 0B2487) filed by Hercules Inc., 910 Market Street, Wilmington, Del. 19899, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of hydrogenated α-methylstyrene-vinyltoluene copolymer resins as a component of polyolefin film intended for food-contact use.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding to Subpart F the following new section:

§ 121.2615 Hydrogenated α-methylstyrene-vinyltoluene copolymer resins.

Hydrogenated α-methylstyrene-vinyltoluene copolymer resins having a molar ratio of 1 α-methylstyrene to 3 vinyltoluene may be safely used as components of polyolefin film intended for use in contact with food, subject to the following provisions:

(a) Hydrogenated α-methylstyrene-vinyltoluene copolymer resins have a drop-softening point of 125° to 165° C. and a maximum absorptivity of 0.17 liter per gram centimeter at 266 nanometers, as determined by methods available upon request from the Commissioner of Food and Drugs.

(b) The polyolefin film is produced from olefin polymers complying with § 121.2501, and the average thickness of the film in the form in which it contacts food does not exceed 0.002 inch.

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 Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, 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 (6-5-71).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: May 26, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-7837 Filed 6-4-71;8:45 am]

SUBCHAPTER C—DRUGS

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

Fenthion

The Commissioner of Food and Drugs has evaluated a new animal drug application (34-641V) filed by Chemagro Corp. proposing the safe and effective use of fenthion as a pour-on formulation for the control of grubs in cattle. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135a is amended by adding the following new section:

§ 135a.7 Fenthion.

(a) *Chemical name.* *O,O*-Dimethyl *O* - [4 - (methylthio) - *m* - tolyl]phosphorothioate.

(b) *Specifications.* The drug is in a liquid form containing 3 percent of fenthion.

(c) *Sponsor.* Chemagro Corp., Hawthorn Road, Kansas City, Mo. 64120.

(d) *Special considerations.* Do not use on animals simultaneously or within a few days before or after treatment with or exposure to cholinesterase-inhibiting drugs, pesticides, or chemicals.

(e) *Related tolerances.* See § 120.214 of this chapter.

(f) *Conditions of use.* (1) The drug is used as a pour-on formulation for the control of grubs in beef and nonlactating dairy cattle.

(2) It is used at the rate of one-half fluid ounce per 100 pounds of body weight placed on the backline of the animal. Only one application should be made per season, and it should be made as soon as possible after heelfly activity has ceased and at least 6 weeks prior to appearance of grubs in the back. The drug must not be used within 35 days of slaughter nor within 28 days of freshening. If freshening occurs within 28 days following treatment, milk taken for the balance of the 28-day interval must not be used for food. Do not treat lactating dairy cattle; calves less than 3 months old; or sick, convalescent, or stressed livestock. Do not treat cattle for 10 days before or after shipping, weaning, or dehorning or after exposure to contagious or infectious diseases.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (6–5–71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: May 19, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71–7838 Filed 6–4–71;8:45 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Tylosin

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (12–585V) filed by Elanco Products Co., a Division of Eli Lilly and Co., Indianapolis, Ind. 46206, proposing additional safe and effective uses of tylosin by injection for the treatment of certain conditions in chickens and turkeys. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), § 135b.2 is amended in the table in paragraph (e) by revising item 1 and by adding a new item 4, as follows:

§ 135b.2 Tylosin.

* * * * * *

(e) * * *

FOR INJECTION

	Amount	Limitations	Indications for use
1. Tylosin	6.25 mg.–12.5 mg. per sinus.	For turkeys; do not use in laying turkeys producing eggs for human consumption; inject 6.25 mg. or 12.5 mg. per sinus, depending on severity of condition; treatment may be repeated in 10 days if the swelling persists; do not inject within 5 days of slaughter; as tylosin tartrate: may be used in conjunction with tylosin in drinking water as indicated in item 2 of the table in § 135c.4(e) of this chapter.	As an aid in the control and treatment of infectious sinusitis caused by *Mycoplasma gallisepticum* sensitive to tylosin.
* * *	* * *	* * *	* * *
4. Tylosin	25 mg. per 2 pounds of body weight.	For chickens; not for use in laying chickens producing eggs for human consumption; inject 25 mg. per 2 pounds of body weight under the loose skin of the neck behind the head; if no improvement is noted within 5 days, the diagnosis should be reconfirmed; do not inject within 3 days of slaughter; as tylosin tartrate.	As an aid in the control and treatment of chronic respiratory disease caused by *Mycoplasma gallisepticum* sensitive to tylosin.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (6–5–71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: May 21, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71–7839 Filed 6–4–71;8:45 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of the Navy

Section 213.3308 is amended to show that the position of General Counsel is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6–5–71), subparagraph (12) is added to paragraph (a) of § 213.3308 as set out below.

§ 213.3308 Department of the Navy.

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

(12) General Counsel.

(5 U.S.C. secs. 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.71–7970 Filed 6–4–71;8:49 am]

PART 213—EXCEPTED SERVICE

Department of Labor

Section 213.3315 is amended to show that one additional position of Assistant to the Special Assistant to the Secretary, Office of Legislative Liaison, is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6–5–71), subparagraph (8) of paragraph (a) of § 213.3315 is amended as set out below.

§ 213.3315 Department of Labor.

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

(8) Three Assistants to the Special Assistant to the Secretary, Office of Legislative Liaison.

* * * * * *

(5 U.S.C. secs. 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.71–7969 Filed 6–4–71;8:49 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7124]

PART 3—CAPITAL CONSTRUCTION FUND

Execution of Agreements and Deposits

The following regulations relate to the application of section 607 of the Merchant Marine Act of 1936 (46 U.S.C. 1177) as amended by section 21(a) of the Merchant Marine Act of 1970 (84 Stat. 1026) and to the requirements of the execution of agreements relating to capital construction funds and deposits therein. The regulations set forth herein are temporary and are designed to provide transitional rules with respect to the execution of agreements relating to capital construction funds and deposits therein. The regulations are effective until the issuance of final regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary or his delegate and prescribed by the Secretary of Commerce or his delegate. These regulations have been issued jointly by the Secretary of the Treasury and the Secretary of Commerce and also appear under 46 CFR Part 390.

In order to extend the time within which deposits may be made in capital construction funds with respect to in-

come reported on the taxpayer's 1970 return, § 3.1 of Chapter I of 26 CFR is deleted and a new § 3.1 is added which reads as follows:

§ 3.1 Capital construction fund.

In the case of a taxable year of a taxpayer beginning after December 31, 1969, and before January 1, 1971, the rules governing the execution of agreements and deposits under such agreements shall be as follows:

(a) A capital construction fund agreement executed and entered into by the taxpayer on or prior to the due date, with extensions, for the filing of his Federal income tax return for such taxable year or years will be deemed to be effective on the date of the execution of such agreement or as of the close of business of the last regular business day of each such taxable year or years to which such deposit relates, whichever day is earlier.

(b) Notwithstanding the provisions of paragraph (a) of this section, a capital construction fund agreement executed and entered into by a taxpayer after the due date for the filing of his Federal income tax return for such taxable year or years, but prior to January 1, 1972 (or, if earlier, 60 days after the publication of final joint regulations under section 607 of the Merchant Marine Act, 1936, as amended), will be deemed to be effective as of the close of business of the last regular business day of each such taxable year or years to which such deposit relates.

(c) Deposits made in a capital construction fund pursuant to such an agreement within 60 days after the date of execution of the agreement, or on or prior to the due date, with extensions, for the filing of his Federal income tax return for such taxable year or years, whichever date shall be later, shall be deemed to have been made on the date of the actual deposit or as of the close of business of the last regular business day of each such taxable year or years to which such deposit relates, whichever day is earlier.

(d) Nothing in this section shall alter the rules and regulations governing the timing of deposits with respect to existing capital and special reserve funds or with respect to the treatment of deposits for any taxable year or years other than a taxable year or years beginning after December 31, 1969, and before January 1, 1971.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d).

(Sec. 607, Merchant Marine Act of 1936 (46 U.S.C. 1177) as amended by sec. 21(a), Merchant Marine Act of 1970 (84 Stat. 1026); sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] HAROLD T. SWARTZ,
Acting Commissioner of Internal Revenue.

Approved: May 18, 1971.

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

[FR Doc.71-7968 Filed 6-4-71;11:00 am]

Title 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

PART 316—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES E

Miscellaneous Amendments

Correction

In F.R. Doc. 71-7359 appearing at page 9866 in the issue of Saturday, May 29, 1971, the following changes should be made:

1. The first table on page 9867 should be designated "Table 2-A". In addition, in Table 2-A:

a. Opposite the entry "First ½ year ---------- (5/1/71)", the entry in the third column reading "$201.17" should read "$201.12".

b. Opposite the entry "1 to 1½ years ---------- (5/1/72)", the entry in the third column reading "213.32" should read "212.32".

c. The last entry in the table should be designated "THIRD EXTENDED MATURITY VALUE (40 years from issue date) ---------- (5/1/81)".

2. In Table 3-A:

a. Opposite the entry "4 to 4½ years ---------- (6/1/75)", the entry in the third column reading "252.54" should read "252.44".

b. The last entry in the column headed "(2) From begining of third extended maturity period to beginning of each half-year period" reading "45.50" should read "5.50" preceded by the footnote reference "4".

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER A—GENERAL

[CGFR 71-46]

PART 2—GENERAL DUTIES AND JURISDICTION

Waters Subject to Coast Guard Jurisdiction

The purpose of these amendments to the Coast Guard jurisdiction regulations is to include those waters of the United States which have recently been determined by the Commandant, U.S. Coast Guard, to be navigable and subject to the jurisdiction of the Coast Guard and those waters determined by the Commandant not to be under Coast Guard jurisdiction.

When a question arises as to whether certain waters are subject to Coast Guard jurisdiction in the administration and enforcement of navigation and vessel inspection laws, the matter is determined by the Commandant after investigation of the particular waterway and consultation with other interested Federal agencies. When a determination is made that the waters are or are not subject to the jurisdiction of the Coast Guard, it represents the Coast Guard's view until the status of the waters is determined conclusively through judicial or legislative proceedings.

Recently certain waters have been the object of such determinations by the Commandant. They are as follows:

The Susitna River, Alaska, is part of the navigable waters of the United States and subject to Coast Guard jurisdiction from its mouth, at Cook Inlet, to the village of Gold Creek, a distance of approximately 115 miles. This portion of the river has the capacity for launch-borne interstate and foreign commerce. Accordingly, a new § 2.22-1 is added.

Tecolotito Creek/Goleta Slough, Calif., is part of the navigable waters of the United States and subject to Coast Guard jurisdiction from the Fowler Street Bridge, Santa Barbara County, to the Pacific Ocean. This portion of the waterway is tidal having the capacity for low tide navigation by vessels subject to the laws enforced by the Coast Guard. Accordingly, a new § 2.25-25 is added.

The Androscoggin River, Maine, is part of the navigable waters of the United States and subject to Coast Guard jurisdiction from its mouth, in Merrymeeting Bay, to the dam adjacent to the Maine Street Bridge (State Route 24), in Brunswick, Maine. In this portion of the waterway there is a history of navigation, as published in the 1891 and 1882 reports of the Corps of Engineers. Accordingly, a new § 2.41-10 is added.

The Lumber River, N.C.-S.C., is part of the navigable waters of the United States and subject to Coast Guard jurisdiction from its mouth at Little Pee Dee River, S.C., to Lumberton, N.C. Between 1889 and 1897, this portion of the waterway was improved by the Corps of Engineers and, consequently, it is now, in its natural state, navigable in fact. Accordingly, § 2.55-45 is added and § 2.63-40 is revised.

The Lehigh River, Pa., is part of the navigable waters of the United States and subject to Coast Guard jurisdiction from its mouth to White Haven, Pa. This portion of the waterway has a history of interstate commercial navigation. Accordingly, § 2.60-20 is added.

The following waters are not under Coast Guard jurisdiction due to the lack of present or past history of or susceptibility of usage for interstate or foreign

commerce: Lake Martin on the Tallapoosa River, Ala.; Lakes Louise, Susitna, and Tyone, and the Tyone River, Alaska; Androscoggin River, from Lewiston, Maine, downstream to the dam adjacent to the Maine Street Bridge (State Route 24) in Brunswick, Maine; and the Pound River, including the John W. Flannagan Reservoir, Va. Accordingly, §§ 2.99–5(b), 2.99–10 (a)–(d), 2.99–105 (a), and 2.99–245(b) are added.

Since the amendments in this document concern interpretative rules, they are exempted from the rule making provisions of 5 U.S.C. 553 and may be made effective in less than 30 days.

In consideration of the foregoing, Part 2 is amended as follows:

1. By adding Subpart 2.22, consisting of § 2.22–1 to read as follows:

Subpart 2.22—Navigable Waters of the United States—Alaska

§ 2.22–1 Susitna River.

Susitna River, from its mouth to Gold Creek.

2. By adding § 2.25–25 to read as follows:

§ 2.25–25 Tecolotito Creek/Goleta Slough.

Tecolotito Creek/Goleta Slough, from the site of the Fowler Street Bridge, Santa Barbara County, to the Pacific Ocean.

3. By adding § 2.41–10 to read as follows:

§ 2.41–10 Androscoggin River.

Androscoggin River, from its mouth to the dam adjacent to the Maine Street Bridge (State Route 24) in Brunswick.

4. By adding § 2.55–45 to read as follows:

§ 2.55–45 Lumber River.

Lumber River, from its mouth at Little Pee Dee River, S.C., to Lumberton, N.C.

5. By adding § 2.60–20 to read as follows:

§ 2.60–20 Lehigh River.

Lehigh River, from its mouth to White Haven.

6. By revising § 2.63–40 to read as follows:

§ 2.63–40 Lumber River.

Lumber River, from its mouth at Little Pee Dee River, S.C., to Lumberton, N.C.

7. By adding paragraph (b) to § 2.99–5 to read as follows:

§ 2.99–5 Alabama.

* * * * *

(b) Lake Martin in the Tallapoosa River.

8. By adding § 2.99–10 to read as follows:

§ 2.99–10 Alaska.

(a) Lake Louise.
(b) Lake Susitna.
(c) Lake Tyone.
(d) Tyone River.

9. By adding § 2.99–105 to read as follows:

§ 2.99-105 Maine.

(a) Androscoggin River, from Lewiston, downstream to the dam adjacent to the Maine Street Bridge (State Route 24) in Brunswick.

10. By adding paragraph (b) to § 2.99–245 to read as follows:

§ 2.99–245 Virginia.

* * * * *

(b) Pound River, including the John W. Flannagan Reservoir.

(Sec. 633, 63 Stat. 545, sec. 6(b)(1), 80 Stat. 937; 14 U.S.C. 633, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Effective date. These amendments shall become effective on the date of their publication in the FEDERAL REGISTER (6–5–71).

Dated: May 26, 1971.

C. R. BENDER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.71–7880 Filed 6–4–71;8:49 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

GSA FORMS USED IN CONNECTION WITH FEDERAL SUPPLY SCHEDULES AND CHANGES IN GSA SECTION OF FEDERAL SUPPLY CATALOG

This amendment (1) prescribes the use of and illustrates revised GSA forms used in connection with Federal Supply Schedules; (2) deletes reference to shelf life data which is being removed from the Management Data List; (3) informs agencies that the present National Supplier Change Index is being replaced by two separate publicatons; and (4) informs agencies that Federal supply catalogs and related publications are available from the GSA Region 8 Centralized Mailing List Services.

PART 101–26—PROCUREMENT SOURCES AND PROGRAMS

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

Sec.
101–26.4902–457 GSA Form 457, FSS Publications Mailing List Application.
101–26.4902–1424 GSA Form 1424, GSA Supplemental Provisions.

Subpart 101–26.4—Purchase of Items From Federal Supply Schedule Contracts

1. Section 101–26.402–3 is revised to read as follows:

§ 101–26.402–3 Distribution.

Agency offices desiring to receive current copies and to be placed on distribution lists for receiving Federal Supply Schedules and contractors' catalogs shall execute GSA Form 457, FSS Publications Mailing List Application (illustrated at § 101–26.4902–457), and forward the completed GSA Form 457 to General Services Administration, Centralized Mailing List Services, Building 41, Denver Federal Center, Denver, CO 80225. Copies of GSA Form 457 may be obtained from General Services Administration (3 BRD), Washington, D.C. 20407. From time to time, the Centralized Mailing List Services will request information from agency offices for use in maintaining up-to-date distribution lists.

2. Section 101–26.402–5(b) is revised to read as follows:

§ 101–26.402–5 Contract provisions.

* * * * *

(b) Standard Form 32, General Provisions (Supply Contract) (illustrated at § 1–16.901–32), and GSA Form 1424, GSA Supplemental Provisions (illustrated at § 101–26.4902–1424), are incorporated by reference in Federal Supply Schedule contracts. A "Scope of Contract" statement, special provisions pertinent to a particular schedule, and any necessary exceptions to the general provisions are printed in the schedule.

Subpart 101–26.49—Illustrations of Forms

Sections 101–26.4902–457 and 101–26.4902–1424 are revised as follows:

§ 101–26.4902–457 GSA Form 457, FSS Publications Mailing List Application.

§ 101–26.4902–1424 GSA Form 1424, GSA Supplemental Provisions.

NOTE: The forms and instructions listed in §§ 101–26.4902–457 and 101–26.4902–1424 are filed as part of the original document. Copies of the forms listed may be obtained from the General Services Administration (3 BRD), Washington, D.C. 20407.

PART 101–30—FEDERAL CATALOG SYSTEM

The table of contents for Part 101–30 is amended as follows:

Sec.
101–30.603–4 [Reserved]
101–30.603–5 Change bulletins.

Subpart 101–30.6—GSA Section of the Federal Supply Catalog

1. Section 101–30.603 is revised to read as follows:

§ 101–30.603 GSA Federal supply catalogs.

§ 101–30.603–1 Guide to Sources of Supply and Service.

This catalog, published annually, contains a short introduction describing the GSA programs and sources of supply and services available to Federal agencies and applicable ordering procedures, an alpha index of commodities and services, an index of national and regional Federal Supply Schedule contracts, and an index of term contract commodities and

services available through contracts executed by regional offices.

§ 101–30.603–2 Stock Catalog.

This catalog, published annually, contains descriptive and ordering data for all items stocked by GSA except those stocked exclusively for the use of DOD activities. Also listed are certain nonstocked items for which orders are filled by direct shipment from contractors.

§ 101–30.603–3 Management Data List.

This catalog, published annually, lists in Federal Stock Number (FSN) sequence coded supply information for all GSA managed items with an assigned FSN, including those stocked exclusively for the use of DOD activities. The Management Data List serves two supply functions: (a) An ordering tool for agencies requisitioning GSA stock items by stock number and (b) a supply management reference tool for determining essential requisitioning information such as Acquisition Advice and Source of Supply Code, unit of issue, and unit price.

§ 101–30.603–4 [Reserved]

§ 101–30.603–5 Change bulletins.

Changes to the Guide of Sources of Supply and Service and the GSA Stock Catalog are effected by quarterly publications entitled "Change Bulletin to the Guide to Sources of Supply and Service" and "Change Bulletin to the GSA Stock Catalog." These change bulletins will serve as the media to notify agencies of additions, deletions, and other pertinent changes occurring between the annual publication of these two catalogs.

2. Section 101–30.604 is revised to read as follows:

§ 101–30.604 Availability.

Agencies that require current copies of, and desire to be placed on distribution lists to receive Federal supply catalogs and change bulletins shall execute GSA Form 457, FSS Publications Mailing List Application (illustrated at § 101–26.4902–457), and forward the completed GSA Form 457 to General Services Administration, Centralized Mailing List Services, Building 41, Denver Federal Center, Denver, CO 80225. Copies of GSA Form 457 may be obtained from General Services Administration (3 BRD), Washington, D.C. 20407. From time to time Centralized Mailing List Service will request information from agency offices for use in maintaining up-to-date distribution lists.

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

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (6–5–71).

Dated: May 28, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71–7877 Filed 6–4–71;8:49 am]

SUBCHAPTER F—TELECOMMUNICATIONS AND PUBLIC UTILITIES

PART 101–35—TELECOMMUNICATIONS

Subpart 101–35.3—Utilization and Ordering of Telecommunications Services

MISCELLANEOUS AMENDMENTS

This amendment (1) requires that agencies furnish GSA copies of their written determinations when ordering from GSA facilities equipment other than that covered by GSA standards, (2) clarifies that larger capacity key station and Call Director equipment may be used when necessary to provide more lines, and (3) permits the installation of color telephones where there is no additional charge for such instruments.

Sections 101–35.307, 101–35.308–2, 101–35.308–3, 101–35.308–5, and 101–35.308–9(g) are revised to read as follows:

§ 101–35.307 Control of telephone station equipment.

Agencies shall establish controls, including periodic surveys, of the installation and use of telephone station equipment to insure that only station equipment necessary to carry out assigned missions is provided. The standards provided in § 101–35.308 are applicable to the ordering of such equipment except where the head of an agency or his authorized designee determines, in writing, that deviation is essential to the effective execution of agency responsibilities or is required by operational needs (to be specified). Orders for equipment deviating from the standards and placed through GSA facilities shall be accompanied by a copy of the written determination. When orders for such equipment are placed directly with commercial common carriers, the determination shall be retained in the agency's file.

§ 101–35.308–2 Key stations.

Key stations should be provided only where traffic volume and work methods require an instrument to have access to more than one line and at secretarial locations to permit answering calls for several persons on more than one line. Where a six-button key station will not provide capacity for the required number of lines, key stations of larger capacity (10-button, 6051-type, or Call Director) may be used. The need for this equipment often can be eliminated by limiting the lines appearing on each station or by providing external buttons for inoffice signaling. The type of station to be installed should be selected by determining which equipment will satisfy the need at the least cost.

§ 101–35.308–3 Call Directors.

Call Directors may be provided only when the number of lines required exceeds the capacity of the 12-button strip. Call Directors may be used as a portion of a "package tariff" rate where there is no specific charge for the type of station to be provided.

§ 101–35.308–5 Touch-tone instruments.

Touch-tone instruments are prohibited, unless they are (a) provided without additional cost under a general tariff applicable to all instruments associated with the same PBX arrangement, (b) required for a physically handicapped employee to perform his official duties, provided the instrument can be substituted for regular service without modification to the switchboard, or (c) used only as data input devices in a data communications system.

§ 101–35.308–9 Special service and equipment.

* * * * *

(g) Color telephones are permitted where required to identify emergency or security telephone lines or where instruments may be installed without an additional charge for such instruments.

* * * * *

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

Effective date. These regulations are effective June 15, 1971.

Dated: May 28, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71–7876 Filed 6–4–71;8:48 am]

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 120—INTERCHANGE OF PERSONNEL WITH STATES

Revocation

In view of the repeal of section 553, title V, of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 867) as of March 6, 1971, by sections 403 and 404 of the Intergovernmental Personnel Act (Public Law 91–648), the regulations implementing the aforementioned section 553—Part 120 of Chapter I of Title 45 of the Code of Federal Regulations—are hereby revoked. All existing assignments under the provisions of section 553, title V, of the Elementary and Secondary Education Act of 1965 shall remain in effect under the terms of the applicable agreements, until the agreements terminate by their terms, as if the regulations in this part had remained in effect.

(Public Law 91–648, secs. 403, 404)

Dated: May 11, 1971.

S. P. MARLAND, Jr.,
Commissioner of Education.

Approved: May 31, 1971.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

[FR Doc.71–7888 Filed 6–4–71;8:50 am]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM-77; Amdt. Nos. 172-9, 173-47, 176-4, 178-18, 179-6]

PART 173—SHIPPERS

Methylacetylene-Propadiene, Stabilized

Correction

In F.R. Doc. 71-7546 appearing at page 10731 in the issue of Wednesday, June 2, 1971, the amendments to Part 173 should appear as set forth below:

(A) In § 173.34, paragraph (e)(9) is amended by inserting the phrase "methylacetylene-propadiene, stabilized" immediately following the phrase "liquefied petroleum gas", in the first sentence; paragraph (e)(10) Table is amended as follows:

§ 173.34 Qualification, maintenance and use of cylinders.

* * * * *

(e) * * *

(10) * * *

Cylinders made in compliance with—	*Used exclusively for—*
(add)	
* * *	* * *
DOT-3A480, DOT-3AA480, DOT-3B, DOT-4B, DOT-4BA, DOT-4BW.	Methylacetylene-propadiene, stabilized which is commercially free from corroding components.

* * * * *

(B) In § 173.301, paragraph (d)(3) is amended to read as follows:

§ 173.301 General requirements for shipment of compressed gases in cylinders.

* * * * *

(d) * * *

(3) Manifolding is authorized for cylinders of the following gases: ethane, ethylene, propylene, liquefied petroleum gases, methylacetylene-propadiene, stabilized, and liquefied hydrocarbon gases. Individual cylinders must be equipped with approved safety relief devices as required by § 173.34(d). Each such cylinder must be equipped with an individual shut-off valve, or valves, which must be tightly closed while in transit. Each such cylinder must be separately charged, and shippers shall insure that no interchange of cylinder contents can occur during transportation. Manifold branch lines to individual shut-off valves must be sufficiently flexible to prevent injury to the valves which otherwise might result from the use of rigid branch lines.

* * * * *

(C) In § 173.304, paragraph (a)(2) Table is amended and Note 6 thereto is canceled as follows:

§ 173.304 Charging of cylinders with liquefied compressed gas.

(a) * * *

(2) * * *

Kind of gas	Maximum permitted filling density (see Note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173.34 (a), (b), §173.301(j) (see notes following table).
(add)		
* * *	* * *	* * *
Methylacetylene-propadiene, stabilized (see Note 5).	Not liquid full at 130° F.	DOT-4B240, without brazed seams; DOT-4BA240, without brazed seams; DOT-3A240, DOT-3AA240; DOT-3B240; DOT-3E1800; DOT-4BW240; DOT-4E240; DOT-4B240ET; DOT-4; DOT-4L.
(cancel)		
Methylacetylene-15% to 20% propadiene mixture (see Note 6).	50	ICC-3A240; ICC-3AA240; ICC-3B240; ICC-4B240; ICC-4BA240; ICC-4BW240; ICC-4B240ET.

* * * * * * *

NOTE 6: [Canceled]

* * * * * * *

(D) In § 173.314, paragraph (c) Table and paragraph (e) are amended as follows:

§ 173.314 Requirements for compressed gases in tank cars.

* * * * * * * * * *

(c) * * *

Kind of gas	Maximum permitted filling density, Note 1	Required tank car, see § 173.31(a) (2) and (3)
(add)	*(Percent)*	
* * *	* * *	* * *
Methylacetylene-propadiene, stabilized	Note 22	DOT-105A300W; 112A340W; 114A340W; 106A500X, Notes 4 and 9.
(cancel)		
Methylacetylene-15% to 20% propadiene mixture.	56	ICC-105A300W.

* * * * *

(e) *Verification of content.* The amount of liquefied gas loaded into each tank may be determined either by measurement or calculation of the weight. If by measurement, the weight must be checked after disconnecting the loading line by the use of proper scales. If by calculation, the weight of liquefied petroleum gas, methylacetylene-propadiene, stabilized, dimethylamine, monomethylamine, or trimethylamine may be calculated using the outage tables supplied by the tank car owners and the specific gravities as determined at the plant, and this computation must be checked by determination of specific gravity of product after loading. Carriers may verify calculated weights by use of proper scales.

* * * * *

(E) In § 173.315, paragraphs (a)(1) Table, (h)(2) Table, and (i)(2) Table are amended as follows:

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

(a) * * *

(1) * * *

Kind of gas	Maximum permitted filling density: Percent by weight (see Note 1)	Maximum permitted filling density: Percent by volume (see par. (f) of this section)	Specification container required: Type (see Note 2)	Specification container required: Minimum design pressure (p.s.i.g.)
(add)				
* * *	* * *	* * *	* * *	* * *
Methylacetylene-propadiene, stabilized (see Note 13).	53	90	DOT-51, MC-330, MC-331.	200.

* * * * * * *

(h) * * *

(2) * * *

Kind of gas	*Permitted gaging device*
(add)	
* * *	* * *
Methylacetylene-propadiene, stabilized.	Rotary tube; adjustable slip tube; fixed length dip tube.

* * * * * * *

(i) * * *

(2) * * *

Kind of gas	*Minimum start-to-discharge pressure (p.s.i.g.)*
(add)	
* * *	* * *
Methylacetylene-propadiene, stabilized.	200.

* * * * * * *

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Industrial Development Bonds

Notice is hereby given that the notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under section 103 (relating to industrial development bonds) of the Internal Revenue Code published in the FEDERAL REGISTER (34 F.R. 508) on January 14, 1969, is hereby withdrawn.

Further, notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by July 6, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 6, 1971. A decision whether a public hearing will be held will be made and announced subsequent to July 6, 1971, and notice of the time, place, and date of the public hearing if one is to be held will be given at that time. The proposed regulations are to be issued under the authority contained in sections 103(c) and 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 82 Stat. 1349; 26 U.S.C. 103, 7805).

[SEAL] HAROLD T. SWARTZ,
Acting Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 103 of the Internal Revenue Code of 1954 to the provisions of section 107 of the Revenue and Expenditure Control Act of 1968 (Public Law 90–364, 82 Stat. 251) and section 401 of the Renegotiation Amendments Act of 1968 (Public Law 90–634, 82 Stat. 1349), relating to industrial development bonds, and section 601 of the Tax Reform Act of 1969 (Public Law 91–172, 83 Stat. 656), relating to arbitrage bonds, such regulations are amended to read as follows:

PARAGRAPH 1. Section 1.103 is amended by redesignating subsection (c) of section 103 as subsection (e), by adding new subsections (c) and (d) to section 103, and by adding a historical note. These amended and added provisions read as follows:

§ 1.103 Statutory provisions; interest on certain governmental obligations.

SEC. 103. *Interest on certain governmental obligations*—(a) *General rule.* * * *

(c) *Industrial Development Bonds*—(1) *Subsection (a)(1) Not To Apply.* Except as otherwise provided in this subsection, any industrial development bond shall be treated as an obligation not described in subsection (a)(1).

(2) *Industrial Development Bond.* For purposes of this subsection, the term "industrial development bond" means any obligation—

(A) Which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly in any trade or business carried on by any person who is not an exempt person (within the meaning of paragraph (3)), and

(B) The payment of the principal or interest on which (under the terms of such obligation or any underlying arrangement) is, in whole or in major part—

(i) Secured by any interest in property used or to be used in a trade or business or in payments in respect of such property, or

(ii) To be derived from payments in respect of property, or borrowed money, used or to be used in a trade or business.

(3) *Exempt Person.* For purposes of paragraph (2)(A), the term "exempt person" means—

(A) A governmental unit, or

(B) An organization described in section 501(c)(3) and exempt from tax under section 501(a) (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization).

(4) *Certain Exempt Activities.* Paragraph (1) shall not apply to any obligation which is issued as part of an issue substantially all of the proceeds of which are to be used to provide—

(A) Residential real property for family units,

(B) Sports facilities,

(C) Convention or trade show facilities,

(D) Airports, docks, wharves, mass commuting facilities, parking facilities, or storage or training facilities directly related to any of the foregoing,

(E) Sewage or solid waste disposal facilities or facilities for the local furnishing of electric energy, gas, or water, or

(F) Air or water pollution control facilities.

(5) *Industrial Parks.* Paragraph (1) shall not apply to any obligation issued as part of an issue substantially all of the proceeds of which are to be used for the acquisition or development of land as the site for an industrial park. For purposes of the preceding sentence, the term "development of land" includes the provision of water, sewage, drainage, or similar facilities, or of transportation, power, or communication facilities, which are incidental to use of the site as an industrial park, but, except with respect to such facilities, does not include the provision of structures or buildings.

(6) *Exemption For Certain Small Issues*—(A) *In General.* Paragraph (1) shall not apply to any obligation issued as part of an issue the aggregate authorized face amount of which is $1 million or less and substantially all of the proceeds of which are to be used (i) for the acquisition, construction, reconstruction, or improvement of land or property of a character subject to the allowance for depreciation, or (ii) to redeem part or all of a prior issue which was issued for purposes described in clause (i) or this clause.

(B) *Certain Prior Issues Taken Into Account.* If—

(i) The proceeds of two or more issues of obligations (whether or not the issuer of each such issue is the same) are or will be used primarily with respect to facilities located in the same incorporated municipality or located in the same county (but not in any incorporated municipality),

(ii) The principal user of such facilities is or will be the same person or two or more related persons, and

(iii) But for this subparagraph, subparagraph (A) would apply to each issue,

then, for purposes of subparagraph (A), in determining the aggregate face amount of any later issue there shall be taken into account the face amount of obligations issued under all prior such issues and outstanding at the time of such later issue (not including as outstanding any obligation which is to be redeemed from the proceeds of the later issue).

(C) *Related person.* For purposes of this paragraph and paragraph (7), a person is a related person to another person if—

(i) The relationship between such persons would result in a disallowance of losses under section 267 or 707(b), or

(ii) Such persons are members of the same controlled group of corporations (as defined in section 1563(a), except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears therein).

(D) *$5-million Limit In Certain Cases.* At the election of the issuer, made at such time and in such manner as the Secretary or his delegate shall by regulations prescribe, with respect to any issue, this paragraph shall be applied—

(i) By substituting "$5,000,000" for "$1,000,000" in subparagraph (A), and

(ii) In determining the aggregate face amount of such issue, by taking into account not only the amount described in subparagraph (B), but also the aggregate amount of capital expenditures with respect to facilities described in subparagraph (E) paid or incurred during the 6-year period beginning 3 years before the date of such issue and ending 3 years after such date (and financed otherwise than out of the proceeds of outstanding issues to which subparagraph (A) applied), as if the aggregate amount of such capital expenditures constituted the face amount of a prior outstanding issue described in subparagraph (B).

(E) *Facilities Taken Into Account.* For purposes of subparagraph (D)(ii), the facilities described in this subparagraph are facilities—

(i) Located in the same incorporated municipality or located in the same county (but not in any incorporated municipality), and

(ii) The principal user of which is or will be the same person or two or more related persons.

For purposes of clause (i), the determination of whether or not facilities are located in the same governmental unit shall be made as of the date of issue of the issue in question.

(F) *Certain Capital Expenditures Not Taken Into Account.* For purposes of subparagraph (D)(ii), any capital expenditure—

(i) To replace property destroyed or damaged by fire, storm, or other casualty, to the extent of the fair market value of the property replaced,

(ii) Required by a change made after the date of issue of the issue in question in a Federal or State law or local ordinance of general application or required by a change made after such date in rules and regulations of general application issued under such a law or ordinance, or

(iii) Required by circumstances which could not be reasonably foreseen on such date of issue or arising out of a mistake of law or fact (but the aggregate amount of expenditures not taken into account under this clause with respect to any issue shall not exceed $250,000),

shall not be taken into account.

(G) *Limitation On Loss Of Tax Exemption.* In applying subparagraph (D)(ii) with respect to capital expenditures made after the date of any issue, no obligation issued as a part of such issue shall be treated as an obligation not described in subsection (a)(1) by reason of any such expenditure for any period before the date on which such expenditure is paid or incurred.

(H) *Certain Refinancing Issues.* In the case of any issue described in subparagraph (A)(ii), an election may be made under subparagraph (D) only if all of the prior issues being redeemed are issues to which subparagraph (A) applies. In applying subparagraph (D)(ii) with respect to such a refinancing issue, capital expenditures shall be taken into account only for purposes of determining whether the prior issues being redeemed qualified (and would have continued to qualify) under subparagraph (A).

(7) *Exception.* Paragraphs (4), (5), and (6) shall not apply with respect to any obligation for any period during which it is held by a person who is a substantial user of the facilities or a related person.

(d) *Arbitrage Bonds*—(1) *Subsection (a)(1) Not To Apply.* Except as provided in this subsection, any arbitrage bond shall be treated as an obligation not described in subsection (a)(1).

(2) *Arbitrage Bond.* For purposes of this subsection, the term "arbitrage bond" means any obligation which is issued as part of an issue all or a major portion of the proceeds of which are reasonably expected to be used directly or indirectly—

(A) To acquire securities (within the meaning of section 165(g)(2)(A) or (B)) or obligations (other than obligations described in subsection (a)(1)) which may be reasonably expected at the time of issuance of such issue, to produce a yield over the term of the issue which is materially higher (taking into account any discount or premium) than the yield on obligations of such issue, or

(B) To replace funds which were used directly or indirectly to acquire securities or obligations described in subparagraph (A).

(3) *Exception.* Paragraph (1) shall not apply to any obligation—

(A) Which is issued as part of an issue substantially all of the proceeds of which are reasonably expected to be used to provide permanent financing for real property used or to be used for residential purposes for the personnel of an educational institution (within the meaning of section 151(e)(4)) which grants baccalaureate or higher degrees, or to replace funds which were so used, and

(B) The yield on which over the term of the issue is not reasonably expected, at the time of issuance of such issue, to be substantially lower than the yield on obligations acquired or to be acquired in providing such financing.

This paragraph shall not apply with respect to any obligation for any period during which it is held by a person who is a substantial user of property financed by the proceeds of the issue of which such obligation is a part, or by a member of the family (within the meaning of section 318(a)(1)) of any such person.

(4) *Special Rules.* For purposes of paragraph (1), an obligation shall not be treated as an arbitrage bond solely by reason of the fact that—

(A) The proceeds of the issue of which such obligation is a part may be invested for a temporary period in securities or other obligations until such proceeds are needed for the purpose for which such issue was issued, or

(B) An amount of the proceeds of the issue of which such obligation is a part may be invested in securities or other obligations which are part of a reasonably required reserve or replacement fund.

The amount referred to in subparagraph (B) shall not exceed 15 percent of the proceeds of the issue of which such obligation is a part unless the issuer establishes that a higher amount is necessary.

(5) *Regulations.* The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

(e) *Cross References.* * * *

[Sec. 103 as amended by sec. 107(a), Revenue and Expenditure Control Act 1968 (82 Stat. 266); sec. 401(a), Renegotiation Amendments Act 1968 (82 Stat. 1349); sec. 601(a), Tax Reform Act 1969 (83 Stat. 656)]

PAR. 2. Section 1.103–1 is amended to read as follows:

§ 1.103–1 Interest upon obligations of a State, territory, etc.

(a) Interest upon obligations of a State, territory, a possession of the United States, the District of Columbia, or any political subdivision thereof (hereinafter collectively or individually referred to as "State, etc., governmental unit") is not includable in gross income, except as provided under section 103 (c) and (d) and the regulations thereunder.

(b) Obligations issued by or on behalf of any State, etc., governmental unit by constituted authorities empowered to issue such obligations are the obligations of such a unit. However, section 103 (a)(1) and this section do not apply to industrial development bonds except as otherwise provided in section 103(c). See section 103(c) and §§ 1.103–7 through 1.103–12 for the rules concerning interest paid on industrial development bonds. See section 103(d) for rules concerning interest paid on arbitrage bonds. Certificates issued by a political subdivision for public improvements (such as sewers, sidewalks, streets, etc.) which are evidence of special assessments against specific property, which assessments become a lien against such property and which the political subdivision is required to enforce, are, for purposes of this section, obligations of the political subdivision even though the obligations are to be satisfied out of special funds and not out of general funds or taxes. The term "political subdivision", for purposes of this section denotes any division of any State, etc., governmental unit which has been delegated the right to exercise part of the sovereign power of the unit. As thus defined, a political subdivision of any State, etc., governmental unit may or may not, for purposes of this section, include special assessment districts so created, such as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of any such unit.

PAR. 3. The following new sections are added after § 1.103–6:

§ 1.103–7 Industrial development bonds.

(a) *In general.* Under section 103(c)(1) and this section, an industrial development bond issued after April 30, 1968, shall be treated as an obligation not described in section 103(a)(1) and § 1.103–1. Accordingly, interest paid on such a bond is includable in gross income unless the bond was issued by a State, etc., governmental unit to finance certain exempt facilities (see section 103(c)(4) and § 1.103–8), to finance an industrial park (see section 103(c)(5) and § 1.103–9), or as part of an exempt small issue (see section 103(c)(6) and § 1.103–10). For applicable rules when an industrial development bond is held by a substantial user (or a person related to a substantial user) of such an exempt facility, or an industrial park, or a facility financed with the proceeds of such an exempt small issue, see section 103(c)(7) and § 1.103–11. See also § 1.103–12 for the transitional provisions concerning the interest paid on certain industrial development bonds issued before January 1, 1969, and certain other industrial development bonds. Even if section 103(c) does not prevent a bond from being treated as an obligation described in section 103(a)(1) and § 1.103–1, such bond shall nevertheless be treated as an obligation which is not described in section 103(a)(1) and § 1.103–1 if under section 103(d) it is an arbitrage bond. For purposes of section 103(c), the term "issue" includes a single obligation such as a single note issued in connection with a bank loan as well as a series of notes or bonds.

(b) *Industrial development bonds*—(1) *Definition.* For purposes of this section, the term "industrial development bond" means any obligation—

(i) Which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly in any trade or business carried on by any person who is not an exempt person (as defined in subparagraph (2) of this paragraph), and

(ii) The payment of the principal or interest on which, under the terms of such obligation or any underlying arrangement (as described in subparagraph (4) of this paragraph), is in whole

or in major part (i.e., major portion)—

(*a*) Secured by any interest in property used or to be used in a trade or business,

(*b*) Secured by any interest in payments in respect of property used or to be used in a trade or business, or

(*c*) To be derived from payments in respect of property, or borrowed money, used or to be used in a trade or business.

See subparagraphs (3) and (4) of this paragraph for the trade or business test and the security interest test respectively.

(2) *Exempt person.* The term "exempt person" means a governmental unit as defined in this subparagraph, or an organization which is described in section 501(c)(3) and this subparagraph and is exempt from taxation under section 501 (a). For purposes of this subparagraph, the term "governmental unit" means a State, etc., governmental unit (as defined in § 1.103–1) and the United States of America (or an agency or instrumentality of the United States of America). For purposes of this subparagraph, a tax-exempt organization is an exempt person only with respect to a trade or business it carries on which is not an unrelated trade or business. Whether a particular trade or business carried on by a tax-exempt organization is an unrelated trade or business is determined by applying the rules of section 513(a) (relating to general rule for unrelated trade or business) and the regulations thereunder to the tax-exempt organization without regard to whether the organization is an organization subject to the tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations).

(3) *Trade or business test.* (i) The trade or business test relates to the use of the proceeds of a bond issue. The test is met if all or a major portion of the proceeds of a bond issue is used in a trade or business carried on by a nonexempt person. For example, if all or a major portion of the proceeds of a bond issue is to be loaned to one or more private business users, or is to be used to acquire, construct, or reconstruct facilities to be leased or sold to such private business users, and such proceeds or facilities are to be used in trades or businesses carried on by them, such proceeds are to be used in a trade or business carried on by persons who are not exempt persons, and the debt obligations comprising the bond issue satisfy the trade or business test. If, however, less than a major portion of the proceeds of an issue is to be loaned to nonexempt persons or is to be used to acquire or construct facilities which will be used in a trade or business carried on by a nonexempt person, the debt obligations will not be industrial development bonds. Also, when publicly owned facilities which are intended for general public use, such as toll roads or bridges, are constructed with the proceeds of a bond issue and used by nonexempt persons in their trades or businesses on the same basis as other members of the public, such use does not constitute a use in the trade or business of a nonexempt person for purposes of the trade or business test.

(ii) In determining whether a debt obligation meets the trade or business test, the indirect, as well as the direct, use of the proceeds is to be taken into account. For example, the debt obligations comprising a bond issue do not fail to satisfy the trade or business test merely because the State, etc. governmental unit uses the proceeds to engage in a series of financing transactions for property to be used by private business users in trades or businesses carried on by them. Similarly, if such proceeds are to be used to construct facilities to be leased or sold to any nonexempt person for use in a trade or business it carries on, such proceeds are to be used in a trade or business carried on by a nonexempt person and the debt obligations comprising such issue satisfy the trade or business test. If such proceeds are to be used to construct facilities to be leased or sold to an exempt person who will, in turn, lease or sell the facilities to a nonexempt person for use in a trade or business, such proceeds are to be used in a trade or business carried on by a nonexempt person and the debt obligations comprising such issue satisfy the trade or business test. In addition, proceeds will be treated as being used in the trade or business of a nonexempt person in situations involving other arrangements, whether in a single transaction or in a series of transactions, whereby a nonexempt person uses property acquired with the proceeds of a bond issue in its trade or business.

(iii) The use of more than 25 percent of the proceeds of an issue of obligations in the trades or businesses of nonexempt persons will constitute the use of a major portion of such proceeds in such manner. In the case of the direct or indirect use of the proceeds of an issue of obligations or the direct or indirect use of a facility constructed, reconstructed, or acquired with such proceeds, the use by all nonexempt persons in their trades or businesses must be aggregated to determine whether the trade or business test is satisfied. If more than 25 percent of the proceeds of a bond issue is used in the trades or businesses of nonexempt persons, the trade or business test is satisfied. For special rules with respect to certain public utility facilities, see subdivision (v) of this subparagraph.

(iv) (*a*) The use by one or more nonexempt persons of a major portion of the output of facilities constructed, reconstructed, or acquired with the proceeds of an issue may have the effect of transferring the benefits and burdens of ownership of such facilities to such nonexempt persons so as to constitute the indirect use by them of a major portion of such proceeds. This occurs, for example, in the case of a facility constructed, reconstructed, or acquired with the proceeds of an issue which is ostensibly owned and operated by an exempt person but where one or more nonexempt persons agree, pursuant to one or more long-term contracts, to take, or to take or pay for, a major portion (more than 25 percent) of the output of such facility (whether or not conditioned upon the production of such output) for periods of time which are substantial in relation to the term of the bonds.

(*b*) Facilities will not be treated as indirectly used in the trades or businesses of nonexempt persons where such persons purchase the output of the facilities on terms which are customary in the industry for sale of such output and which do not have the effect of transferring to them the benefits and burdens of ownership of such facilities. Thus, a facility for furnishing electric energy which is owned by, and is operated by or for, a State, etc., governmental unit will not be treated as used in the trades or businesses of nonexempt persons if the output of such facility is sold on a kilowatt-hour basis without any guarantee of minimum payment by one or more customers, or is sold to a substantial number of unrelated customers under a rate schedule (which may include demand charges) of general application, provided that no single customer pays annually a demand charge or guaranteed minimum payment which exceeds 2½ percent of the average annual debt service with respect to the obligations in question. For purposes of this subdivision (*b*), two or more related persons within the meaning of section 103(c)(6)(C) shall be treated as a single customer. Where any single customer pays a demand charge or guaranteed minimum payment exceeding such 2½ percent, the question whether the facilities are to be treated as used in the trades or businesses of nonexempt persons (i.e., whether the benefits and burdens of ownership have in substance been transferred to such nonexempt persons) shall be determined under (*a*) of this subdivision by reference to all the facts and circumstances, including the total number of customers served, the relationship of demand charges or guaranteed minimum payments to output actually delivered, and other relevant considerations.

(v) A major portion of the proceeds of an issue of obligations issued by a State, etc., governmental unit to finance a facility described in this subdivision shall not be considered to be used in the trade or business of a nonexempt person. A facility is described in this subdivision if—

(*a*) It is a public utility facility for furnishing electric energy, gas, water, or services for sewage or solid waste disposal which is owned by, and operated by or for, a State, etc., governmental unit.

(*b*) At least 50 percent of the output of the facility is used by the State, etc., governmental unit or is sold by or on behalf of the State, etc., governmental unit to a substantial number of customers of the unit who are not related persons (within the meaning of paragraph (e) of § 1.103–10) under a rate schedule (which may include demand charges) of general application, and under conditions which do not have, under subdivision (iv)

of this subparagraph, the effect of transferring to any such customers the benefits and burdens of ownership of such facilities,

(c) It is expected, pursuant to a reasonable projection, that substantially all of the output of the facility will be used by the State, etc., governmental unit or will be sold by or on behalf of the State, etc., governmental unit to a substantial number of persons who are its customers under a rate schedule (which may include demand charges) of general application, and under conditions which do not have, under subdivision (iv) of this subparagraph, the effect of transferring the benefits and burdens of ownership of such facilities, within a period equal to the shorter of 15 years or a period of years equal to one-half of the estimated actual useful life of the facility, commencing from the date of such facility is originally placed in service, and

(d) The projection, which shall be based, in part, on past and current population and industry growth, indicates that the use by the State, etc., governmental unit or a substantial number of persons who are its customers will increase gradually over the period described in (c) of this subdivision.

In the case of a facility for furnishing electric energy, the projections and output described in this subdivision shall be based on actual generating capacity (i.e., nameplate capacity).

(4) *Security interest test.* The security interest test relates to the nature of the security for, and the source of, the payment of the principal or interest on a bond issue. The nature of the security for, and the source of, the payment may be determined from the terms of the bond indenture or on the basis of an underlying arrangement. An underlying arrangement to provide security for, or the source of, the payment of the principal or interest on an obligation may result from separate agreements between the parties or may be determined on the basis of all the facts and circumstances surrounding the issuance of the bonds. The property which is the security for, or the source of, the payment of the principal or interest on a debt obligation need not be property acquired with bond proceeds. The security interest test is satisfied if, for example, a debt obligation is secured by unimproved land or investment securities used, directly or indirectly, in any trade or business carried on by any private business user. A pledge of the full faith and credit of a State, etc. governmental unit will not prevent a debt obligation from otherwise satisfying the security interest test. For example, if the payment of the principal or interest on a bond issue is secured by both a pledge of the full faith and credit of a State, etc. governmental unit and any interest in property used or to be used in a trade or business, the bond issue satisfies the security interest test.

(c) *Examples.* The application of the rules contained in section 103(c) (2) and (3) and paragraph (b) of this section are illustrated by the following examples:

Example (1). State A and corporation X enter into an agreement under which A is to provide a factory which X will lease for 20 years. The arrangement provides (1) that A will issue $10 million of bonds, (2) that the proceeds of the bond issue will be used to purchase land and to construct and equip a factory in accordance with X's specifications, (3) that X will rent the facility (land, factory, and equipment) for 20 years at an annual rental equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds, and (4) that such payments by X and the facility itself will be the security for the bonds. The bonds are industrial development bonds since they are part of an issue of obligations (1) all of the proceeds of which are to be used (by purchasing land and constructing and equipping the factory) in a trade or business by a nonexempt person, and (2) the payment of the principal and interest on which is secured by the facility and payments to be made with respect thereto.

Example (2). The facts are the same as in example (1) except that (1) X will purchase the facility, and (2) annual payments equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds will be made by X. The bonds are industrial development bonds for the reasons set forth in example (1).

Example (3). State B and corporation X enter into an arrangement under which B is to loan $10 million to X. The arrangement provides (1) that B will issue $10 million of bonds, (2) that the proceeds of the bond issue will be loaned to X to provide additional working capital and to finance the acquisition of certain new machinery, (3) that X will repay the loan in annual installments equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds, and (4) that the payments on the loan and the machinery will be the security for only the payment of the principal on the bonds. The bonds are industrial development bonds since they are part of an issue of obligations (1) all of the proceeds of which are to be used in a trade or business by a nonexempt person, and (2) the payment of the principal on which is secured by payments to be made in respect of property to be used in a trade or business. The result would be the same if only the payment of the interest on the bonds were secured by payments on the loan and machinery.

Example (4). The facts are the same as in example (1), (2), or (3) except that the annual payments required to be made by corporation X exceed the amount necessary to amortize the principal and pay the interest on the outstanding bonds. The bonds are industrial development bonds for the reasons set forth in such examples. The fact that corporation X is required to pay an amount in excess of the amount necessary to pay the principal and interest on the bonds does not affect their status as industrial development bonds. Similarly, if the annual payments required to be made by corporation X were sufficient to pay only a major portion of either the principal or the interest on the outstanding bonds, the bonds would be industrial development bonds for the reasons set forth in such examples.

Example (5). The facts are the same as in example (1), (2), (3), or (4) except that the issuer is a political subdivision which has taxing power and the bonds are general obligation bonds. Since both the trade or business and the security interest tests are met, the bonds are industrial development bonds notwithstanding the fact that they constitute an unconditional obligation of the issuer payable from its general revenues.

Example (6). (a) State C issues its general obligation bonds to purchase land and construct a hotel for use by the general public (i.e., tourists, visitors, travelers on business, etc.). The bond indenture provides (1) that C will own and operate the project for the period required to redeem the bonds, and (2) that the project itself and the revenues derived therefrom are the security for the bonds. The bonds are not industrial development bonds since (1) the proceeds are to be used by an exempt person in a trade or business carried on by such person, and (2) a major portion of such proceeds is not to be used, directly or indirectly, in a trade or business carried on by a nonexempt person. Use of the hotel by hotel guests who are travelling in connection with trades or businesses of non-exempt persons is not an indirect use of the hotel by such nonexempt persons for purposes of section 103(c).

(b) The facts are the same as in paragraph (a) of this example except that the hotel is constructed in the vicinity of the industrial plant of corporation Y and it will be used by the customers and employees of Y. Y enters into a long-term agreement with C that Y will rent more than one-fourth of the rooms on an annual basis for a period approximately equal to one half of the term of the bonds. The bonds are industrial development bonds because (1) a major portion of the proceeds used to construct the hotel is to be used in the trade or business of corporation Y (a nonexempt person) and (2) a major portion of the principal and interest on such issue will be derived from payments in respect of the property used in the trade or business of Y.

Example (7). (a) State D and corporation Y enter into an agreement under which Y will lease for 20 years three floors of a 12-story office building to be constructed by D on land which it will acquire. D will occupy the grade floor and the remaining eight floors of the building. The portion of the costs of acquiring the land and constructing the building which are allocated to the space to be leased by Y is not in excess of 25 percent of the total costs of acquiring the land and constructing the building. Such costs, whether attributable to the acquisition of land or the acquisition, construction, reconstruction, or improvement of the building, were allocated to leased space in the same proportion that the reasonable rental value of such leased space bears to the reasonable rental value of the entire building. From the facts and circumstances presented, it is determined that such allocation was reasonable. The agreement between D and Y provides that D will issue $10 million of bonds, that the proceeds of the bond issue will be used to purchase land and construct an office building, that Y will lease the designated floor space for 20 years at its reasonable rental value, and that such rental payments and the building itself shall be security for the bonds. The bonds are not industrial development bonds since a major portion of the proceeds is not to be used, directly or indirectly, in the trade or business of a nonexempt person.

(b) The facts are the same as in paragraph (a) of this example except that corporation Y will lease four floors, and the costs allocated to these floors are in excess of 25 percent of D's investment in the land and building. The bonds are industrial development bonds because (1) a major portion of the building is to be used in the trade or business of a nonexempt person, and (2) a major portion of the principal and interest on such issue is secured by the rental payments on the building.

Example (8). The facts are the same as in paragraph (b) of example (7) except that,

instead of leasing any space to corporation Y, State D will lease the four floors to numerous unrelated private business users to be used in their trades or businesses. A major portion of the principal and interest will be paid from the revenues that D will derive from such leases. The fact that the activities of D, an exempt person, may amount to a trade or business of leasing property is not material, and the bonds are industrial development bonds for the reasons set forth in paragraph (b) of example (7).

Example (9). State E issues its obligations to finance the construction of dormitories for educational institution Z which is an organization described in section 501(c)(3) and exempt from tax under section 501(a). The dormitories are to be owned and operated by Z and their operation does not constitute an unrelated trade or business. The bonds are not industrial development bonds since the proceeds are to be used by an exempt person in a trade or business carried on by such person which is not an unrelated trade or business, as determined by applying section 513(a) to Z.

Example (10). State F issues its obligations to finance the construction of a toll road and the cost of erecting related facilities such as gasoline service stations and restaurants. Such related facilities represent less than 25 percent of the total cost of the project and are to be leased or sold to nonexempt persons. The toll road is to be owned and operated by F. The revenues from the toll road and from the rental of related facilities are the security for the bonds. The bonds are not industrial development bonds since a major portion of the proceeds is not to be used, directly or indirectly, in the trades or businesses of nonexempt persons. The fact that vehicles owned by nonexempt persons engaged in their trades or businesses may use the road in common with, or as a part of, the general public is not material.

Example (11). City G issues its obligations to finance the construction of a municipal auditorium which it will own and operate. The use of the auditorium will be open to anyone who wishes to use it for a short period of time on a rate-scale basis. The rights of such a user are only those of a transient occupant rather than the full legal possessory interests of a lessee. It is anticipated that the auditorium will be used by schools, church groups, and fraternities, and numerous commercial organizations. The revenues from the rentals of the auditorium and the auditorium building itself will be the security for the bonds. The bonds are not industrial development bonds because such use is not a use in the trade or business of a nonexempt person.

Example (12). The facts are the same as in example (11) except that one nonexempt person will have a 20-year rental agreement providing for exclusive use of the entire auditorium for more than 3 months of each year at a rental comparable to that charged short-term users. The bonds are industrial development bonds since such use is a use in the trade or business of a nonexempt person and, therefore, a major portion of the proceeds of the issue will be used in the trade or business of a nonexempt person and a major portion of the principal or interest on such issue will be secured by a facility used in such trade or business and by payments with respect to such facility.

Example (13). In order to construct an electric generating facility of a size sufficient to take advantage of the economies of scale: (1) City H will issue $50 million of its 40-year bonds and Z (a privately owned electric utility) will use $100 million of its funds for construction of a facility they will jointly own as tenants in common. (2) Each of the participants will share in the ownership, output, and operating expenses of the facility in proportion to its contribution to the cost of the facility, that is, one-third by H and two-thirds by Z. (3) H's bonds will be secured by H's ownership in the facility and by revenues to be derived from the sale of H's share of the power output of the facility. (4) Because H will need only 50 percent of its share of the power output of the facility, it agrees to sell to Z 25 percent of its share of such power output for a period of 20 years pursuant to a contract under which Z agrees to take or pay for such power in all events. (5) H also agrees to sell the remaining 25 percent of its share of the output to numerous other private utilities under a prevailing rate schedule including demand charges. (6) No contracts will be executed obligating any person other than Z to purchase any specified amount of the power for any specified period of time and no one such person (other than Z) will pay a demand charge or other minimum payment under conditions which, under paragraph (b)(3)(iv) of this section, result in a transfer of the benefits and burdens of ownership of such facilities. The bonds are not industrial development bonds because H's one-third interest in the facility (financed with bond proceeds) shall be treated as a separate property interest and, although 25 percent of H's interest in the power output of the facility will be used directly or indirectly in the trade or business of Z, a nonexempt person, under the rule of paragraph (b)(3)(iii) of this section, such portion constitutes less than a major portion. If more than 25 percent of H's interest in the power output of the facility were to be sold to Z pursuant to the take or pay contract, the bonds would be industrial development bonds since they would be secured by H's ownership in the facility and revenues therefrom, and under the rules of paragraph (b)(3)(iii) and (iv) of this section a major portion of the proceeds of the bond issue would be used in the trade or business of Z, a nonexempt person.

Example (14). (a) Because of the need to provide electric generating facilities several years in advance to meet anticipated power requirements and also to obtain economies of scale available only through construction of own electric system generating power and distributing it to the general populace (consisting of business and residential users), plans to issue 30-year obligations and use the proceeds to construct a 600-megawatt electric power generating facility at a total cost of $100 million to service its present and anticipated customers and to provide for its own needs. Revenues from the facility and the facility itself will be the security for the bonds. Estimates by engineers, based upon actual capacity (i.e., nameplate capacity), establish that I will initially require a minimum of one-half of the output of the new electric generating facility for itself and for a substantial number of persons who are its customers under a rate schedule, including demand charges, of general application and under conditions which do not result in the transfer of the benefits and burdens of ownership of such facility to any such persons as provided in paragraph (b)(3)(iv) of this section. Such estimates also establish that substantially all of the remaining output of the facility will be required for such purposes as a result of projected general community growth within a period of 15 years thereafter. The projection, based, in part, on past and current growth, also indicates that the power requirements of the community will increase gradually over the 15 years after the electric generating facility is placed in service. Until such time as it requires the full capacity, I plans to sell to Z, a privately owned public utility company, the remaining output of the generating facility. Under the rule of paragraph (b)(3)(v) of this section (relating to certain public utility facilities), the bonds issued to finance the construction of the electric generating facility are not industrial development bonds because a major portion of the proceeds of such issue is not used in the trade or business of a nonexempt person.

(b) The facts are the same as in paragraph (a) of this example except that instead of selling the excess capacity to corporation Z, I enters into an agreement to sell more than 25 percent of the capacity of the facility to corporation M, an industrial user, under terms whereby M agrees to take or pay for such percentage for a period approximately equal to the term of the bond issue. Payments with respect to such contract and the facility itself will be the security for the bonds. Further, since M will take or pay for 25 percent of the capacity for a period approximately equal to the term of the bond issue, it does not appear that I will use substantially all of the output of the facility for its own use or for the use of its customers under a rate schedule, including demand charges, of general application within a period equal to the shorter of 15 years or one half of the estimated actual useful life of the facility. Since under paragraphs (b)(3)(iii) and (iv) of this section a major portion of the output of the facility will be used by one or more nonexempt persons pursuant to a take or pay contract for a period which is substantial in relation to the term of the bonds, and since the conditions for application of the exception in paragraph (b)(3)(v) of this section do not exist, the trade or business test is satisfied. Since the trade or business test is satisfied, and since a major portion of the security for such bonds is the facility and payments with respect to the facility, the bonds are industrial development bonds.

Example (15). J, a political subdivision of a state, will issue several series of bonds from time to time and will use the proceeds to rehabilitate urban areas. More than 25 percent of the proceeds of each issue will be used for the rehabilitation and construction of buildings which will be leased or sold to nonexempt persons for use in their trades or businesses. There is no limitation either on the number of issues or the aggregate amount of bonds which may be outstanding. No group of bondholders has any legal claim prior to any other bondholders or creditors with respect to specific revenues of J, and there is no arrangement whereby revenues from a particular project are paid into a trust or constructive trust, or sinking fund, or are otherwise segregated or restricted for the benefit of any group of bondholders. There is, however, an unconditional obligation by J to pay the principal and interest on each issue of bonds. Further, it is apparent that J requires the revenues from the lease or sale of buildings to nonexempt persons in order to pay in full the principal and interest on the bonds in question. The bonds are industrial development bonds because a major portion of the proceeds will be used in the trades or businesses of nonexempt persons and, pursuant to an underlying arrangement, payment of the principal and interest is, in major part, to be derived from payments in respect of property or borrowed money used in the trades or businesses of nonexempt persons.

Example (16). Power Authority K, a political subdivision created by the legislature in State X to own and operate certain power generating facilities, sells all of the power from its existing facilities to four private utility systems under contracts executed in 1970, whereby such four systems are required to take or pay for specified portions of the total power output until the year 2000. Currently, existing facilities supply all of the present needs of the four utility

systems but their future power requirements are expected to increase substantially. K issues 20-year general obligation bonds to construct a large nuclear generating facility. A fifth private utility system contracts with K to take or pay for 30 percent of the power of the new facility for 25 years. The balance of the power output of the new facility will be available for sale as required, but initially it is not anticipated there will be any need for such power. The revenues from the contract with the fifth private utility system will be sufficient to pay only approximately 20 percent of the principal and interest on the bonds. The balance will be paid from revenues from the contracts with the four systems from sale of power produced by the old facilities. The bonds will be industrial development bonds because a major portion of the proceeds will be used in the trade or business of a nonexempt person, and payment of the principal and interest, pursuant to an underlying arrangement, will be derived in major part from payments in respect of property used in the trades or businesses of nonexempt persons.

(d) *Certain refunding issues*—(1) *General rule.* In the case of an issue of obligations issued to refund the outstanding face amount of an issue of obligations, the proceeds of the refunding issue will be considered to be used for the purpose for which the proceeds of the issue to be refunded were used. The rules of this subparagraph shall apply regardless of the date of issuance of the issue to be refunded.

(2) *Obligations issued prior to effective date.* In the case of an issue of obligations issued to refund the outstanding face amount of an issue of obligations issued before April 30, 1968 (or before January 1, 1969, if the transitional rules of § 1.103–12 are applicable) which would have been industrial development bonds within the meaning of section 103(c)(2) had they been issued after such date, the refunding issue shall not be considered to be an issue of industrial development bonds if it does not make funds available for any purpose other than the debt service on the obligations. For rules as to arbitrage bonds, see section 103(d).

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). In 1969, State A issued $20 million of 20-year revenue bonds the proceeds of which were used to contruct a sports facility which qualifies as an exempt facility described in section 103(c)(4)(B) and paragraph (c) of § 1.103–8. The sports facility will be owned and operated by X, a nonexempt person, for the use of the general public. In 1975, A issues $15 million of revenue bonds in order to refund the outstanding face amount of the 1969 issue. Since the proceeds of the 1969 issue were used for an exempt facility, the proceeds of the 1975 refunding issue will be considered to be used for the same purposes and section 103(c)(1) shall not apply to the 1975 refunding issue. The result would have been the same if the original issue had been issued in 1965. For rules as to a refunding obligation held by substantial users of facilities constructed with the proceeds of the issue refunded, see section 103(c)(7) and § 1.103–11.

Example (2). In 1967, prior to the effective date of section 103(c), city B issued $10 million of revenue bonds the proceeds of which were used to construct a manufacturing facility for corporation Y, a nonexempt person. Lease payments by Y were security for the bonds. In 1975, B issue $7 million of revethe bonds. In 1975, B issues $7 million of reveface amount of the 1967 issue. The interest rate of the 1975 issue is one and one-half percentage points lower than the interest rate on the 1967 issue. Both issues sold at par. All of the terms of the 1975 issue are the same as the terms of the 1967 issue with the exception of the interest rate. The 1975 refunding issue will not be considered to be an issue of industrial development bonds since the refunding issue will not make funds available for any purpose other than the debt service on the outstanding obligations.

Example (3). The facts are the same as in example (2) except that the interest rate on the refunding issue is the same as the interest rate on the issue to be refunded. Assume further that city B issued the 1975 refunding issue in order to extend the term of the obligations issued in 1967 as the result of its inability to pay such obligations due to insufficient revenues. The results will be the same as in example (2) for the reasons stated therein.

§ 1.103–8 Interest on bonds to finance certain exempt facilities.

(a) *In general*—(1) *General rule.* (i) Under section 103(c)(4), interest paid on an issue of obligations issued by a State, etc., governmental unit (as defined in § 1.103–1) is not includable in gross income if substantially all of the proceeds of such issue is to be used to finance one or more of the exempt facilities listed in subparagraphs (A) through (F) of section 103(c)(4) and in this section. However, interest on an obligation of such issue is includable in gross income if the obligation is held by a substantial user or a related person (as described in section 103(c)(7) and § 1.103–11). If substantially all of the proceeds of a bond issue is to be used to finance such exempt facilities, the debt obligations are treated as obligations described in section 103(a)(1) and § 1.103–1 even though such obligations may be industrial development bonds as defined in section 103(c)(2) and § 1.103–7.

(ii) The provisions of subdivision (i) of this subparagraph shall also apply to an issue of obligations substantially all of the proceeds of which is to be used to finance exempt facilities described in this section and for either or both of the following purposes: (*a*) To acquire or develop land as the site for an industrial park described in section 103(c)(5) and § 1.103–9, (*b*) to finance facilities to be used by an exempt person.

(iii) Section 103(c)(4) only becomes applicable where the bond issue meets both the trade or business and the security interest tests so that obligations are industrial development bonds within the meaning of section 103(c)(2). For rules as to exempt facilities including property functionally related and subordinate to such facilities, see subparagraph (3) of this paragraph. For rules with respect to the ultimate use of proceeds of obligations, see paragraph (4) of this paragraph. For the interrelationship of the rules provided in this section and the exemption for certain small issues provided in section 103(c)(6), see § 1.103–10.

(2) *Public use requirement.* To qualify under section 103(c)(4) and this section as an exempt facility, a facility must serve or be available for general public use, or be a part of a facility so used, as contrasted with similar types of facilities which are constructed for the exclusive use of a limited number of nonexempt persons in their trades or businesses. For example, a private dock or wharf owned by or leased to, and serving only a single manufacturing plant would not qualify as a facility for general public use, but a hangar or repair facility at a municipal airport, or a dock or a wharf, would qualify even if it is owned by, or leased or permanently assigned to, a nonexempt person provided that such nonexempt person directly serves the general public, such as a common passenger carrier or freight carrier. Similarly, an airport owned or operated by a nonexempt person for general public use is a facility for public use. Sewage or solid waste disposal facilities and air or water pollution control facilities, described in sections 103(c)(4)(E) and (F) and paragraphs (f) and (g) of this section, will be treated in all events as serving a general public use although they may be part of a nonpublic facility such as a manufacturing facility used in the trade or business of a nonexempt user.

(3) *Functionally related and subordinate.* An exempt facility includes any land, building, or other property functionally related and subordinate to such facility. Property is not functionally related and subordinate to a facility if it is not of a character and size commensurate with the character and size of such facility. Since substantially all of the proceeds of a bond issue must be used for the exempt facility (or for any combination of exempt facilities, industrial parks, and facilities to be used by exempt persons), including property functionally related and subordinate thereto, an insubstantial amount of the proceeds of a bond issue may be used for facilities which are neither exempt facilities (or a combination of exempt facilities, industrial parks and facilities to be used by exempt persons) nor functionally related and subordinate to exempt facilities. Thus, for example, where substantially all of the proceeds of an urban redevelopment bond issue are to be used by a State urban redevelopment agency for residential real property for family units within the meaning of section 103(c)(4)(A) and paragraph (b) of this section, an insubstantial amount may be used for an industrial or commercial project or for any other purpose that is not functionally related and subordinate to the residential real property for family units.

(4) *Ultimate use of proceeds.* The question whether substantially all of the proceeds of an issue of obligations are to be used to finance one or more of the exempt facilities listed in subparagraphs (A) through (F) of section 103(c)(4) and in this section is to be resolved by reference to the ultimate use of such proceeds. For example, such proceeds will be treated as used to provide residential

real property for family units whether the State, etc., governmental unit (i) constructs such property and leases or sells it to any person who is not an exempt person for use in such person's trade or business of selling or leasing such property; (ii) lends the proceeds to any such person for such purpose; or (iii) lends the proceeds to banks or other financial institutions in order to increase the supply of funds for mortgage lending under conditions requiring such banks or other financial institutions to use such proceeds only for further mortgage lending on residential real property for family units.

(5) *Example.* The principles of this paragraph may be illustrated by the following example:

Example. State A issues its bonds and plans to use substantially all of the proceeds from such bond issue to purchase land and build a facility which will be for one of the purposes described in section 103(c)(4) and this section. The arrangement provides that (1) A will issue bonds the proceeds of which (after deducting bond election costs, costs of publishing notices, attorneys' fees, printing costs, trustees' fees for fiscal agents, and similar expenses) will be $20 million; (2) $18 million of the proceeds of the bond issue will be used to purchase land and to construct such facility; (3) $2 million of the proceeds will be used for an unrelated facility which will be used by X, a nonexempt person, in a separate trade or business and for a purpose not described in section 103(c) (4) or (5); (4) X will rent both facilities for 20 years at an annual rental equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds; and (5) such payments by X and the facilities will be the security for the bonds. On these facts, substantially all of the proceeds will be used in connection with an exempt facility described in section 103(c)(4) and this section. Accordingly, section 103(c)(1) does not apply to the bonds unless such bonds are thereafter held by a person who is a substantial user of the facilities or a related person within the meaning of section 103(c)(7) and § 1.103-11.

(b) *Residential real property*—(1) *General rule.* Section 103(c)(4)(A) provides that section 103(c)(1) shall not apply to obligations issued by a State, etc., governmental unit which are part of an issue substantially all of the proceeds of which are to be used to provide residential real property for family units. In order to qualify under section 103(c)(4)(A) and this paragraph as an exempt facility, the facility must satisfy the public use requirement of paragraph (a)(2) of this section by being available for use by members of the general public.

(2) *Family units defined.* (i) For purposes of section 103(c)(4)(A) and this paragraph, the term "family unit" means a building or any portion thereof which contains complete living facilities which are to be used on other than a transient basis by one or more persons and facilities functionally related and subordinate thereto. Thus, an apartment which is to be used on other than a transient basis by a single person or by a family which contains complete facilities for living, sleeping, eating, cooking, and sanitation, constitutes a family unit. Such a unit may be served by centrally located machinery and equipment as in a typical apartment building. To qualify as a family unit the living facilities must be a separate, self-contained building or constitute one unit in a building substantionally all of which consists of similar units, together with functionally related and subordinate facilities and areas. Hotels, motels, dormitories, fraternity and sorority houses, rooming houses, hospitals, sanitariums, rest homes, and trailer parks and courts for use on a transient basis do not constitute residential real property for family units.

(ii) Under paragraph (a)(3) of this section, facilities which are functionally related and subordinate to residential real property actually used for family units include, for example, facilities for use by the occupants such as a swimming pool, a parking area, and recreational facilities.

(c) *Sports facilities*—(1) *General rule.* Section 103(c)(4)(B) provides that section 103(c)(1) shall not apply to obligations issued by a State, etc., governmental unit which are part of an issue substantially all of the proceeds of which are to be used to provide sports facilities. In order to qualify as an exempt facility under section 103(c)(4)(B) and this paragraph, the facility must satisfy the public use requirement of paragraph (a)(2) of this section by being available for use by members of the general public either as participants or as spectators.

(2) *Sports facility defined.* (i) For purposes of section 103(c)(4)(B) and this paragraph, the term "sports facilities" includes both outdoor and indoor facilities. The facility may be designed either as a spectator or as a participation facility. For example, the term includes both indoor and outdoor stadiums for baseball, football, ice hockey, or other sports events, as well as facilities for the participation of the general public in sports activities, such as golf courses, ski slopes, swimming pools, tennis courts, and gymnasiums. The term does not include, however, facilities such as a golf course, swimming pool, or tennis court, which are constructed for use by members of a private club or as integral or subordinate parts of a hotel or motel, or the use of which will be restricted to a special class or group or to guests of a particular hotel or motel, since they are not facilities for the use of the general public as required by paragraph (a)(2) of this section.

(ii) Under paragraph (a)(3) of this section, facilities which are functionally related and subordinate to a sports facility, such as a parking lot, clubhouse, ski slope warming house, bath house, or ski tow, are considered to be part of a sports facility. A ski lodge which consists primarily of overnight accommodations is not functionally related and subordinate to a sports facility.

(d) *Convention or trade show facilities*—(1) *General rule.* Section 103(c)(4)(C) provides that section 103(c)(1) shall not apply to obligations issued by a State, etc., governmental unit which are a part of an issue substantially all of the proceeds of which are to be used to provide convention or trade show facilities. In order to qualify under section 103(c)(4)(C) and this paragraph as an exempt facility, the facility must satisfy the public use requirement of paragraph (a)(2) of this section by being available for an appropriate charge or rental, on a rate scale basis, for use by members of the general public. The public use requirement is not satisfied if the use of a convention or trade show facility is limited by long-term leases to a single user or group of users.

(2) *Convention or trade show facilities defined.* For purposes of section 103(c)(4)(C) and this paragraph, the term "convention or trade show facilities" means special-purpose buildings or structures, such as meeting halls and display areas, which are generally used to house a convention or trade show, including, under paragraph (a)(3) of this section, facilities functionally related and subordinate to such facilities such as parking lots or railroad sidings. A hotel or motel which is available to the general public, whether or not it is intended primarily to house persons attending or participating in a convention or trade show, is neither a convention or trade show facility nor functionally related and subordinate thereto.

(e) *Certain transportation facilities*—(1) *General rule.* Section 103(c)(4)(D) provides that section 103(c)(1) shall not apply to obligations issued by a State, etc., governmental unit which are part of an issue substantially all of the proceeds of which are to be used to provide (i) airports, docks, wharves, mass commuting facilities, or public parking facilities, or (ii) storage or training facilities directly related to any such facility. In order to qualify under section 103(c)(4)(D) and this paragraph as an exempt facility, the facility must satisfy the public use requirement of paragraph (a)(2) of this section by being available for use by members of the general public or for use by common carriers which serve members of the general public.

(2) *Definitions.* For purposes of section 103(c)(4)(D) and this paragraph—

(i) An airport includes service accommodations for the public such as terminals, retail stores in such terminals, runways, hangars, loading facilities, repair shops, parking areas, and facilities which, under paragraph (a)(3) of this section, are functionally related and subordinate to the airport, such as facilities for the preparation of in-flight meals, restaurants and accommodations for temporary use by passengers, and other facilities functionally related to the needs or convenience of passengers, shipping companies, and airlines. Overnight accommodations are not functionally related and subordinate to the airport.

(ii) A dock or wharf and property which, under paragraph (a)(3) of this section, is functionally related and subordinate to a dock or wharf such as the structure alongside which a vessel docks, the equipment needed to receive and

to discharge cargo and passengers from the vessel, such as cranes and conveyors, related storage, handling, office, and passenger areas, and similar facilities.

(iii) A mass commuting facility includes real property together with improvements and personal property used therein, such as machinery, equipment, and furniture, serving the general public commuting on a day-to-day basis by bus, subway, rail, ferry, or other conveyance which moves over prescribed routes. Such property also includes terminals and facilities which, under paragraph (a)(3) of this section, are functionally related and subordinate to the mass commuting facility, such as parking garages, car barns, and repair shops. Use of mass commuting facilities by noncommuters in common with commuters is immaterial. Thus, a terminal leased to a common carrier bus line which serves both commuters and long distance travelers would qualify as an exempt facility.

(3) *Related storage or training facility.* Section 103(c)(4)(D) includes only those storage or training facilities which are both (i) directly related to a facility to which subparagraph (1)(i) of this paragraph applies and (ii) physically located on or adjacent to such a facility. For example, a storage facility would include a grain elevator, silo, warehouse, or oil and gas storage tank used in connection with a dock or wharf and located on or adjacent to such dock or wharf. Similarly, a training facility would include a building located at or adjacent to an airport for the training of flight personnel or a paved area immediately abjoining a bus garage used to train bus drivers.

(f) *Certain public utility facilities*—(1) *General rule.* (i) Section 103(c)(4)(E) provides that section 103(c)(1) shall not apply to obligations issued by a State, etc., governmental unit which are part of an issue substantially all of the proceeds of which are to be used to provide sewage disposal facilities, solid waste disposal facilities, or facilities for the local furnishing of electric energy, gas, or water. In order to qualify under section 103(c)(4)(E) as an exempt facility, the facility must satisfy the public use requirement of paragraph (a)(2) of this section. A public utility facility described in this subparagraph (with the exception of sewage and solid waste disposal facilities which will be treated in all events as serving the general public) will satisfy the public use requirement only if such facility, or the output thereof, is available for use by members of the general public.

(ii) A facility for the local furnishing of electric energy, gas, or water is, for purposes of applying the public use test in paragraph (a)(2) of this section, available for use by members of the general public if (*a*) the owner or operator of the facility is obligated, by a legislative enactment, local ordinance, regulation, or the equivalent thereof, to furnish electric energy, gas, or water to all persons who desire such services and who are within the service area of the owner or operator of such facility, and (*b*) it is reasonably expected that such facility will serve or be available to a large segment of the general public in such service area.

(2) *Definitions.* For purposes of section 103(c)(4)(E) and this paragraph—

(i) The term "sewage disposal facilities" means any property used for the collection, storage, treatment, utilization, processing, or final disposal of sewage.

(ii) The term "solid waste disposal facilities" means any property used for the collection, storage, treatment, utilization, processing, or final disposal of solid waste. For purposes of this paragraph, the term "solid waste" shall have the same meaning as in section 203(4) of the Solid Waste Disposal Act (42 U.S.C. § 3252(4)). Such section 203(4) provides that:

> (4) The term "solid waste" means garbage, refuse, and other discarded solid materials, including solid-waste materials resulting from industrial, commercial, and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows or other common water pollutants.

The term does not include facilities for collection, storage, or disposal of liquid or gaseous waste except where such facilities are facilities which, under paragraph (a)(3) of this section, are functionally related and subordinate to a solid waste disposal facility.

(iii) The term "facilities for the local furnishing of electric energy, gas, or water" means property which—

(*a*) Is either property of a character subject to the allowance for depreciation provided in section 167 or land,

(*b*) Is used to produce, collect, generate, transmit, store, distribute, or convey electric energy, gas, or water,

(*c*) Is used in the trade or business of furnishing electric energy, gas, or water, and

(*d*) Is a part of a system providing service to the general populace of one or more communities or municipalities, but in no event more than 2 contiguous counties (or a political equivalent) whether or not such counties are located in one State.

For purposes of this subdivision, a city which is not within, or does not consist of, one or more counties (or a political equivalent) shall be treated as a county (or a political equivalent). A facility for the generation of electric energy otherwise qualifying under this subdivision will not be disqualified because it is connected to a system for interconnection with other public utility systems for the emergency transfer of electric energy. Artesian wells, a reservoir, and the related pumping equipment and pipelines which furnish water to the general populace of one or more communities or municipalities, but in no event more than 2 contiguous counties (or a political equivalent), are facilities for the local furnishing of water. The facilities need not be located in the area served by them. Also, the term "facilities for the local furnishing of electric energy, gas, or water" does not include coal, oil, gas, fissionable materials, or other materials performing a similar function.

(g) *Air or water pollution control facilities*—(1) *General rule.* Section 103(c)(4)(F) provides that section 103(c)(1) shall not apply to obligations issued by a State, etc., governmental unit which are part of an issue substantially all of the proceeds of which are to be used to provide air or water pollution control facilities. Such facilities are in all events treated as serving the general public and, thus, satisfy the public use requirement of paragraph (a)(2) of this section.

(2) *Definitions.* (i) For purposes of section 103(c)(4)(F) and this paragraph, property is a pollution control facility to the extent that the test of either subdivision (iii) or (iv) of this subparagraph is satisfied, but only if—

(*a*) It is property which is described in subdivision (ii) of this subparagraph and is either of a character subject to the allowance for depreciation provided in section 167 or land, and

(*b*) It meets or exceeds Federal, State, or local standards for the control of atmospheric pollutants or contaminants, or water pollution, as the case may be, in effect at the time such facility is placed in service, or, if no standards are in effect at such time, standards which have been promulgated but which are not yet in effect.

(ii) Property is described in this subdivision if it is property used, in whole or in part, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing pollutants, contaminants, wastes, or heat. In the case of property used to control water pollution, such property includes the necessary intercepting sewers, pumping, power, and other equipment, and their appurtenances.

(iii) In the case of an expenditure for property which is placed in service for no significant purpose other than the control of pollution, the total expenditure for such property satisfies the test of this subdivision. Thus, where property which serves no function other than the control of pollution is added to an existing manufacturing or production facility, the total expenditure for such property satisfies the test of this subdivision. Also, if an expenditure for property would not have been made but for the purpose of controlling pollution, and if the expenditure has no significant purpose other than the purpose of pollution control, the total expenditure for such property satisfies the test of this subdivision even though such property serves one or more functions in addition to its function as a pollution control facility.

(iv) In the case of property placed in service for the purpose of controlling pollution and for a significant purpose other than controlling pollution, only the incremental cost of such facility satisfies

the test of this subdivision. The "incremental cost" of property is the excess of its total cost over that portion of its cost expended for a purpose other than the control of pollution.

(v) An expenditure has a significant purpose other than the control of pollution if it results in an increase in production or capacity, or in a material extension of the useful life of a manufacturing or production facility or a part thereof.

(h) *Examples.* The application of section 103(c)(4) and this section are illustrated by the following examples:

Example (1). City A plans to issue $10 million of bonds to be used to finance the construction of residential housing for family units to be available to members of the general public. It enters into an agreement with corporation X whereby X will lease and operate the facility for 25 years, and the lease payments and the property itself will be the security for the payment of principal and interest on the bonds. Corporation X has an option to purchase the facility at the end of the 25-year period. The bonds are industrial development bonds, but because the proceeds are to be used for construction of residential housing for family units which is an exempt facility under section 103(c)(4)(A) and paragraph (b) of this section, section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103–11 apply.

Example (2). The facts are the same as in example (1), except that the facility is constructed adjacent to a factory owned by X, which is in an industrial area, and X reserves the privilege of giving preference to its employees in selecting tenants. The bonds are industrial development bonds and the facility is not an exempt facility under section 103(c)(4)(A) and paragraph (b) of this section because it is not a facility constructed for use by the general public.

Example (3). City B plans to issue $10 million of bonds to be used to construct a sports stadium. The revenues from the facility and the facility itself will be the security for the bonds. A professional football team rents the facility on a long-term lease for part of the year and a professional baseball team rents the sports facility for the remainder of the year. Tickets are sold by the teams to the general public. The bonds are industrial development bonds, but since the proceeds are used for a spectator facility for general public use, which is an exempt facility under section 103(c)(4)(B) and paragraph (c) of this section, section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103–11 apply.

Example (4). City C plans to issue $10 million of bonds to be used to construct a convention hall which it will own. City C plans to lease the convention hall for 25 years to corporation Y, a nonexempt person, which will operate and maintain it. The terms of the lease obligate Y to make the convention hall generally available for civic, business, and recreational shows, meetings, performances, and similar activities serving or benefiting the community. Lease payments from Y and the facility will be security for the bonds. The bonds are industrial development bonds, but since the proceeds are to be used for a facility for general public use, which is an exempt facility under section 103(c)(4)(C) and paragraph (d) of this section, section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103–11 apply.

Example (5). City D issues $100 million of its bonds and uses the proceeds to finance construction of an airport for the use of the general public. D will own and operate the airport. A major portion of the rentable space in the terminal building is leased on a long-term basis to commercial airlines. The bonds will be secured by the airport landing and runway charges and by payments with respect to such long-term leases from such commercial airlines. Such commercial airline payments are expected to constitute more than 50 percent of the total revenues from the airport. The bonds are industrial development bonds, but since the proceeds are to be used for an airport for use by the general public and by carriers serving the general public, which is an exempt facility under section 103(c)(4)(D) and paragraph (e) of this section, section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103–11 apply. The result would be the same if D hired an airport management firm to operate the airport.

Example (6). City E issues $6 million of its bonds and uses the proceeds to finance construction of an airport landing strip to be located adjacent to the factories of corporations Y and Z with preferential treatment with respect to the use of the airport to be given to Y and Z. The landing strip will be used in the trades or businesses of Y and Z and general public use will be negligible. The lease payments by Y and Z for the use of the facility are the security for the bonds. The bonds are industrial development bonds and the facility is not an exempt facility under section 103(c)(4)(D) and paragraph (c) of this section because it is not a facility constructed for general public use.

Example (7). State F and corporation Z enter into an arrangement which provides that F will issue $10 million of its bonds and use the proceeds to construct a facility for Z the only purpose of which is to control air and water pollution at Z's plant. The principal and interest on the bonds will be secured by the charges which F will impose on Z. The bonds are industrial development bonds, but since the proceeds are to be used for air and water pollution facilities designed to abate pollution by private persons, such facilities are for the benefit of the general public and are exempt facilities under section 103(c)(4)(E) and paragraph (f) of this section. Accordingly, section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103–11 apply.

Example (8). City G issues $20 million of of its bonds and will use $6 million to finance construction of residential real property for family units which qualifies as an exempt facility under section 103(c)(4)(A) and paragraph (b) of this section, $9 million to finance construction of a stadium which qualifies as an exempt facility under section 103(c)(4)(B) and paragraph (c) of this section, and $5 million for convention facilities which qualify as exempt facilities under section 103(c)(4)(C) and paragraph (d) of this section. The facilities will be used in the trades or businesses of nonexempt persons and rental payments with respect to such facilities and the facilities themselves will be the security for the bonds. The bonds are industrial development bonds, but since all the proceeds are to be used for facilities which are exempt facilities under section 103(c)(4), section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103–11 apply. The result would be the same, if instead of using $9 million to finance construction of a stadium, the $9 million were used to finance construction of a Capitol building.

§ 1.103–9 Interest on bonds to finance industrial parks.

(a) *General rule.* (1) Under section 103(c)(5), interest paid on an issue of obligations issued by a State, etc., governmental unit (as defined in § 1.103–1) is not includable in gross income if substantially all of the proceeds of such issue is to be used to finance the acquisition or development of land as the site for an industrial park (referred to in this section as "industrial park bonds"). However, interest on an obligation of such an issue is includable in gross income if the obligation is held by a substantial user or a related person (as described in section 103(c)(7) and § 1.103–11). If substantially all of the proceeds of a bond issue is to be so used to finance an industrial park, the debt obligations are treated as obligations described in section 103(a)(1) and § 1.103–1 even though such obligations are industrial development bonds within the meaning of section 103(c)(2) and § 1.103–7.

(2) The provisions of subparagraph (1) of this paragraph shall also apply to an issue of obligations substantially all of the proceeds of which is to be used to acquire or develop land as the site for an industrial park described in section 103(c)(5) and this section and either or both of the following purposes: (i) To finance exempt facilities described in section 103(c)(4) and § 1.103–8, (ii) to finance facilities to be used by an exempt person.

(3) Section 103(c)(5) only becomes applicable where the bond issue meets both the trade or business and the security interest tests so that the obligations are industrial development bonds within the meaning of section 103(c)(2). For the interrelationship of the rules provided in this section and the exemption for certain small issues provided in section 103(c)(6), see § 1.103–10.

(b) *Definition of an industrial park.* For purposes of section 103(c)(5) and this section, the term "industrial park" means a tract of land, other than a tract of land intended for use by a single enterprise, suitable primarily for use as building sites by a group of enterprises engaged in industrial, distribution, or wholesale businesses if either—

(1) The control and administration of the tract is vested in an exempt person (within the meaning of paragraph (b)(2) of § 1.103–7), or

(2) The uses of the tract are normally (i) regulated by protective minimum restrictions, ordinarily including the size of individual sites, parking and loading regulations, and building setback lines, and (ii) designed to be compatible, under a comprehensive plan, with the community in which the industrial park is located and with the uses of the surrounding land.

(c) *Development of land defined.* For purposes of section 103(c)(5) and this section, the term "development of land" includes the provision of certain improvements to an industrial park site if such improvements are incidental to the use of the land as an industrial park. Such incidental improvements include the building or installation of incidental water, sewer, sewage and waste disposal, drainage, or similar facilities (whether

surface, subsurface, or both). Such incidental improvements include the provision of incidental transportation facilities, such as hard-surface roads (including curbs and gutters) and railroad sidings; power distribution facilities, such as gas and electric lines; and communication facilities. The provision of structures or buildings of any kind is not included within the meaning of the term "development of land," except for those structures or buildings which are necessary in connection with the incidental improvements encompassed by the term, such as, for example, a water pumphouse and storage tank needed in connection with the incidental provision of water facilities in an industrial park.

(d) *Examples.* The application of the rules contained in section 103(c)(5) and this section are illustrated by the following examples:

Example (1). City A and corporations X, Y, and Z (unrelated companies) enter into an arrangement under which A is to acquire a tract of land suitable for use as an industrial park. The arrangement provides that: (1) A will issue $10 million of bonds to be used for the acquisition and development of a suitable tract of land; (2) the tract will be controlled and administered by A, pursuant to a comprehensive zoning plan, for the use of a group of enterprises; (3) A will install necessary water, sewer, and drainage facilities on the tract; (4) A will sell substantial portions of the developed tract to X for use as a factory site and to Y for use as a warehouse site; (5) A will lease a sizeable portion of the tract to Z for 20 years as a distribution center site; and (6) the developed tract and the proceeds from the sale or lease of parts of the tract will be the security for the bonds. The bonds are industrial development bonds. Since, however, the proceeds of the issue are to be used for the acquisition and development of a tract of land as the site for an industrial park under section 103(c)(5), section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103–11 apply.

Example (2). The facts are the same as in example (1) except that $1 million of the proceeds of the $10 million issue are to be used for the construction of a factory by corporation W or X. The bonds are industrial development bonds. Under these circumstances, substantially all of the proceeds are treated as used or to be used for the acquisition and development of a tract of land as the site for an industrial park described in section 103(c)(5). Accordingly, section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103–11 apply.

§ 1.103–10 Exemption for certain small issues of industrial development bonds.

(a) *In general.* Section 103(c)(6) applies to certain industrial development bond issues (referred to in this section as "exempt small issues") and bonds issued to refund certain issues (referred to in this section as "exempt small refunding issues"). If an issue is an exempt small issue or an exempt small refunding issue, then under the requirements of section 103(c)(6) and this section the interest paid on the debt obligations is not includable in gross income, and the obligations are treated as obligations described in section 103(a)(1) and § 1.103–1, even though such obligations are industrial development bonds as defined in section 103(c)(2) and § 1.103–7. However, interest on an obligation of such an issue is includable in gross income if the obligation is held by a substantial user of the financed facilities or a related person (as described in section 103(c)(7) and § 1.103–11). Section 103(c)(6) only becomes applicable where the bond issue meets both the trade or business and the security interest tests so that the obligations are industrial development bonds within the meaning of section 103(c)(2).

(b) *Small issue exemption—(1) $1 million or less.* Section 103(c)(6)(A) provides that section 103(c)(1) shall not apply to any debt obligation issued by a State, etc., governmental unit as part of an issue where—

(i) The aggregate authorized face amount of such issue (determined by aggregating the outstanding face amount of any prior exempt small issues described in paragraph (d) of this section and the face amount of the issue of obligations in question) is $1 million or less; and

(ii) Substantially all of the proceeds of such issue is to be used for the acquisition, construction, reconstruction, or improvement of land or property of a character subject to the allowance for depreciation under section 167. The exemption requirements are not satisfied if more than an insubstantial amount of the proceeds of such issue is loaned to a borrower for use as working capital or to finance inventory. Any obligation which is an industrial development bond within the meaning of section 103(c)(2) and which satisfies the $1 million small issue exemption requirements is an exempt small issue. See paragraph (c)(1) of this section for the treatment of refunding issues of $1 million or less.

(2) *$5 million or less.* (i) Under section 103(c)(6)(D), the issuing State, etc., governmental unit may elect to have an aggregate authorized face amount of $5 million or less, in lieu of the $1 million exemption otherwise provided for in section 103(c)(6)(A), with respect to issues of obligations which are industrial development bonds (within the meaning of section 103(c)(2)) issued after October 24, 1968. If such election is made, the bonds will be treated as obligations of a State, etc., governmental unit described in section 103(a)(1) and §1.103–1 if the sum of—

(*a*) The aggregate face amount of the issue including the aggregate face amount of any prior outstanding $1 million or $5 million exempt small issues take into account under section 103(c)(6)(B) and paragraph (d) of this section, and

(*b*) The aggregate amount of "section 103(c)(6)(D) capital expenditures" (within the meaning of subdivision (ii) of this subparagraph)

is $5 million or less. In the case of an issue of obligations which qualified for exemption under section 103(c)(6)(A) and this paragraph, if a section 103(c)(6)(D) capital expenditure made after the date of issue has the effect of making taxable the interest on such issue, under section 103(c)(6)(G) the loss of tax exemption for such interest shall begin only with the date on which the expenditure which caused the issue to cease to qualify under the $5 million limit was paid or incurred. See subdivision (vi) of this subparagraph for the time, place, and manner by which the issuer may elect the $5 million exemption. See section 103(c)(6)(H) and paragraph (c)(2) of this section for the treatment of certain refinancing issues of $5 million or less.

(ii) The term "section 103(c)(6)(D) capital expenditure" is defined in this subdivision. Special rules for applying such definition in the case of certain expenditures paid or incurred by a State, etc., governmental unit are prescribed in subdivision (iii) of this subparagraph. Except as excluded by subdivision (iv) or (v) of this subparagraph, an expenditure (regardless of how paid, whether in cash, notes, or stock in a taxable or nontaxable transaction) is a section 103(c)(6)(D) capital expenditure if—

(*a*) The capital expenditure was financed other than out of the proceeds of issues taken into account under subdivision (i)(*a*) of this subparagraph,

(*b*) The capital expenditures were paid or incurred during the 6-year period which begins 3 years before the date of issuance of the issue in question and ends 3 years after such date,

(*c*) The principal user of the facility in connection with which the property resulting from the capital expenditures is used and the principal user of the facility financed by the proceeds of the issue in question is the same person or are two or more related persons (as defined in section 103(c)(6)(C) and paragraph (e) of this section),

(*d*) Both facilities referred to in (*c*) of this subdivision were (during the period described in (*b*) of this subdivision or a part thereof) located in the same incorporated municipality or in the same county outside of the incorporated municipalities in such county), and

(*e*) The capital expenditures were properly chargeable to the capital account of any person or State, etc., governmental unit (whether or not such person is the principal user of the facility or a related person) determined, for this purpose, without regard to any rule of the Code which permits expenditures properly chargeable to capital account to be treated as current expenses.

(iii) Amounts properly chargeable to capital account under subdivision (ii)(*e*) of this subparagraph include capital expenditures made by a State, etc., governmental unit with respect to an exempt facility or an industrial park, within the 6-year period described in subdivision (ii)(*b*) of this subparagraph, out of the proceeds of bond issues to which section 103(c)(1) did not apply by reason of section 103(c)(4) or (5) (relating to certain exempt activities and industrial parks). Thus, for example, the cost to the lessor of a leased plantsite financed out of the proceeds of an issue for an

exempt air pollution control facility under section 103(c)(4)(F) and paragraph (g) of § 1.103–8 would constitute a section 103(c)(6)(D) capital expenditure. However, in the case of an industrial park, only the land costs allocated on an area basis to the plantsite and the actual cost of any improvements made on the plantsite, or to be used principally in connection with the actual plantsite occupied by a principal user or a related person, shall be taken into account as capital expenditures. Where the actual amount of capital expenditures made with respect to a facility by a person (including a State, etc., governmental unit) other than the user of such facility (or a related person) cannot be ascertained, the fair market value of the property with respect to which the capital expenditures were made, at the time of such capital expenditures, shall be deemed to be the amount of such capital expenditures. In the case of a transaction which is not in form a purchase but which is treated as a purchase for Federal income tax purposes, the purchase price for Federal income tax purposes shall constitute a capital expenditure.

(iv) A section 103(c)(6)(D) capital expenditure shall not include any "excluded expenditure" described in (*a*) through (*e*) of this subdivision (iv).

(*a*) A capital expenditure is an excluded expenditure if either it is made by a public utility company which is not the principal user of the facility financed by the proceeds of the issue in question (or a related person) with respect to property of such company, or it is made by a State, etc., governmental unit with respect to property of such unit, and if in either case it meets all of the following three conditions. Such property of such company or unit (as the case may be) must be used to provide gas, water, sewage disposal services, electric energy, or telephone service. Such property must be installed in, or connected to, the facility but must not consist of property which is such an integral part of the facility that the cost of such property is ordinarily included as part of the acquisition, construction, or reconstruction cost of such facility. Such property must be of a type normally paid for by the user (or a related person) in the form of periodic fees based upon time or use.

(*b*) A capital expenditure is an excluded expenditure if it is made by a person other than the user, a related person, or a State, etc., governmental unit and if it is made with respect to tangible personal property (within the meaning of paragraph (c) of § 1.48–1), or intangible personal property, leased to the user (or a related person) of a facility. However, the preceding sentence shall apply only if the facility is leased by the manufacturer of such tangible or intangible personal property, or by a person in the trade or business of leasing property the same as, or similar to, such personal property, and only if, pursuant to general business practice, property of such type is ordinarily the subject of a lease.

(*c*) A capital expenditure is an excluded expenditure if it is made to replace property damaged or destroyed by fire, storm, or other casualty, to the extent that these expenditures do not exceed in dollar amount the fair market value (determined immediately before the casualty) of the property replaced.

(*d*) A capital expenditure is an excluded expenditure if it is required by a change made after the date of issue in a Federal or State law, or a local ordinance which has general application, or if it is required by a change made after such date in rules and regulations of general application issued under such law or ordinance.

(*e*) A capital expenditure is an excluded expenditure if it is required by or arises out of circumstances which could not reasonably be foreseen on the date of issue or which arise out of a mistake of law or fact. However, the aggregate dollar amount taken into account under this subdivision (*e*) with respect to any issue may not exceed $250,000.

(v) (*a*) If the assets of a corporation are acquired by another corporation in a transaction to which section 381(a) (relating to carryovers in certain corporate acquisitions) applies, the exchange of consideration by the acquiring corporation for such assets is not a section 103(c)(6)(D) capital expenditure by such acquiring corporation.

(*b*) However, if an exchange referred to in (*a*) of this subdivision occurs during the 6-year period beginning 3 years before the date of issuance of an issue of obligations and ending 3 years after such date, the transferor and transferee shall be treated as having been related persons for the portion of such 6-year period preceding the date of the exchange for purposes of determining whether section 103(c)(6)(D) capital expenditures have been made. For purposes of this (*b*), the date of an exchange to which section 381 applies shall be the date of distribution or transfer within the meaning of paragraph (b) of § 1.381(b)–1.

(*c*) If section 351(a) applies to a transfer of property to a corporation solely in exchange for its stock or securities, the issuance of such stock or securities in such exchange is not a section 103(c)(6)(D) capital expenditure by such corporation.

(*d*) However, if such a transfer referred to in (*c*) of this subdivision occurs during the 6-year period beginning 3 years before the date of issuance of an issue of obligations and ending 3 years after such date, and if, with respect to the property transferred, expenditures made within such period would have been section 103(c)(6)(D) capital expenditures if the transferor and transferee had been related persons for such period, then such expenditures shall be considered to be section 103(c)(6)(D) capital expenditures made by the transferee. In addition, if a transferor and transferee are related persons immediately following such transfer, such transferor and transferee shall also be treated as having been related persons for the portion of such 6-year period preceding the date of such transfer.

(*e*) For purposes of this subdivision (v), the term "issue of obligations" means an issue being tested for purposes of qualifying or continuing to qualify under an election pursuant to section 103(c)(6)(D) as to which an amount which would be a section 103(c)(6)(D) capital expenditure solely by reason of (*b*) or (*d*) of this subdivision must be taken into account.

(*f*) If with respect to an issue of obligations an expenditure would not have been a section 103(c)(6)(D) capital expenditure but for the application of (*b*) or (*d*) of this subdivision, and if such section 103(c)(6)(D) capital expenditure has the effect of making taxable the interest on an issue of obligations which qualified for exemption under section 103(c)(6)(A) and this paragraph, the loss of tax exemption for such interest shall begin not earlier than the date of such exchange or transfer referred to in this subdivision (v).

(vi) (*a*) The issuer may make the election provided by section 103(c)(6)(D) and this subparagraph (assuming that the bonds otherwise qualify under section 103(c)(6)) by means of a statement signed by a duly authorized official that the governmental unit elects to have the provisions as to the $5 million limit in section 103(c)(6)(D) apply to an issue of industrial development bonds. The statement shall be filed prior to the issuance of such industrial development bonds, or within 90 days after June 5, 1971, if such bonds were issued prior to such date, with the district director or director of the regional service center with whom the principal user or users of the proceeds of such issue, or facilities acquired, constructed, reconstructed, or improved with the proceeds of such issue, are required to file their income tax returns (as provided in section 6091) for the taxable year during which the election is made. A copy of such statement shall be attached to the income tax returns of such principal users for such taxable year.

(*b*) The statement shall contain the following information:

(*1*) The name and address of the governmental unit,

(*2*) The name, address, and employer identification number of the principal user or users of such proceeds or facilities,

(*3*) The date and face amount of the issue,

(*4*) The date and amount of any outstanding issues the proceeds of which have been or will be used primarily with respect to facilities the principal user or users of which are or will be the same or related persons as those listed in (*2*) of this subdivision (vi)(*b*) and which are located in the same incorporated municipality or in the same county (outside of the incorporated municipalities in such county), and

(*5*) The date and amount of any section 103(c)(6)(D) capital expenditures

paid or incurred within the 3 years preceding the date of the issue for which the election is made with respect to facilities described in (4) of this subdivision (vi)(b).

(c) Each principal user shall also file a supplemental statement which lists by date and amount any subsequent section 103(c)(6)(D) capital expenditures. Such supplemental statement must be filed with the district director or director of the regional service center with whom the user's income tax return is required to be filed (as prescribed in section 6091) on the due date prescribed for filing such return (without regard to any extensions of time).

(c) *Refunding or refinancing issue exemption*—(1) *$1 million or less refunding issue.* Section 103(c)(6)(A) also provides that section 103(c)(1) shall not apply to any debt obligation issued by a State, etc., governmental unit as part of an issue the aggregate authorized face amount of which is $1 million or less, if substantially all of the proceeds of such issue are to be used—

(i) To redeem part or all of a prior issue substantially all of the proceeds of which were used to acquire, construct, reconstruct, or improve land or property of a character subject to the allowance for depreciation, or

(ii) To redeem part or all of a prior exempt small refunding issue.

(2) *$5 million or less refinancing issue.* Section 103(c)(6)(H) provides that section 103(c)(1) shall not apply to any debt obligation issued by a governmental unit as part of an issue which is $5 million or less if the condition of section 103(c)(6)(H) is met and if substantially all of the proceeds are to be used—

(i) To redeem part or all of one or more prior exempt small issues, or

(ii) To redeem part or all of one or more prior exempt small refunding issues.

The condition of section 103(c)(6)(H) is that an election by the issuer of the $5 million exemption in lieu of the $1 million limit for a refunding issue may be made only if each prior issue being redeemed is an issue which qualified either for the $1 million exemption or, by reason of an election under section 103(c)(6)(D), for the $5 million exemption. In addition, in applying the capital expenditures test under section 103(c)(6)(D)(ii) and paragraph (b)(2)(i)(b) of this section to refinancing issues, section 103(c)(6)(D) capital expenditures are taken into account only for purposes of determining whether prior issues which were made under the section 103(c)(6)(D) election qualified under section 103(c)(6)(A) and would have continued to qualify under that section but for the redemption.

(d) *Certain prior issues taken into account*—(1) *In general.* Section 103(c)(6)(B) provides, in effect, that if (i) a prior issue specified in subparagraph (2) of this paragraph is an exempt small issue (including for this purpose an exempt small refunding issue) under section 103(c)(6)(A) and this section, and (ii) such prior issue is outstanding at the time of issuance of a subsequent issue, then in determining the aggregate face amount of such subsequent issue (for purposes of determining whether such issue is a $1 million or $5 million exempt small issue under section 103(c)(6)(A) and this section) there shall be taken into account the outstanding face amount of such prior exempt small issue. For purposes of this paragraph, the outstanding face amount of a prior exempt small issue does not include the face amount of any obligation which is to be redeemed from the proceeds of such subsequent issue.

(2) *Prior issues specified.* The face amount of an outstanding prior exempt small issue is taken into account under subparagraph (1) of this pargraph if—

(i) The proceeds of both the prior exempt small issue and of the subsequent issue (whether or not the State, etc., governmental unit issuing such obligation is the same unit for each such issue) are or will be used primarily with respect to facilities located or to be located in the same incorporated municipality or located or to be located in the same county outside of an incorporated municipality in such county, and

(ii) The principal user of the financed facilities referred to in subdivision (i) of this subparagraph is or will be the same person or two or more related persons (as defined in section 103(c)(6)(C) and paragraph (e) of this section).

(3) *Rules of application.* The rules of this paragraph shall apply—

(i) Only in the case of outstanding prior exempt small issues which are industrial development bonds to which section 103(c)(1) would have applied but for the provisions of section 103(c)(6). Thus, for example, the provisions of this paragraph do not apply in respect of a prior issue of obligations issued before April 30, 1968. In addition, the provisions of this paragraph do not apply in respect of a prior issue for an exempt facility under section 103(c)(4) and § 1.103–8, or for an industrial park under section 103(c)(5) and § 1.103–9, whether or not the issue might also have qualified as an exempt small issue under section 103(c)(6)(A) and this section.

(ii) To all prior exempt small issues which meet the requirements of this paragraph. Thus, for example, in determining the aggregate face amount of an issue under section 103(c)(6)(A), the outstanding face amount of prior $1 million or $5 million exempt small issues which meet the requirements of this paragraph shall be taken into account in determining the aggregate face amount of a subsequent issue being tested for the $1 million small issue exemption. Similarly, in determining the aggregate face amount of an issue under section 103(c)(6)(A) and (D), the outstanding face amount of prior $1 million or $5 million exempt small issues which meet the requirements of this paragraph shall be taken into account in determining the aggregate face amount of a subsequent issue being tested for the $5 million small issue exemption.

(e) *Related persons.* For purposes of section 103(c) and §§ 1.103–7 through 1.103–11, the term "related person" means a person who is related to another person if, on the date of issue of an issue of obligations—

(1) The relationship between such persons would result in a disallowance of losses under section 267 (relating to disallowance of losses, etc., between related taxpayers) and section 707(b) (relating to losses disallowed, etc., between partners and controlled partnerships) and the regulations thereunder, or

(2) Such persons are members of the same controlled group of corporations, as defined in section 1563(a), relating to definition of controlled group of corporations (except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)) and the regulations thereunder.

(f) *Examples.* The application of the rules contained in section 103(c)(6) and this section are illustrated by the following examples:

Example (1). County A and corporation X enter into an arrangement under which the county will provide a factory which X will lease for 25 years. The arrangement provides (1) that A will issue $1 million of bonds on March 1, 1970, (2) that the proceeds of the bond issue will be used to acquire land in County A (but not in an incorporated municipality) and to construct and equip a factory on such land in accordance with X's specifications, (3) that X will rent the facility for 25 years at an annual rental equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds, and (4) that such payments by X and the facility itself shall be the security for the bonds. Although the bonds issued are industrial development bonds, the bonds are an exempt small issue under section 103(c)(6)(A) and this section since the aggregate authorized face amount of the bond issue is $1 million or less and all of the proceeds of the bond issue are to be used to acquire and improve land and acquire and construct depreciable property. The result would be the same if the arrangement provided that X would purchase the facility from A.

Example (2). The facts are the same as in example (1) except that, instead of acquiring land and constructing a new factory, the arrangement provides that A will acquire a vacant existing factory building and rebuild and equip the building in accordance with X's specifications. The bonds are an exempt small issue for the same reasons as in example (1).

Example (3). The facts are the same as in example (1) or (2) except that the financed facilities are additions to facilities which were financed by an issue of bonds to which section 103(c)(1) does not apply because such bonds were issued prior to May 1, 1968, or were subject to the transitional provisions of § 1.103–12. The bonds are an exempt small issue since neither of the prior bond issues are taken into account under section 103(c)(6)(B) and this section in determining the status of industrial development bonds which are issued after April 30, 1968, and which are not subject to the transitional provisions of § 1.103–12.

Example (4). The facts are the same as in example (1) except that, subsequently, corporation X proposes to County A that A build a $400,000 warehouse located in Town M (an unincorporated town located in County A) for X under terms similar to the factory arrangement described in example (1). On the

proposed issue date of the subsequent bond issue, $600,000 of the first exempt small issue will be outstanding. If A issues $400,000 of bonds for such purposes, the bonds will be an exempt small issue under section 103(c)(6) and this section since, under the rules of section 103(c)(6)(B) and paragraph (d) of this section, if the aggregate authorized face amount of the new issue and the outstanding prior exempt small issue will be $1 million or less, the new issue will be an exempt small issue. If, however, the aggregate authorized face amount of the prior issue outstanding on the date of the subsequent issue were in excess of $600,000, the subsequent issue would not qualify as an exempt small issue because (1) the combined aggregate face amount of the outstanding prior issue and the new issue would be in excess of $1 million, (2) the facilities financed by both issues are to be located in unincorporated areas in the same county, (3) the same taxpayer will be the principal user of both facilities, and (4) but for the rules of section 103(c)(6)(B) and paragraph (d) of this section the prior issue would be an exempt small issue.

Example (5). The facts are the same as in example (1) except that subsequently corporation X proposes to City P and City R (incorporated municipalities located in County A) that P and R each issue bonds and each build $1 million facilities to be located in Cities P and R for the use of X under terms similar to the arrangement in example (1). Each of the $1 million issues will be an exempt small issue because each proposed facility is located within a different incorporated municipality and the proceeds of the prior outstanding exempt small issue were used to construct facilities outside of an incorporated area.

Example (6). The facts are the same as in example (1) except that $95,000 of the $1 million will be used by the corporation as working capital. The bonds are an exempt small issue for the same reason as in example (1) since substantially all of the proceeds will be used for the acquisition of land and the construction of depreciable property.

Example (7). The facts are the same as in example (1) except that on November 1, 1969, County A issued $10 million of industrial development bonds, all of the proceeds of which were issued for the acquisition of land as the site for an industrial park within the meaning of section 103(c)(5) and § 1.103–9. The proceeds of the $1 million of bonds issued in 1970 will be used to construct a factory for corporation X to be located in the industrial park. The bonds issued in 1970 are industrial development bonds within the meaning of section 103(c)(2) and § 1.103–7. Since, however, the prior 1969 issue is not an issue to which section 103(c)(6)(A) applied (see paragraph (d)(3)(i) of this section), the bonds issued in 1970 are an exempt small issue for the reasons stated in example (1).

Example (8). County B enters into three separate arrangements with three unrelated corporations whereby the county will provide separate storage facilities for each corporation. The arrangement provides (1) that the county will issue bonds and loan to each corporation $250,000 of the proceeds which will be used to acquire land in the county and to construct the facilities, (2) that the rental payments by the corporations will be equal to the amount necessary to amortize the principal and pay the interest on any outstanding bonds issued by the county, and (3) that the payments by the corporations and the facilities themselves shall be the security for the industrial development bonds. For convenience, the county issues one series of bonds in the face amount of $750,000 rather than three separate series of bonds of $250,000 each. The issue is an exempt small issue under section 103(c)(6)(A) and paragraph (b)(1) of this section since the aggregate authorized face amount of the bond issue is $1 million or less, and all of the proceeds of the bond issue are to be used to acquire and improve land and acquire and construct depreciable property.

Example (9). City C and corporation Y enter into an arrangement under which C will provide a factory which Y will lease for 25 years. The arrangement provides (1) that C will issue $4 million of bonds on March 1, 1969, after making the election under section 103(c)(6)(D) and paragraph (b)(2) of this section, (2) that the proceeds of the bond issue will be used to acquire land in the city and to construct and equip a factory on such land in accordance with Y's specifications, (3) that Y will rent the facilities for 25 years at an annual rental equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds, (4) that such payments by Y and the facility itself shall be the security for the bonds, and (5) that, if corporationY pays or incurs capital expenditures in excess of $1 million within 3 years from the date of issue which disqualify the bonds as an exempt small issue under section 103(c)(6)(D), it will either furnish funds to C to redeem such bonds at par or at a premium, or increase the rental payments to C in an amount sufficient to pay a premium interest rate. Although the bonds issued are industrial development bonds, they are an exempt small issue under section 103(c)(6)(A) by reason of the election under section 103(c)(6)(D) and paragraph (b)(2) of this section, since the aggregate authorized face amount of the bond issue is $5 million or less and all of the proceeds of the bond issue are to be used to acquire and improve land and acquire and construct depreciable property. The provisions for redemption of the bonds or an increase in rental if the bonds are disqualified as an exempt small issue under section 103(c)(6)(A) will not disqualify an otherwise valid election under section 103(c)(6)(D) and paragraph (b)(2) of this section.

Example (10). The facts are the same as in example (9) except that corporation Y subsequently proposed to the city that it build a $1 million warehouse next to the plant for the use of Y under terms similar to the factory arrangement. Assume further that the factory building was completed by March 1, 1970, and that on January 15, 1972, the proposed issue date of the subsequent bond issue, $2 million of the first exempt small issue will be outstanding. In determining the aggregate authorized face amount of the new issue, the original face amount of a prior outstanding issue must be reduced by that portion which is to be redeemed before it is added to the face amount of the new issue. Therefore, if the city issues $3 million of bonds to redeem the remaining $2 million of bonds and to construct the warehouse the bonds will be an exempt small issue under section 103(c)(6)(A) if an election is made under section 103(c)(6)(D) and paragraph (b)(2) of this section since (1) the face amount of the new issue ($3 million), plus (2) the face amount of the prior outstanding exempt small issue minus the amount of such issue to be refunded ($2 million minus $2 million), plus (3) capital expenditures during the preceding 3 years financed other than out of the proceeds of outstanding issues to which section 103(c)(6)(A) and paragraph (b) of this section applied ($2 million), do not exceed $5 million. If, however, the amount of the January 15, 1972, issue were $3½ million, the issue would not qualify as an exempt small issue under section 103(c)(6)(A) and paragraph (b)(2) of this section.

Example (11). The facts are the same as in example (9), except that on June 15, 1971, Y purchases from an unrelated motor carrier business a warehouse terminal in the same city at a cost of $250,000 and tractor-trailers and other automotive equipment based at the terminal at a cost of $1 million. This subsequent expenditure by Y has the effect of making the interest on the city C bonds includable in the gross income of the holders of such bonds as of June 15, 1971, because the face amount of the March 1, 1969, issue ($4 million) plus the subsequent capital expenditures within 3 years of the date of issue ($1,250,000) exceed $5 million. (See section 103(c)(6)(D) and paragraph (b)(2)(i) of this section.)

Example (12). The facts are the same as in example (9), except that in March, 1970, Y will move $3 million of additional used machinery and equipment into the factory from its factory in another city. The expenditures for such machinery and equipment were incurred by Y more than 3 years prior to the date of issue of the bonds. The transfer of such used equipment into city C does not constitute a section 103(c)(6)(D) capital expenditure within the meaning of paragraph (b)(2)(ii) of this section since the expenditures with respect to such property were incurred more than 3 years prior to the date of issue of the bonds. Had the capital expenditures with respect to such property been incurred during the 6-year period beginning 3 years before the date of issue of the bonds and in the 3 years after such date, they would constitute section 103(c)(6)(D) capital expenditures.

Example (13). The facts are the same as in example (9), except that in March 1970, corporation Y enters into an arrangement with respect to machinery and equipment to be used in the facility. The arrangement is labeled by the parties as a lease but is treated as a sale for Federal income tax purposes. The amount treated as the purchase price of the machinery and equipment is a section 103(c)(6)(D) capital expenditure.

Example (14). On February 1, 1970, city D issues $5 million of its bonds to finance construction of an addition to the manufacturing plant of corporation Z. The bonds will be secured by the facility and lease payments to be made by Z which will be sufficient to pay the principal and interest on such bonds. Assume that the bonds qualify as an exempt small issue under section 103(c)(6)(A) pursuant to an election under section 103(c)(6)(D) and paragraph (b)(2) of this section. On February 1, 1971, D plans to issue $1 million of its bonds to construct a pollution control facility to be leased to Z for use at its manufacturing plant. The rental payments from the lease will be sufficient to pay the principal and interest on the bonds. The bonds will be secured by such facility and the lease payments. Capital expenditures for the pollution control facility will be paid or incurred beginning before February 1, 1973. Although the pollution control facility is an exempt facility under section 103(c)(4)(F) and paragraph (g) of § 1.103–8, amounts used for the pollution control facility shall be considered to be a section 103(c)(6)(D) capital expenditure and the interest on the February 1, 1970, issue will become taxable as of the date such capital expenditure began to be paid or incurred. See section 103(c)(6)(G) and paragraph (b)(2)(i) of this section.

Example (15). On February 1, 1970, City E issues $500,000 of its bonds to acquire and develop an industrial park within the meaning of section 103(c)(5) and paragraph (b) of § 1.103–9. The park consists of 100 acres and is divided into one 50 acre plantsite and 4 smaller sites. The aggregate acquisition cost of the undeveloped land is $150,000 or

an average per acre cost of $1,500. Roads, sidewalks, sewers, utilities, sewage, and waste disposal facilities serving the entire industrial park cost $300,000. On September 1, 1970, E leases to corporation Y for 30 years the 50 acre plantsite (with an allocated cost of $75,000) and a railroad spur track from the railroad right of way to Y's plantsite for Y's exclusive use. The spur track was constructed using $50,000 of the proceeds of the industrial park bond issue. E also proposes to issue on September 1, 1970, $4,875,000 of its bonds to construct and equip a building on the leased plantsite to be leased to Y at an additional rental sufficient to pay the principal and interest on this issue of bonds. The September 1, 1970, issue will be an exempt small issue under section 103(c)(6)(A) pursuant to an election under section 103(c)(6)(D) and paragraph (b)(2) of this section since the sum of the amount of the second issue ($4,875,000) and the capital expenditures allocated to the plantsite ($75,000 for 50 acres of land plus $50,000 for the railroad spur tract, totaling $125,000) does not exceed $5 million. The sum of $300,000 which was spent in development of the industrial park provided facilities which will serve or benefit the users generally and hence under paragraph (b)(2)(iii) of this section is not considered to have provided facilities as to which Y will be the principal user.

Example (16). On June 1, 1970, corporation Z simultaneously enters into separate arrangements with City F and City G under which each city will issue a $5 million exempt small issue of bonds the proceeds of which will be used by Z to construct separate facilities in each city. By June 1, 1971, the the facilities have been completed in the respective cities. On January 1, 1972, Cities F and G, through a valid legal proceeding, merge into a new City FG. Since in this case F and G were separate cities on June 1, 1970 (the date of the bond issues), the factories are not considered to be located in the same incorporated municipality. Accordingly, each $5 million issue by City F and G will continue to qualify as an exempt small issue.

Example (17). On June 1, 1973, City H issues an exempt small issue of $4.75 million to finance a facility of corporation S to be located in City H. On October 1, 1974, S and corporation T, previously unrelated to S, consummated a statutory merger which qualifies as a reorganization described in section 368(a)(1)(A) and thus as a transaction described in section 381(a). In the transaction, T transferred to S assets with a fair market value of $1.5 million in exchange for stock of S, $300,000 of securities of S, and $100,000 cash. On March 23, 1971, T made $400,000 of capital expenditures for an addition to its factory located in City H. For purposes of testing the H issue of June 1, 1973, such expenditures would have been section 103(c)(6)(D) capital expenditures if T and S had been related persons. Under the provisions of paragraph (b)(2)(v)(*a*) of this section, the exchange of $1.5 million of stock, securities, and cash by S does not constitute a section 103(c)(6)(D) capital expenditure. Since, however, S and T are treated as related persons starting 3 years prior to the date of issue of the obligations, the $400,000 of expenditures by T constitute section 103(c)(6)(D) capital expenditures. Thus, the interest on the June 1, 1973, issue of obligations would become taxable (since the $5 million limit would be exceeded) on the date of the merger.

Example (18). In 1965 City I issues $10 million of industrial development bonds to construct and equip a factory for corporation Z. In 1975 the remaining principal amount of the bonds outstanding is $4.1 million. If I issues $4.5 million of bonds to redeem the balance of the prior issue, and for other purposes, such issue cannot qualify as an exempt small issue under section 103(c)(6)(D) and paragraph (b)(2) of this section even though at the time of issue the interest on the 1965 bonds was tax-exempt since the prior issue must be one which qualified under section 103(c)(6)(A) and this section. Further, the 1975 issue will be an issue of industrial development bonds notwithstanding the provisions of paragraph (d)(2) of § 1.103–7 which provides that certain bonds issued to refund an issue of obligations issued before April 30, 1968 (or January 1, 1969, in certain cases) will not be so treated. Paragraph (d)(2) of § 1.103–7 is not applicable because the 1975 issue makes funds available for a purpose other than the debt service obligation on the 1965 bonds.

Example (19). In 1969 City J issues $4 million of industrial development bonds which qualify as an exempt small issue under section 103(c)(6)(A) pursuant to an election under section 103(c)(6)(D) and paragraph (b)(2) of this section. In 1971, by reason of a $2 million addition to the factory built with the proceeds of the issue, the 1969 exempt small issue loses its tax-exempt status. In 1972, the city issues a $5 million issue to redeem the prior 1969 issue. The redemption issue will not qualify as an exempt small issue since the prior 1969 issue did not continue to qualify under section 103(c)(6)(A) and this section.

§ 1.103–11 Bonds held by substantial users.

(a) *In general.* Section 103(c)(4), (5), or (6) (relating respectively to interest on bonds to finance certain exempt facilities, interest on bonds to finance industrial parks, and the exemption for certain small issues of industrial development bonds) does not apply, as provided in section 103(c)(7), with respect to any obligation for any period during which such obligation is held either by a person who is a substantial user of the facilities with respect to which the proceeds of such obligation were used or by a related person (within the meaning of section 103(c)(6)(C) and paragraph (e) of § 1.103–10). Therefore, in such a case, interest paid on such an obligation is includable in the gross income of a substantial user (or related person) for any period during which such obligation is held by such user (or related person).

(b) *Substantial user.* In general, a substantial user of a facility includes any nonexempt person who regularly uses a part of such facility in his trade or business. However, depending upon the facts and circumstances, a nonexempt person may not be a substantial user of a facility a part of which he regularly uses in his trade or business if the area of the facility used by such nonexempt person is not substantial with respect to the area of the entire facility and the amount of revenue derived by such nonexempt person is insubstantial with respect to the revenue derived from the entire facility. Under certain facts and circumstances, where a nonexempt person has a contractual or preemptive right to the exclusive use of property or a portion of property, such person may be a substantial user of such property. A substantial user may also be a lessee or sublessee of all or any portion of the facility. A licensee or similar person may also be a substantial user where his use is regular and is not merely a casual, infrequent, or sporadic use of the facility. Absent special circumstances, individuals who are physically present on or in the facility as employees of a substantial user shall not be deemed to be substantial users.

(c) *Examples.* The application of section 103(c)(7) and this section are illustrated by the following examples:

Example (1). Pursuant to an arrangement with corporation X, County A issues $4 million of its bonds (an exempt small issue under section 103(c)(6)(A) pursuant to an election under section 103(c(6)(D) and paragraph (b)(2) of § 1.103–10) and will use the proceeds to finance construction of a manufacturing facility which is to be leased to X for an annual rental of $500,000. X subleases space to a restaurant operator at an annual rental of $25,000 for the operation of a canteen and lunch counter for the convenience of X's employees. The canteen is required to be open at least 5 days each week (except holidays) from 8:30 a.m. to 5 p.m., and the lunch counter must be in operation during the noon hour. The canteen regularly sells cigarettes, candy, and soft drinks, and uses advertising displays and dispensers with product names. The space physically occupied and the amount of revenue derived by the restaurant operator are substantial in relation to the facility as a whole. Both X and the restaurant operator are substantial users. However, absent special circumstances none of X's employees, the employees of the restaurant operator, or the customers or salesmen who regularly visit the premises to do business either with X or the restaurant operator are substantial users. Similarly, the manufacturers, distributors, and dealers of products sold in the canteen ordinarily are not substantial users.

Example (2). The facts are the same as in example (1) except that X rents business machines and a computer from the manufacturers. The machines are regularly serviced by local dealers under a contract with X or with the manufacturers of the machines and computers. Title to and ownership of the office machines are retained by the manufacturer. Neither the manufacturers nor the local dealers are deemed to be substantial users. Such dealers and manufacturers do not occupy a substantial part of the facility and they do not contribute to the rental paid for the facility.

Example (3). The facts are the same as in example (1) except that for the convenience of the employees, X arranges for the installation of coin-operated telephones, for coin-operated newspaper dispensing machines, and for the local transit company to operate a bus route to service the plant. A bus stop and waiting shelters are constructed by X on the premises. For the reasons indicated in examples (1) and (2), neither the telephone company, the newspaper distributor, nor the transit company are substantial users.

Example (4). City B proposes to issue $3 million of bonds which qualify as an exempt small issue under section 103(c)(6)(A) pursuant to an election under section 103(c)(6)(D) and paragraph (b)(2) of § 1.103–10 in order to construct a medical building for a number of physicians and dentists. The facility will contain twenty offices to be leased on equal terms and for the same rental rates to doctors and dentists for use in their trades or businesses. Each doctor or dentist will be a substantial user of the facility. The result would be the same

in the case of an office building for general commercial use.

Example (5). City C proposes to expand the airport it owns and operates with the proceeds of its bonds which qualify as bonds issued for an exempt facility under section 103(c)(4)(D) and paragraph (e) of § 1.103–8 and which are secured by a pledge of airport revenues. The airport is serviced by several commercial airlines which have long-term agreements with C for the use of runways, terminal space, and hangar and storage facilities. C also leases counter and vehicle servicing and parking areas to car rental companies, space for restaurants, kiosks for the sale of newspapers and magazines, and space for the operations of a charter plane company. The latter operates its own planes, offers flying lessons and services, and stores private planes for local businesses and individuals. An airport limousine company has an exclusive franchise for passenger pickup at the terminal. Other taxi, transfer, freight, and express companies regularly deliver passengers and freight to the terminal but do not have space regularly assigned to them, nor do they have operating agreements with C. Various business concerns have advertising product displays in the terminal building. In addition to regular telephone service, coin-operated telephones, provided by the telephone company, are located throughout the terminal, at locations specified by C. For the reasons set forth in examples (1) and (2), only the following would be deemed to be substantial users: the commercial airline companies, the car rental agencies, the operators of the restaurants and newsstands, the charter plane operator, and the airport limousine company. However, in the absence of special circumstances, neither the employees of these companies nor any of their customers or members of the general public would be considered to be substantial users. Notwithstanding the fact that other businesses, such as taxis and cargo handlers, regularly use the public areas or areas assigned to permanent tenants such as airlines, if they have no arrangements with C giving them a right to the exclusive use of any part of the airport facilities and their use is either incidental to utilization by the general public or to the business of one of the substantial users, ordinarily they are not substantial users. The storage of airplanes by customers of the charter plane operator in his facilities under his supervision and without any arrangement with C is not so substantial either in relation to the area occupied or the revenues produced by the airport to place such customers in the category of substantial users of the airport. Similarly, neither the telephone company nor the businesses which advertise through signs or displays are substantial users. They do not occupy a substantial area in the airport nor do they produce substantial airport revenues.

Example (6). City D issues $25 million of its revenue bonds and will use $10 million of the proceeds to finance construction of a sports facility which qualifies as an exempt facility under section 103(c)(4)(B) and paragraph (c) of § 1.103–8, $8 million to acquire and develop land as the site for an industrial park within the meaning of section 103(c)(5) and § 1.103–9, and $7 million to finance the construction of an office building to be used exclusively by the city, an exempt person. The revenues from the sports facility and the industrial park and all the facilities themselves will be the security for the bonds. The sports facility and the industrial park sites will be used in the trades or businesses of nonexempt persons. The bonds are industrial development bonds, but under the provisions of paragraph (a)(1) of § 1.103–8 and paragraph (a) of § 1.103–9, the interest on the $25 million issue will not be includable in gross income. However, the interest on bonds held shall be includable in the gross income of a substantial user of the sports facility or the industrial park if such substantial user holds any of the obligations of the $25 million issue.

§ 1.103–12 Transitional provisions.

(a) *In general.* Section 103(c) and § 1.103–7 through § 1.103–11 do not apply with respect to any obligation issued by a State, etc., governmental unit before January 1, 1969, if before May 1, 1968, any one of the conditions contained in paragraphs (b) through (e) of this section is satisfied. In addition, the interest paid on obligations described in paragraphs (f) and (g) of this section will not be includable in gross income by reason of the provisions of section 103(c) and §§ 1.103–7 through 1.103–11 if the provisions of those paragraphs are satisfied even though such obligations were issued after January 1, 1969. For purposes of this section, obligations are considered to be issued on the date on which there is a physical delivery of the evidences of indebtedness in exchange for the amount of the issue price. For example, a bond issue is "issued" when the issuer physically exchanges the bonds for the underwriter's (or other purchaser's) check. Obligations which are taken down after December 31, 1968, by purchasers pursuant to a delayed delivery agreement with the issuer are, therefore, subject to the rules contained in section 103(c) and § 1.103–7 to § 1.103–11.

(b) *Authorized or approved by State, etc., governmental unit.* The interest paid on any such industrial development bond is not includable in gross income by reason of section 103(c) and §§ 1.103–7 through 1.103–11 if, before May 1, 1968, the issuance of the obligation (or the project in connection with which the proceeds of the bond issue are to be used) was authorized or approved by the governing body of the unit issuing the obligation or by the voters of such unit. Therefore, if the governing body of the State, etc., governmental unit issuing industrial development bonds had, prior to May 1, 1968, adopted a resolution or an ordinance which authorized or approved either (1) the project being financed or (2) the bond issue, then the rules of section 103(c) and § 1.103–7 do not apply to the bond issue. A resolution or an ordinance may for example, have, approved a designated project and authorized the later issuance of one or more series of bonds to finance the project. It may have approved the submission of a particular bond issue to the voters for their authorization. Similarly, if prior to May 1, 1968, the voters of a State, etc., governmental unit have approved the issuance of such bonds for a designated project, section 103(c) is not applicable to the bond issue.

(c) *Significant financial commitment by State, etc., governmental unit.* The interest paid on any such industrial development bond is not includable in gross income by reason of section 103(c) and § 1.103–7 through § 1.103–11 if, before May 1, 1968, a State, etc., governmental unit made a signficant financial commitment in connection with the issuance of such obligation, with the use of the proceeds to be derived from the sale of such obligation, or with the property to be acquired or improved with such proceeds. The unit making the significant financial commitment with respect to a project financed by the proceeds of an industrial development bond issue need not be the same unit issuing the bonds. For example, a significant financial commitment may be made if a State builds access roads to a project in one of its counties which will issue the bonds. Similarly, if a city or county makes a significant financial commitment to build roads, power lines, or sewer lines to a project within its jurisdiction which is being financed by a separate State, etc., governmental unit, such as an industrial development board, the condition of this subparagraph is satisfied. For purposes of this subparagraph, the term "significant financial commitment" means the expenditure of (or a commitment to expend) a sizable amount of money. The amount involved need not be compared to the size of the financed project. For example, a commitment to expend $250,000 in connection with a $10 million project would be considered significant.

(d) *Expenditures equal to 20 percent of bond proceeds.* The interest paid on any such industrial development bond is not includable in gross income by reason of section 103(c) and §§ 1.103–7 through 1.103–11 if, before May 1, 1968, any person other than a State, etc., governmental unit who will use the proceeds to be derived from the sale of such obligation, or who will use the property to be acquired or improved with such proceeds, expended (or entered into a binding contract to expend), for purposes which are related to the use of such proceds or property, an amount equal to or in excess of 20 percent of such proceeds. A prospective user of the proceeds of an industrial development bond issue, or property to be acquired with such proceeds, will be considered to have entered into a binding contract to expend money for purposes related to the project if (1) such person entered into a contract for fuel, power, water, or raw materials and (2) any conditions to which the obligations of one or more parties to such contract are subject are beyond the control of such parties. For example, a binding contract for alumina entered into in connection with the financing of an aluminum reduction mill or such a contract to purchase timber land in connection with a paper mill are contracts related to the use of the financed facility. For purposes of determining whether the expenditures of the prospective user are equal to or in excess of 20 percent of the bond proceeds, binding contracts will be taken into account on the basis of the amounts to be expended over the term of the contract.

(e) *Approval by economic development agency.* The interest paid on any such industrial development bond is not includable in gross income by reason of section 103(c) and §§ 1.103–7 through 1.103–11 if, before May 1, 1968, in the case of an obligation issued in conjunction with a project where financial assistance will be provided by a governmental agency concerned with economic development, such agency approved the project or an application for financial assistance was pending. For purposes of this subparagraph, the term "financial assistance" includes a guaranty by the agency of the payment of the principal and interest on an obligation by a State, etc., governmental unit as well as direct financial aid such as a loan or grant-in-aid made by the unit. For example, section 103(c) and § 1.103–7 do not apply if the Federal Economic Development Administration has approved a grant in connection with a project to be financed by industrial development bonds. Similarly, where a State agency has approved a project and the agency has guaranteed the payment of the principal and interest on the bonds, those rules do not apply. The governmental agency concerned with economic development may be a Federal, State, or local agency. The financial assistance extended need not be directly either to the State, etc., governmental unit issuing the industrial development bonds or to the person who will use the property acquired or constructed with the bond proceeds. It is sufficient that the assistance extended be in conjunction with a project which includes the property in respect of which the bonds are issued.

(f) *Certain cost overrun issues.* (1) If substantially all of the proceeds of one or more issues of obligations is to be used to finance a cost overrun (within the meaning of subparagraph (2) of this paragraph) on a facility used in the trade or business of a nonexempt person, the provisions of section 103(c) and § 1.103–7 through § 1.103–11 shall not apply to such cost overrun issue or issues.

(2) For purposes of this paragraph, the term "cost overrun" means the amount necessary to complete a facility, but only if such facility was reasonably expected to be completed with the proceeds of one or more prior issues described in subparagraph (3) of this paragraph, and only if all of the following conditions of this subparagraph are satisfied. Such facility must have been financed with the proceeds of one or more such prior issues in accordance with architectural and engineering plans adopted at the time such prior issue (or the latest prior issue if more than one such prior issue) was issued. The amount of "cost overrun" shall be limited to the amount by which the actual cost of such facility exceeds the reasonably estimated cost of such facility in accordance with such plans at the time that such prior issue (or the latest such prior issue if more than one such prior issue) was issued.

(3) A prior issue of obligations is described in this subparagraph if section 103(c)(1) did not apply to such prior issue because it was issued before May 1, 1968 (or before January 1, 1969, if the transitional provisions of paragraphs (a) through (e) of this section apply to such issue).

(g) *Special rule for certain State, etc., governmental obligations authorized prior to June 5, 1971.* (1) For purposes of section 103(c) and paragraph (b)(3) of § 1.103–7, the use of 35 percent or less of the proceeds of an issue of obligations described in subparagraph (2) of this paragraph in the trades or businesses of nonexempt persons shall not constitute the use of a major portion of such proceeds in such manner.

(2) An issue of obligations is described in this subparagraph if—

(i) Such issue of obligations was issued prior to June 6, 1971, or

(ii) (*a*) The issuance of such obligations was specifically authorized by an Act or Ordinance of a State, etc., governmental unit enacted prior to June 5, 1971,

(*b*) The aggregate face amount of obligations which may be issued pursuant thereto is limited to a specific dollar amount by such Act or Ordinance, and

(*c*) The sum of the aggregate face amount of obligations issued pursuant to such authorization prior to the time of issuance of the issue being tested and the face amount of the issue being tested does not exceed the dollar amount of such limitation in effect on June 5, 1971.

[FR Doc.71–7734 Filed 6–4–71;8:45 am]

[26 CFR Parts 53, 143]

FOUNDATION EXCISE TAXES

Taxes on Self-Dealing

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by July 6, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 6, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] VERNON D. ACREE,
Acting Commissioner of Internal Revenue.

The following regulations are prescribed under section 4941 of the Internal Revenue Code of 1954, as enacted by section 101(b) of the Tax Reform Act of 1969 (83 Stat. 498), relating to taxes on acts of self-dealing between a disqualified person and a private foundation. Temporary Treasury Regulations § 143.2 (T.D. 7030, 35 F.R. 4293) (1970), § 143.4 (T.D. 7034, 35 F.R. 4703) (1970), § 143.5 (T.D. 7036, 35 FR. 6322) (1970), and (insofar as related to section 4941) § 143.8 (T.D. 7042, 35 F.R. 7727) (1970) are superseded and the following regulations are added. Except as otherwise specifically provided, these regulations are applicable to all acts of self-dealing engaged in after December 31, 1969.

Subpart B—Taxes on Self-Dealing

Sec.

Subpart B—Taxes on Self-Dealing

§ 53.4941(a) Statutory provisions; exempt organizations; private foundations; taxes on self-dealing.

SEC. 4941. *Taxes on self-dealing*—(a) *Initial taxes*—(1) *On self-dealer.* There is hereby imposed a tax on each act of self-dealing between a disqualified person and a private foundation. The rate of tax shall be equal to 5 percent of the amount involved with respect to the act of self-dealing for each year (or part thereof) in the taxable period. The tax imposed by this paragraph shall be paid by any disqualified person (other than a foundation manager acting only as such) who participates in the act of self-dealing.

In the case of a government official (as defined in section 4946(c)), a tax shall be imposed by this paragraph only if such disqualified person participates in the act of self-dealing knowing that it is such an act.

(2) *On foundation manager.* In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any foundation manager in an act of self-dealing between a disqualified person and a private foundation, knowing that it is such an act, a tax equal to 2½ percent of the amount involved with respect to the act of self-dealing for each year (or part thereof) in the taxable period, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any foundation manager who participated in the act of self-dealing.

§ 53.4941(a)–1 Imposition of initial taxes.

(a) *Tax on self-dealer*—(1) *In general.* Section 4941(a)(1) of the Code imposes an excise tax on each act of self-dealing between a disqualified person (as defined in section 4946(a)) and a private foundation. Except as provided in subparagraph (2) of this paragraph, this tax

shall be imposed on a disqualified person even though he had no knowledge at the time of the act that such act constituted self-dealing. The tax imposed by section 4941(a)(1) is at the rate of 5 percent of the amount involved (as defined in section 4941(e)(2) and § 53.4941(e)-1(b)) with respect to the act of self-dealing for each year or partial year in the taxable period (as defined in section 4941(e)(1)) and shall be paid by any disqualified person (other than a foundation manager acting only in the capacity of a foundation manager) who participates in the act of self-dealing. However, if a foundation manager is also acting as a self-dealer, he may be liable for both the tax imposed by section 4941(a)(1) and the tax imposed by section 4941(a)(2).

(2) *Government officials.* In the case of a government official (as defined in section 4946(c)), the tax shall be imposed only if the government official who participates in the act has knowledge that such act is an act of self-dealing. For purposes of section 4941, a government official shall be considered to have participated in an act "knowing" that it is an act of self-dealing if he knows or has reason to know that it is an act of self-dealing.

(3) *Participation.* For purposes of this paragraph, a disqualified person shall be treated as participating in an act of self-dealing in any case in which he engages or takes part in the transaction by himself or with others, or directs any person to do so.

(b) *Tax on foundation manager*—(1) *In general.* Section 4941(a)(2) of the Code imposes an excise tax on the participation of any foundation manager in an act of self-dealing between a disqualified person and a private foundation. This tax is imposed in any case in which a tax is imposed by section 4941(a)(1) if such participating foundation manager has knowledge that the act is an act of self-dealing, unless the participation by the foundation manager is not willful and is due to reasonable cause. The tax imposed by section 4941(a)(2) is at the rate of 2½ percent of the amount involved with respect to the act of self-dealing for each year or partial year in the taxable period and shall be paid by any foundation manager who participated in the act of self-dealing.

(2) *Participation.* The term "participation" shall include silence or inaction on the part of a foundation manager where he is under a duty to speak or act, as well as any affirmative action by such manager. However, a foundation manager will not be considered to have participated in an act of self-dealing where he has opposed such act in a manner consistent with the fulfillment of his responsibilities to the private foundation.

(3) *Knowing.* For purposes of section 4941, a foundation manager shall be considered to have participated in a transaction "knowing" that it is an act of self-dealing if he knows or has reason to know that it is an act of self-dealing.

(4) *Willful.* Participation by a foundation manager shall be deemed willful if it is voluntary, conscious, and intentional. No motive to avoid the restrictions of the law or the incurrence of any tax is necessary to make the participation willful. However, participation by a foundation manager is not willful if he does not know or have reason to know that the transaction in which he is participating is an act of self-dealing.

(5) *Due to reasonable cause.* A foundation manager's participation is due to reasonable cause if he has exercised ordinary business care and prudence. If a foundation manager relied on the advice of counsel that the proposed transaction would not be an act of self-dealing, the foundation manager's participation in such transaction would generally be considered "not willful" and "due to reasonable cause".

(c) *Cross reference.* For provisions relating to the burden of proof in cases involving the issue whether a foundation manager or a government official has knowingly participated in an act of self-dealing, see section 7454(b).

§ 53.4941(b) Statutory provisions; private foundations; taxes on self-dealing; additional taxes.

SEC. 4941. *Taxes on self-dealing.* * * *

(b) *Additional taxes*—(1) *On self-dealer.* In any case in which an initial tax is imposed by subsection (a)(1) on an act of self-dealing by a disqualified person with a private foundation and the act is not corrected within the correction period, there is hereby imposed a tax equal to 200 percent of the amount involved. The tax imposed by this paragraph shall be paid by any disqualified person (other than a foundation manager acting only as such) who participated in the act of self-dealing.

(2) *On foundation manager.* In any case in which an additional tax is imposed by paragraph (1), if a foundation manager refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount involved. The tax imposed by this paragraph shall be paid by any foundation manager who refused to agree to part or all of the correction.

§ 53.4941(b)-1 Imposition of additional taxes.

(a) *Tax on self-dealer.* Section 4941(b)(1) of the Code imposes an excise tax in any case in which an initial tax is imposed by section 4941(a)(1) on an act of self-dealing by a disqualified person with a private foundation and the act is not corrected within the correction period (as defined in paragraph (d) of § 53.4941(e)-1). The tax imposed by section 4941(b)(1) is at the rate of 200 percent of the amount involved and shall be paid by any disqualified person (other than a foundation manager acting only in the capacity of a foundation manager) who participated in the act of self-dealing.

(b) *Tax on foundation manager.* Section 4941(b)(2) of the Code imposes an excise tax to be paid by a foundation manager in any case in which a tax is imposed by section 4941(b)(1) and the foundation manager refused to agree to part or all of the correction of the self-dealing act. The tax imposed by section 4941(b)(2) is at the rate of 50 percent of the amount involved and shall be paid by any foundation manager who refused to agree to part or all of the correction of the self-dealing act. For the limitations on liability of a foundation manager, see §§ 53.4941(c)-1(b).

§ 53.4941(c) Statutory provisions; private foundations; taxes on self-dealing; special rules.

SEC. 4941. *Taxes on self-dealing.* * * *

(c) *Special rules.* For purposes of subsections (a) and (b)—

(1) *Joint and several liability.* If more than one person is liable under any paragraph of subsection (a) or (b) with respect to any one act of self-dealing, all such persons shall be jointly and severally liable under such paragraph with respect to such act.

(2) *$10,000 limit for management.* With respect to any one act of self-dealing, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $10,000.

§ 53.4941(c)-1 Special rules.

(a) *Joint and several liability.* (1) In any case where more than one person is liable for the tax imposed by any paragraph of section 4941 (a) or (b), all such persons shall be jointly and severally liable for the taxes imposed under such paragraph with respect to such act of self-dealing.

(2) The provisions of this paragraph may be illustrated by the following example:

Example. A and B, who are managers of private foundation X, lend one of the foundation's paintings to P, a disqualified person, for display in P's office, in a transaction which gives rise to liability for tax under section 4941(a)(2) (relating to tax on foundation managers). An initial tax is imposed on the act of lending the foundation's painting to P. A and B are jointly and severally liable for the tax.

(b) *Limits on liability for management.* (1) The maximum amount of tax imposed by section 4941(a)(2) with respect to any one act of self-dealing shall be $10,000, and the maximum amount of tax imposed by section 4941(b)(2) with respect to any one act of self-dealing shall be $10,000.

(2) The provisions of this paragraph may be illustrated by the following example:

Example. A, a disqualified person with respect to private foundation Y, sells certain real estate having a fair market value of $500,000 to Y for $500,000 in cash. R, S, and T, all managers of foundation Y, authorized the purchase on Y's behalf knowing that such purchase was an act of self-dealing. This paragraph limits the total tax which can be imposed by section 4941(a)(2) on the foundation managers to $10,000. Under section 4941(c)(1), R, S, and T are jointly and severally liable for such $10,000 with respect to such act.

§ 53.4941(d) Statutory provisions; exempt organizations; private foundations; taxes on self-dealing, self-dealing defined.

SEC. 4941. *Taxes on self-dealing.* * * *

(d) *Self-dealing*—(1) *In general.* For purposes of this section, the term "self-dealing" means any direct or indirect—

(A) Sale or exchange, or leasing, of property between a private foundation and a disqualified person;

(B) Lending of money or other extension of credit between a private foundation and a disqualified person;

(C) Furnishing of goods, services, or facilities between a private foundation and a disqualified person;

(D) Payment of compensation (or payment or reimbursement of expenses) by a private foundation to a disqualified person;

(E) Transfer to, or use by or for the benefit of, a disqualified person of the income or assets of a private foundation; and

(F) Agreement by a private foundation to make any payment of money or other property to a government official (as defined in section 4946(c)), other than an agreement to employ such individual for any period after the termination of his government service if such individual is terminating his government service within a 90-day period.

(2) *Special rules.* For purposes of paragraph (1)—

(A) The transfer of real or personal property by a disqualified person to a private foundation shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien which the foundation assumes or if it is subject to a mortgage or similar lien which a disqualified person placed on the property within the 10-year period ending on the date of the transfer;

(B) The lending of money by a disqualified person to a private foundation shall not be an act of self-dealing if the loan is without interest or other charge and if the proceeds of the loan are used exclusively for purposes specified in section 501(c)(3);

(C) The furnishing of goods, services, or facilities by a disqualified person to a private foundation shall not be an act of self-dealing if the furnishing is without charge and if the goods, services, or facilities so furnished are used exclusively for purposes specified in section 501(c)(3);

(D) The furnishing of goods, services, or facilities by a private foundation to a disqualified person shall not be an act of self-dealing if such furnishing is made on a basis no more favorable than that on which such goods, services, or facilities are made available to the general public;

(E) Except in the case of a government official (as defined in section 4946(c)), the payment of compensation (and the payment or reimbursement of expenses) by a private foundation to a disqualified person for personal services which are reasonable and necessary to carrying out the exempt purpose of the private foundation shall not be an act of self-dealing if the compensation (or payment or reimbursement) is not excessive;

(F) Any transaction between a private foundation and a corporation which is a disqualified person (as defined in section 4946(a)), pursuant to any liquidation, merger, redemption, recapitalization, or other corporate adjustment, organization, or reorganization, shall not be an act of self-dealing if all of the securities of the same class as that held by the foundation are subject to the same terms and such terms provide for receipt by the foundation of no less than fair market value; and

(G) In the case of a government official (as defined in section 4946(c)), paragraph (1) shall in addition not apply to—

(i) Prizes and awards which are subject to the provisions of section 74(b), if the recipient of such prizes and awards are selected from the general public,

(ii) Scholarships and fellowship grants which are subject to the provisions of section 117(a) and are to be used for study at an educational institution described in section 151(e)(4),

(iii) Any annuity or other payment (forming part of a stock-bonus, pension, or profit-sharing plan) by a trust which is a qualified trust under section 401,

(iv) Any annuity or other payment under a plan which meets the requirements of section 404(a)(2),

(v) Any contribution or gift (other than a contribution or gift of money) to, or services or facilities made available to, any such individual, if the aggregate value of such contributions, gifts, services, and facilities to, or made available to, such individual during any calendar year does not exceed $25,

(vi) Any payment made under chapter 41 of title 5, United States Code, or

(vii) Any payment or reimbursement of traveling expenses for travel solely from one point in the United States to another point in the United States, but only if such payment or reimbursement does not exceed the actual cost of the transportation involved plus an amount for all other traveling expenses not in excess of 125 percent of the maximum amount payable under section 5702(a) of title 5, United States Code, for like travel by employees of the United States.

§ 53.4941(d)–1 Definition of self-dealing.

(a) *In general.* For purposes of section 4941, the term "self-dealing" means any direct or indirect transaction described in § 53.4941(d)–2. For purposes of this section it is immaterial whether the transaction results in a benefit or a detriment to the private foundation. An act of self-dealing may include a transaction between a private foundation and a disqualified person even though the status of the disqualified person arises only as a result of such transaction. For example, the bargain sale of property to a private foundation is an act of self-dealing even if the seller becomes a disqualified person by reason of his becoming a substantial contributor only as a result of the bargain element of the sale. For the effect of sections 4942, 4943, 4944, and 4945 upon an act of self-dealing which also results in the imposition of tax under one or more of such sections, see the regulations under those sections.

(b) *Indirect self-dealing*—(1) *Certain business transactions.* The term "indirect self-dealing" shall not include any transaction described in § 53.4941(d)–2 between a disqualified person and an organization controlled by a private foundation (within the meaning of subparagraph (5) of this paragraph) if—

(i) The transaction results from a business relationship which was established before such transaction constituted an act of self-dealing (without regard to this paragraph),

(ii) The transaction was at least as favorable to the organization controlled by the foundation as an arm's length transaction with an unrelated person, and

(iii) Either—

(*a*) The organization controlled by the foundation could have engaged in the transaction with someone other than a disqualified person only at a severe economic hardship to such organization, or

(*b*) Because of the unique nature of the product or services provided by the organization controlled by the foundation, the disqualified person could not have engaged in the transaction with anyone else, or could have done so only by incurring severe economic hardship. See example (2) of subparagraph (6) of this paragraph.

(2) *Grants to intermediaries.* The term "indirect self-dealing" shall not include a transaction engaged in with a government official by an intermediary organization which is a recipient of a grant from a private foundation and which is not controlled by such foundation (within the meaning of subparagraph (5) of this paragraph) if the private foundation does not earmark the use of the grant for any named government official and does not retain power to cause the selection of the government official by the intermediary organization. A grant by a private foundation is earmarked if such grant is made pursuant to an agreement, either oral or written, that the grant will be used by any named individual. Thus, a grant by a private foundation shall not constitute an indirect act of self-dealing even though such foundation had reason to believe that certain government officials would derive benefits from such grant so long as the intermediary organization exercises control, in fact, over the selection process and actually makes the selection completely independently of the private foundation. See example (3) of subparagraph (6) of this paragraph.

(3) *Transactions during the administration of an estate.* The term "indirect" self-dealing shall not include a transaction with respect to property (whether or not appreciated or encumbered) held by an estate of which a private foundation is a beneficiary, regardless of when title to the property vests under local law, if—

(i) The administrator or executor possesses a power of sale with respect to the property or has the power to reallocate the property to another beneficiary;

(ii) Such transaction is approved by the probate court having jurisdiction over the estate;

(iii) Such transaction occurs before the estate is considered terminated for Federal income tax purposes pursuant to paragraph (a) of § 1.641(b)–3 of this chapter; and

(iv) The foundation receives an amount which equals or exceeds the fair market value of its interest in such property at the time the probate court approves such transaction, and such transaction was at least as favorable to the foundation as an arm's length transaction with an unrelated person. See example (4) of subparagraph (6) of this paragraph.

(4) *Transactions with certain organizations.* A transaction between a private foundation and an organization which is not controlled by the foundation (within the meaning of subparagraph (5) of this paragraph), and which is not described in section 4946(a)(1) (E), (F), or (G) because persons described in section 4946(a)(1) (A), (B), (C), or (D) own

no more than 35 percent of the total combined voting power or profits or beneficial interest of such organization, shall not be treated as an indirect act of self-dealing between the foundation and such disqualified persons solely because of the ownership interest of such persons in such organization.

(5) *Control.* For purposes of this paragraph, an organization is controlled by a private foundation if—

(i) The foundation or one or more of its foundation managers acting only in such capacity may, by aggregating their votes or positions of authority, or

(ii) One or more disqualified persons who are engaging in a transaction which is referred to in subparagraph (1), (2), or (4) of this paragraph, or one or more persons standing in a relationship to such disqualified persons within the meaning of section 4946(a)(1) (C) through (G), may, only by aggregating their votes or positions of authority with that of the foundation,

require the organization to act or refrain from acting in a manner which would constitute self-dealing under section 4941. The "controlled" organization need not be a private foundation; for example, it may be any type of exempt or nonexempt organization including a school, hospital, operating foundation, or social welfare organization. See example (5) of subparagraph (6) of this paragraph.

(6) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). Private foundation P owns the controlling interest of the voting stock of corporation X, and as a result of such interest, elects a majority of the board of directors of X. Two of the foundation managers, A and B, who are also directors of corporation X, form corporation Y for the purpose of building and managing a country club. A and B receive a total of 40 percent of Y's stock, making Y a disqualified person with respect to P under section 4946(a)(1)(E). In order to finance the construction and operation of the country club, Y requested and received a loan in the amount of $4 million from X. The making of the loan by X to Y shall constitute an indirect act of self-dealing between P and Y.

Example (2). Private foundation W owns the controlling interest of the voting stock of corporation X, a manufacturer of certain electronic computers. Corporation Y, a disqualified person with respect to W, owns the patent for, and manufactures, one of the essential component parts used in the computers. X has been making regular purchases of the patented component from Y since 1965, subject to the same terms as all other purchasers of such component parts. X could not buy similar components from another source. Consequently, X would suffer severe economic hardship if it could not continue to purchase these components from Y, since it would then be forced to develop a computer which could be constructed with other components. Under these circumstances, the continued purchase by X from Y of these components shall not be an indirect act of self-dealing between W and Y.

Example (3). Private foundation Y made a grant to M University, an organization described in section 170(b)(1)(A)(ii), for the purpose of conducting a seminar to study methods for improving the administration of the judicial system. M is not controlled by Y within the meaning of subparagraph (5) of this paragraph. In conducting the seminar, M made payments to certain government officials. By the nature of the grant, Y had reason to believe that government officials would be compensated for participation in the seminar. M, however, had completely independent control over the selection of such participants. Thus, such grant by Y shall not constitute an indirect act of self-dealing with respect to the government officials.

Example (4). X bequeathed $100,000 to his wife and a piece of unimproved real estate of equivalent value to private foundation Z, of which X was the creator and a foundation manager. Under the laws of State Y, to which the estate is subject, title to the real estate vests in the foundation upon X's death. However, the executor has the power under State law to reallocate the property to another beneficiary. During a reasonable period for administration of the estate, the executor exercises this power and distributes the $100,000 cash to the foundation and the real estate to X's wife. The probate court having jurisdiction over the estate approves the executor's action at a time when the real estate is worth $100,000. Under these circumstances, the executor's action does not constitute an indirect act of self-dealing between the foundation and X's wife.

Example (5). Private foundation F owns 20 percent of the voting stock of corporation W. A, a substantial contributor with respect to F, owns 16 percent of the voting stock of corporation W. B, A's son, owns 15 percent of the voting stock of corporation W. The terms of the voting stock are such that F, A, and B could vote their stock in a block to elect a majority of the board of directors of W. W is treated as controlled by F (within the meaning of subparagraph (5)(ii) of this paragraph) for the purposes of this paragraph. A and B also own 50 percent of the stock of corporation Y, making Y a disqualified person with respect to F under section 4946(a)(1)(E). W makes a loan to Y of $1,000,000. The making of this loan by W to Y shall constitute an indirect act of self-dealing between F and Y.

§ 53.4941(d)–2 Specific acts of self-dealing.

Except as provided in § 53.4941(d)–3 or § 53.4941(d)–4—

(a) *Sale or exchange of property*—(1) *In general.* The sale or exchange of property between a private foundation and a disqualified person shall constitute an act of self-dealing. For example, the sale of incidental supplies by a disqualified person to a private foundation shall be an act of self-dealing regardless of the amount paid to the disqualified person for the incidental supplies. Similarly, the sale of stock or other securities by a disqualified person to a private foundation in a "bargain sale" shall be an act of self-dealing regardless of the amount paid for such stock or other securities. An installment sale may be subject to the provisions of both section 4941(d)(1)(A) and section 4941(d)(1)(B).

(2) *Mortgaged property.* For purposes of subparagraph (1) of this paragraph, the transfer of real or personal property by a disqualified person to a private foundation shall be treated as a sale or exchange if the foundation assumes a mortgage or similar lien which was placed on the property prior to the transfer, or takes subject to a mortgage or similar lien which a disqualified person placed on the property within the 10-year period ending on the date of transfer. For purposes of this subparagraph, the term "similar lien" shall include, but is not limited to, deeds of trust and vendors' liens, but shall not include any other lien if such lien is insignificant in relation to the fair market value of the property transferred.

(b) *Leases*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph, the leasing of property between a disqualified person and a private foundation shall constitute an act of self-dealing.

(2) *Certain leases without charge.* The leasing of property by a disqualified person to a private foundation shall not be an act of self-dealing if the lease is without charge.

For purposes of this subparagraph, a lease shall be considered to be without charge even though the private foundation pays for janitorial services, utilities, or other maintenance costs it incurs for the use of the property, as long as the payment is not made directly or indirectly to a disqualified person.

(c) *Loans*—(1) *In general.* Except as provided in subparagraphs (2), (3), and (4) of this paragraph, the lending of money or other extension of credit between a private foundation and a disqualified person shall constitute an act of self-dealing. Thus, for example, an act of self-dealing occurs where a third party purchases property and assumes a mortgage, the mortgagee of which is a private foundation, and subsequently the third party transfers the property to a disqualified person who either assumes liability under the mortgage or takes the property subject to the mortgage. Similarly, except in the case of the receipt and holding of a note pursuant to a transaction described in § 53.4941(d)–1(b)(3), an act of self-dealing occurs where a note, the obligor of which is a disqualified person, is transferred by a third party to a private foundation which becomes the creditor under the note.

(2) *Loans without interest.* Subparagraph (1) of this paragraph shall not apply to the lending of money or other extension of credit by a disqualified person to a private foundation if the loan or other extension of credit is without interest or other charge.

(3) *Certain pledges.* The making of a pledge to a private foundation by a disqualified person shall not constitute a loan or other extension of credit within the meaning of this subparagraph.

(4) *General banking functions.* Under section 4941(d)(2)(E) the performance by a bank or trust company which is a disqualified person of general banking services (such as the maintenance of checking and savings accounts) for a private foundation is not an act of self-dealing, where the banking services are reasonable and necessary to carrying out the exempt purposes of the private foundation, if the compensation paid to the

bank or trust company, taking into account the fair interest rate for the use of the funds by the bank or trust company, for such services is not excessive. See example (3) of § 53.4941(d)-3(c)(2).

(d) *Furnishing goods, services, or facilities*—(1) *In general.* Except as provided in subparagraph (2) or (3) of this paragraph (or § 53.4941(d)-3(b)), the furnishing of goods, services, or facilities between a private foundation and a disqualified person shall constitute an act of self-dealing. This subparagraph shall apply, for example, to the furnishing of goods, services, or facilities such as office space, automobiles, auditoriums, secretarial help, meals, libraries, publications, laboratories, or parking lots. Thus, for example, if a foundation furnishes personal living quarters to a disqualified person (other than a foundation manager) without charge, such furnishing shall be an act of self-dealing.

(2) *Furnishing of goods, services, or facilities to foundation managers.* The furnishing of goods, services, or facilities such as those described in subparagraph (1) of this paragraph to a foundation manager in recognition of his services as a foundation manager is not an act of self-dealing if the value of such furnishing (whether or not includible as compensation in his gross income) is reasonable and necessary to the performance of his tasks in carrying out the exempt purposes of the foundation and (taken in conjunction with any other payment of compensation or payment or reimbursement of expenses to him by the foundation) is not excessive. For example, if a foundation furnishes meals and lodging which are reasonable and necessary (but not excessive) to a foundation manager by reason of his being a foundation manager, then, even if such meals and lodging are excludable from gross income under section 119 as furnished for the convenience of the employer, such furnishing is not an act of self-dealing. For the effect of section 4945(d)(5) upon an expenditure for unreasonable administrative expenses, see § 53.4945-6(b)(2).

(3) *Furnishing of goods, services, or facilities by a disqualified person without charge.* The furnishing of goods, services, or facilities by a disqualified person to a private foundation shall not be an act of self-dealing if they are furnished without charge. Thus, for example, the furnishing of goods such as pencils, stationery, or other incidental supplies or the furnishing of facilities such as a building by a disqualified person to a foundation shall be allowed if such supplies or facilities are furnished without charge. Similarly, the furnishing of services (even though such services are not personal in nature) shall be permitted if such furnishing is without charge.

(e) *Payment of compensation.* The payment of compensation (or payment or reimbursement of expenses) by a private foundation to a disqualified person shall constitute an act of self-dealing. See, however, paragraph (c) of § 53.4941(d)-3 for the exception for the payment of compensation by a foundation to a disqualified person for personal services which are reasonable and necessary to carry out the exempt purposes of the foundation.

(f) *Transfer or use of the income or assets of a private foundation*—(1) *In general.* The transfer to, or use by or for the benefit of, a disqualified person of the income or assets of a private foundation shall constitute an act of self-dealing. For purposes of the preceding sentence, the payment by a private foundation of any tax imposed on a disqualified person by chapter 42 shall be treated as a transfer of the income or assets of a private foundation for the benefit of a disqualified person. Similarly, the payment by a private foundation of the premiums for an insurance policy providing liability insurance to a foundation manager for chapter 42 taxes shall be an act of self-dealing under this paragraph unless such premiums are treated as part of the compensation paid to such manager. In addition, the purchase or sale of stock or other securities by a private foundation shall be an act of self-dealing if such purchase or sale is made in an attempt to manipulate the price of the stock or other securities to the advantage of a disqualified person. If a private foundation makes a grant which satisfies the legal obligation of a disqualified person with respect to the foundation, such as a pledge which is enforceable against the disqualified person under local law, such grant shall constitute an act of self-dealing to which this subparagraph applies. Similarly, the indemnification or guarantee by a private foundation of a bank loan to a disqualified person shall be treated as a use for the benefit of a disqualified person of the income or assets of the foundation (within the meaning of this subparagraph).

(2) *Certain incidental benefits.* The fact that a disqualified person receives an incidental or tenuous benefit from the use by a foundation of its income or assets will not, by itself, make such use an act of self-dealing. Thus, the public recognition a person may receive, arising from the charitable activities of a private foundation to which such person is a substantial contributor, does not in itself result in an act of self-dealing since generally the benefit is incidental and tenuous. For example, a grant by a private foundation to a section 509(a)(1), (2), or (3) organization will not be an act of self-dealing merely because such organization is located in the same area as a corporation which is a substantial contributor to the foundation, or merely because one of the section 509(a)(1), (2), or (3) organization's officers, directors, or trustees is also a manager of or a substantial contributor to the foundation. Similarly, a scholarship or a fellowship grant to a person other than a disqualified person, which is paid or incurred by a private foundation in accordance with a program which is consistent with the requirements of the foundation's exempt status under section 501(c)(3) and the requirements for the allowance of deductions under section 170 for contributions made to the foundation, will not be an act of self-dealing under section 4941(d)(1) merely because a disqualified person indirectly receives a benefit from such grant. Thus, a scholarship or a fellowship grant made by a private foundation in accordance with a program to award scholarships or fellowship grants to the children of employees of a substantial contributor shall not constitute an act of self-dealing if the requirements of the preceding sentence are satisfied.

(3) *Indemnification of foundation managers against liability for contesting chapter 42 taxes.* Section 4941(d)(1) shall not apply, except as provided in § 53.4941(d)-3(c), to the indemnification by a private foundation of a foundation manager, with respect to the defense of a judicial proceeding under chapter 42, against all expenses (other than taxes, penalties, or expenses of correction) including attorneys' fees, if—

(i) Such expenses are reasonably incurred by him in connection with such proceeding, and

(ii) He is successful in such defense, or such proceeding is terminated by settlement and he has not acted willfully and without reasonable cause with respect to the act or failure to act which led to liability for tax under chapter 42.

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

Example (1). M, a private foundation, makes a grant of $50,000 to the governing body of N City for the purpose of alleviating the slum conditions which exist in a particular neighborhood of N. Corporation P, a substantial contributor to M, is located in same area in which the grant is to be used. Although the general improvement of the area may constitute an incidental and tenuous benefit to P, such benefit by itself will not constitute an act of self-dealing.

Example (2). Private foundation X established a program to award scholarship grants to the children of employees of corporation D, a substantial contributor to X. After disclosure of the method of carrying out such program, X received a determination letter from the Internal Revenue Service stating that X is exempt from taxation under section 501(c)(3) and that contributions to X are deductible under section 170. A scholarship grant paid or incurred by X in accordance with such program shall not be an indirect act of self-dealing between X and D, since the grant is awarded in accordance with a program which is consistent with the requirements of X's exempt status under section 501(c)(3) and the requirements for the allowance of a deduction under section 170 for contributions made to X.

Example (3). Private foundation Y owns voting stock in corporation Z, the management of which includes certain disqualified persons with respect to Y. Prior to Z's annual stockholder meeting, the management solicits and receives the foundation's proxies. The transfer of such proxies in and of itself shall not be an act of self-dealing.

Example (4). A, a disqualified person with respect to private foundation S, contributes certain real estate to S for the purpose of building a neighborhood recreation center in a particular underprivileged area. As a condition of the gift, S agrees to name the

recreation center after A. Since the benefit to A is only incidental and tenuous, the naming of the recreation center, by itself, will not be an act of self-dealing.

(g) *Payment to a government official.* The agreement by a private foundation to make any payment of money or other property to a government official, as defined in section 4946(c), shall constitute an act of self-dealing. For purposes of this paragraph, an individual who is otherwise described in section 4946(c) shall be treated as a government official while on leave of absence from the government without pay.

§ 53.4941(d)–3 Exceptions to self-dealing.

(a) *General rule.* In general, a transaction described in section 4941(d)(2)(B), (C), (D), (E), (F), or (G) is not an act of self-dealing. Section 4941(d)(2)(B) and (C) provides limited exceptions to certain specific transactions, as described in paragraphs (b)(2), (c)(2), and (d)(3) of § 53.4941(d)–2. Section 4941(d)(2)(D), (E), (F), and (G) is described in paragraphs (b) through (e) of this section.

(b) *Furnishing of goods, services, or facilities to a disqualified person*—(1) *In general.* Under section 4941(d)(2)(D), the furnishing of goods, services, or facilities by a private foundation to a disqualified person shall not be an act of self-dealing if such goods, services, or facilities are made available to the general public on at least as favorable a basis as they are made available to the disqualified person. This subparagraph shall not apply, however, in the case of goods, services or facilities furnished later than 30 days after (insert date on which final regulations under section 4941 are filed by the Office of the Federal Register), unless such goods, services or facilities are functionally related, within the meaning of section 4942(j)(5), to the exercise or performance by a private foundation of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(c)(3).

(2) *General public.* For purposes of this paragraph, the term "general public" shall include those persons who, because of the particular nature of the activities of the private foundation, would be reasonably expected to utilize such goods, services, or facilities. This paragraph shall not apply, however, unless there are a substantial number of persons other than disqualified persons who are actually utilizing such goods, services or facilities. Thus, a private foundation which furnishes recreational or park facilities to the general public may furnish such facilities to a disqualified person provided they are furnished to him on a basis which is not more favorable than that on which they are furnished to the general public. Similarly, the sale of a book or magazine by a private foundation to disqualified persons shall not be an act of self-dealing if the publication of such book or magazine is functionally related to a charitable or educational activity of the foundation and the book or magazine is made available to the disqualified persons and the general public at the same price. In addition, if, for example, the terms of the sale require payment within 60 days from the date of delivery of the book or magazine, the transaction shall not be treated as a loan or other extension of credit under § 53.4941(d)–2(c)(1) if such terms are consistent with normal commercial practices.

(c) *Payment of compensation for certain personal services*—(1) *In general.* Under section 4941(d)(2)(E), except in the case of a government official (as defined in section 4946(c)), the payment of compensation (and the payment or reimbursement of expenses) by a private foundation to a disqualified person for the performance of personal services which are reasonable and necessary to carry out the exempt purpose of the private foundation shall not be an act of self-dealing if such compensation (or payment or reimbursement) is not excessive. For the determination whether compensation is excessive, see § 1.162–7 of this chapter (Income Tax Regulations). This paragraph may apply even if the person who receives the compensation (or payment or reimbursement) is not an individual. The portion of any payment which represents payment for property shall not be treated as payment of compensation (or payment or reimbursement of expenses) for the performance of personal services for purposes of this paragraph. For rules with respect to the performance of general banking services, see § 53.4941(d)–2(c)(4).

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). E, a partnership, is a firm of ten lawyers engaged in the practice of law. A and B, partners in E, serve as trustees to private foundation W and, therefore, are disqualified persons. In addition, A and B own more than 35 percent of the profits interest in E, thereby making E a disqualified person. E performs various legal services for W from time to time as such services are requested. The payment of compensation by W to E shall not constitute an act of self-dealing if the services performed are reasonable and necessary for the carrying out of W's exempt purposes and the amount paid by W for such services is not excessive.

Example (2). C, a manager of private foundation X, owns an investment counseling business. Acting in his capacity as an investment counselor, C manages X's investment portfolio for which he receives an amount which is determined to be not excessive. The payment of such compensation to C shall not constitute an act of self-dealing.

Example (3). F, a commercial bank, serves as a trustee for private foundation Y. In addition to F's duties as trustee, F performs certain general banking services such as maintaining Y's checking and savings accounts. The use of the funds by F or the payment of compensation by Y to F for such services shall be treated as the payment of compensation for the performance of personal services which are reasonable and necessary to carry out the exempt purposes of Y.

Example (4). D, a substantial contributor to private foundation Z, owns a factory which manufactures microscopes. D contracts with Z to manufacture 100 microscopes for Z. Any payment to D under the contract shall constitute an act of self-dealing, since such payment does not constitute the payment of compensation for the performance of personal services.

(d) *Certain transactions between a foundation and a corporation*—(1) *In general.* Under section 4941(d)(2)(F), any transaction between a private foundation and a corporation which is a disqualified person will not be an act of self-dealing if such transaction is engaged in pursuant to a liquidation, merger, redemption, recapitalization, or other corporate adjustment, organization, or reorganization, so long as all the securities of the same class as that held (prior to such transaction) by the foundation are subject to the same terms and such terms provide for receipt by the foundation of no less than fair market value. For purposes of this paragraph, all of the securities are not "subject to the same terms" unless, pursuant to such transaction, the corporation makes a bona fide offer on a uniform basis to the foundation and every other person who holds such securities. The fact that a private foundation receives property, such as debentures, while all other persons holding securities of the same class receive cash for their interests, will be evidence that such offer was not made on a uniform basis. This paragraph may apply regardless of whether other persons hold any securities of the class held by the foundation. In such event, however, the consideration received by holders of other classes of securities, or the interests retained by holders of such other classes, when considered in relation to the consideration received by the foundation, must indicate that the foundation received at least as favorable treatment in relation to its interests as the holders of any other class of securities. In addition, the foundation must receive no less than the fair market value of its interests.

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). Private foundation X owns 50 percent of the Class A preferred stock of corporation M, which is a disqualified person with respect to X. The terms of such securities provide that the stock may be called for redemption at any time by M at 105 percent of the face amount of the stock. M exercises this right and calls all the Class A preferred stock by paying 105 percent of the face amount in cash. At the time of the redemption of the Class A preferred stock, it is determined that the fair market value of the preferred stock is equal to its face amount. In such case, the redemption by M of the preferred stock of X is not an act of self-dealing.

Example (2). Private foundation Y, which is on a calendar year basis, acquires 60 percent of the Class A preferred stock of corporation N by will on January 10, 1970. N, which is also on a calendar year basis, is a

disqualified person with respect to Y. In 1971, N offers to redeem all of the Class A preferred stock for a consideration equal to 100 percent of the face amount of such stock by the issuance of debentures. The offer expires January 2, 1972. Both Y and all other holders of the Class A preferred stock accept the offer and enter into the transaction on January 2, 1972, at which time it is determined that the fair market value of the debentures is no less than the fair market value of the preferred stock. The transaction on January 2, 1972, shall not be treated as an act of self-dealing for 1972. However, if such debentures are held by Y after December 31, 1972, except as provided in § 53.4941(d)-4(c)(4), such extension of credit shall not be excepted from the definition of an act of self-dealing by reason of the January 2, 1972, transaction.

(e) *Certain payments to government officials.* Under section 4941(d)(2)(G), in the case of a government official, in addition to the exceptions provided in section 4941(d)(2)(B), (C), and (D), section 4941(d)(1) shall not apply to—

(1) A prize or award which is not includible in gross income under section 74(b), if the government official receiving such prize or award is selected from the general public;

(2) A scholarship or a fellowship grant which is excludable from gross income under section 117(a) and which is to be utilized for study at an educational institution described in section 151(e)(4);

(3) Any annuity or other payment (forming part of a stock-bonus, pension, or profit sharing plan) by a trust which constitutes a qualified trust under section 401;

(4) Any annuity or other payment under a plan which meets the requirements of section 404(a)(2);

(5) Any contribution or gift (other than a contribution or gift of money) to, or services or facilities made available to, any government official, if the aggregate value of such contributions, gifts, services, and facilities does not exceed $25 during any calendar year;

(6) Any payment made under 5 U.S.C. chapter 41 (relating to government employees' training programs);

(7) Any payment or reimbursement of traveling expenses (including amounts expended for meals and lodging, regardless of whether the government official is "away from home" within the meaning of section 162(a)(2)) for travel solely from one point in the United States to another in connection with one or more purposes described in section 170(c)(1) or (2)(B), but only if such payment or reimbursement does not exceed the actual cost of the transportation involved plus an amount for all other traveling expenses not in excess of 125 percent of the maximum amount payable under 5 U.S.C. 5702(a) for like travel by employees of the United States;

(8) Any agreement to employ or make a grant to a government official for any period after the termination of his government service if such agreement is entered into within 90 days prior to such termination; or

(9) In the case of any government official who was on leave of absence without pay on December 31, 1969, pursuant to a commitment entered into on or before such date for the purpose of engaging in certain activities for which such individual was to be paid by one or more private foundations, any payment of compensation (or payment or reimbursement of expenses) by such private foundations to such individual for any continuous period after December 31, 1969, and prior to January 1, 1971, during which such individual remains on leave of absence to engage in such activties.

For purposes of subparagraph (9) of this paragraph, a commitment is considered entered into on or before December 31, 1969, if on or before such date, the amount and nature of the payments to be made and the name of the individual receiving such payments were entered on the records of the payor, or were otherwise adequately evidenced, or the notice of the payment to be received was communicated to the payee orally or in writing. If a government official attends or participates in a conference sponsored by a private foundation, the allocable portion of the cost of such conference and other non-monetary benefits (for example, benefits of a professional, intellectual, or psychological nature, or benefits resulting from the publication or the distribution to participants of a record of the conference) received by such government official as a result of such attendance or participation shall not be subject to section 4941(d)(1).

§ 53.4941(d)-4 Transitional rules.

(a) *Certain transactions involving securities acquired by a foundation before May 27, 1969*—(1) *In general.* Under section 101(l)(2)(A) of the Tax Reform Act of 1969 (83 Stat. 533), any transaction between a private foundation and a corporation which is a disqualified person shall not be an act of self-dealing if such transaction is pursuant to the terms of securities of such corporation, if such terms were in existence at the time such securities were acquired by the foundation, and if such securities were acquired by the foundation before May 27, 1969.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. Private foundation X purchased preferred stock of corporation D, which is a disqualified person with respect to X, on March 15, 1969. The terms of such securities on such date provided that the stock could be called by D at any time if D paid the outstanding shareholders cash equal to 105 percent of the face amount of the stock. If D exercises this right and calls the stock owned by X on February 15, 1970, such call shall not constitute an act of self-dealing even if such price is not equivalent to fair market value on such date and even if not all of the securities of that class are called.

(b) *Disposition of certain business holdings*—(1) *In general.* Under section 101(b)(2)(B) of the Tax Reform Act of 1969 (83 Stat. 533), the sale, exchange, or other disposition of property which is owned by a private foundation on May 26, 1969, to a disqualified person shall not be an act of self-dealing if the foundation is required to dispose of such property in order not to be liable for tax under section 4943 (determined without regard to section 4943(c)(2)(C) and as if every disposition by the foundation were made to disqualified persons) and if such disposition satisfies the requirements of subparagraph (2) of this paragraph. In determining the amount of excess business holdings for purposes of applying this paragraph in the case of a disposition completed before January 1, 1975, section 4943 shall be applied without taking section 4943(c)(4) into account.

(2) *Terms of the disposition.* Subparagraph (1) of this paragraph shall not apply unless—

(i) The private foundation receives an amount which equals or exceeds the fair market value of the business holdings at the time of disposition or at the time a contract for such disposition was previously executed; and

(ii) At the time with respect to which subdivision (i) of this subparagraph is applied, the transaction would not have constituted a prohibited transaction within the meaning of section 503(b) or the corresponding provisions of prior law if such provisions had been applied at such time.

(3) *Property received under a trust or will.* For purposes of this paragraph, property shall be considered as owned by a private foundation on May 26, 1969, if such property is acquired by such foundation either under the terms of a trust which was irrevocable on May 26, 1969, or under the terms of a will executed on or before such date, which terms are in effect on such date and at all times thereafter.

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

Example (1). On May 26, 1969, private foundation X owns 10 percent of corporation Y's voting stock, which is traded on the New York Stock Exchange. Disqualified persons with respect to X own an additional 40 percent of such voting stock. Prior to January 1, 1975, X privately sold its entire 10 percent for cash to B, a disqualified person, at the price quoted on the stock exchange at the close of the day less commissions. Since the 10 percent owned by X would constitute excess business holdings without the application of section 4943(c)(2)(C) or (4), the disposition will not constitute an act of self-dealing.

Example (2). Assume the facts as stated in Example (1), except that the only stock of Y corporation which X owns is 1.5 percent of Y's voting stock. Since the 1.5 percent owned by X would constitute excess business holdings without the application of section 4943(c)(2)(C) or (4), the disposition of the stock to B for cash will not constitute an act of self-dealing.

Example (3). Assume the facts as stated in Example (1), except that B, instead of paying cash as consideration for the stock, issued a 10-year promissory note as consideration for the stock. The issuance of such promissory note is not excepted from the definition of an act of self-dealing by operation of this paragraph, since this paragraph applies only to the sale, exchange, or other disposition of

the stock, and not to the extension of credit. See, however, paragraph (c)(4) of this section.

(c) *Existing leases and loans*—(1) *In general.* Under section 101(l)(2)(C) of the Tax Reform Act of 1969 (83 Stat. 533), the leasing of property or the lending of money (or other extension of credit) between a disqualified person and a private foundation pursuant to a binding contract which was in effect on October 9, 1969 (or pursuant to a renewal or modification of such a contract, as described in subparagraph (2) of this paragraph), shall not be an act of self-dealing until taxable years beginning after December 31, 1979, if—

(i) At the time the contract was executed, such contract was not a prohibited transaction (within the meaning of section 503(b) or the corresponding provisions of prior law), and

(ii) The leasing or lending of money (or other extension of credit) remains at least as favorable as an arm's length transaction with an unrelated person.

(2) *Renewal or modification of existing contracts.* A renewal or a modification of an existing contract is referred to in subparagraph (1) of this paragraph only if any modifications of the terms of such contract are not substantial and the relative advantages of the modified contract compared with contracts entered into at arm's length with an unrelated person at the time of the renewal or modification are at least as favorable to the private foundation as the relative advantages of the original contract compared with contracts entered into at arm's length with an unrelated person at the time of execution of the original contract. Such renewal or modification need not be provided for in the original contract; it may take place before or after the expiration of the original contract and at any time before the first day of the first taxable year of the private foundation beginning after December 31, 1979.

(3) *Example.* The provisions of subparagraphs (1) and (2) of this paragraph may be illustrated by the following example:

Example. Under a binding contract entered into on January 1, 1964, X, a private foundation, leases a building for 10 years from Z, a disqualified person. At the time the contract was executed, the lease was not a "prohibited transaction" within the meaning of section 503(b), since the rent charged X was only 50 percent of the rent which would have been charged in an arm's length transaction with an unrelated person. On January 1, 1974, X renewed the lease for 5 additional years. The terms of the renewal agreement provided for a 20 percent increase in the amount of rent charged X. However, at the time of such renewal, the rent which would have been charged in an arm's length transaction had also increased by 20 percent from that of 1964. The renewal agreement shall not be treated as an act of self-dealing.

(4) *Certain corporate adjustments, organizations, and reorganizations.* (i) In the case of a transaction described in section 4941(d)(2)(F) and paragraph (d) of § 53.4941(d)-3, where a bond, debenture, or other indebtedness of a corporation which is a disqualified person is acquired by a private foundation in exchange for securities which it held on October 9, 1969, and at all times thereafter, such indebtedness shall be treated as an extension of credit pursuant to a binding contract in effect on October 9, 1969, to which this paragraph applies. Thus, so long as the extension of credit remains at least as favorable as an arm's length transaction with an unrelated person and the acquisition of the securities which were exchanged for the indebtedness was not a prohibited transaction within the meaning of section 503(b) (or the corresponding provisions of prior law) at the time of such acquisition, such extension of credit shall not be an act of self-dealing until taxable years beginning after December 31, 1979.

(ii) The provisions of this subparagraph may be illustrated by the following example:

Example. Assume the facts as stated in Example (2) of § 53.4941(d)-3(d)(2), except that the preferred stock was held by Y on October 9, 1969, and at all times thereafter until the redemption occurred on January 2, 1972. In addition, assume that the acquisition of the preferred stock was not a prohibited transaction within the meaning of section 503(b) at the time of such acquisition. For 1973 through 1979, the extension of credit arising from the holding of the debentures is not an act of self-dealing so long as the extension of credit remains at least as favorable as an arm's length transaction with an unrelated person. See, however, Example (3) of § 53.4941(e)-1(e)(1)(ii).

(d) *Sharing of goods, services, or facilities before December 31, 1979.* (1) Under section 101(l)(2)(D) of the Tax Reform Act of 1969 (83 Stat. 533), the use (other than leasing) of goods, services, or facilities which are shared by a private foundation and a disqualified person shall not be an act of self-dealing until taxable years beginning after December 31, 1979, if—

(i) The use is pursuant to an arrangement in effect before October 9, 1969, and at all times thereafter;

(ii) The arrangement was not a prohibited transaction (within the meaning of section 503(b) or the corresponding provisions of prior law) at the time it was made; and

(iii) The arrangement would not be a prohibited transaction if section 503(b) continued to apply.

For purposes of this paragraph, such arrangement need not be a binding contract.

(2) The provisions of this paragraph may be illustrated by the following example:

Example. In 1964 X, a private foundation, and B, a disqualified person, arranged for the sharing of computer time in B's son's company for a 10-year period commencing January 1, 1965. B's son has the unilateral right to terminate the arrangement at any time. X uses the computer facilities in connection with an analysis of its grant-making activities, while B's use is related to his business affairs. Both X and B make reasonable fixed payments to the computer company based on the number of hours of computer use and comparable to fees charged in arm's length transactions with unrelated parties. The company imposes a maximum limit per month on the sum of the number of hours for which X and B use the computer facilities. Under these circumstances, the sharing of computer time is not an act of self-dealing.

(e) *Use of certain property acquired before October 9, 1969.* (1) Under section 101(l)(2)(E) of the Tax Reform Act of 1969 (83 Stat. 533), the use of property in which a private foundation and a disqualified person have a joint or common interest will not be an act of self-dealing if the interests of both in such property were acquired before October 9, 1969.

(2) The provisions of this paragraph may be illustrated by the following example:

Example. Prior to October 9, 1969, C, a disqualified person, gave beachfront property to private foundation X for use as a recreational facility for underprivileged, innercity children during the summer months. However, C retained the right to use such property for his life. The use of such property by C or X is not an act of self-dealing.

§ 53.4941(e) Statutory provisions; exempt organizations; private foundations; taxes on self-dealing; self-dealing defined.

(e) *Other definitions*—For purposes of this section—

(1) *Taxable period.* The term "taxable period" means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending on whichever of the following is the earlier: (A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212, or (B) the date on which correction of the act of self-dealing is completed.

(2) *Amount involved.* The term "amount involved" means, with respect to any act of self-dealing, the greater of the amount of money and the fair market value of the other property given or the amount of money and the fair market value of the other property received; except that, in the case of services described in subsection (d)(2)(E), the amount involved shall be only the excess compensation. For purposes of the preceding sentence, the fair market value—

(A) In the case of the taxes imposed by subsection (a), shall be determined as of the date on which the act of self-dealing occurs; and

(B) In the case of the taxes imposed by subsection (b), shall be the highest fair market value during the correction period.

(3) *Correction.* The terms "correction" and "correct" mean, with respect to any act of self-dealing, undoing the transaction to the extent possible, but in any case placing the private foundation in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards.

(4) *Correction period.* The term "correction period" means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending 90 days after the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (b)(1) under section 6212, extended by—

(A) Any period in which a deficiency cannot be assessed under section 6213(a), and

(B) Any other period which the Secretary or his delegate determines is reasonable and necessary to bring about correction of the act of self-dealing.

§ 53.4941(e)-1 Definitions.

(a) *Taxable period*—(1) *In general.* For purposes of any act of self-dealing,

the term "taxable period" means the period beginning with the date on which the act of self-dealing occurs and ending on the earlier of:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by section 4941 (a) (1), or

(ii) The date on which correction of the act of self-dealing is completed.

(2) *Date of occurrence.* An act of self-dealing occurs on the date on which all the terms and conditions of the transaction and the liabilities of the parties have been fixed. Thus, for example, if a private foundation gives a disqualified person a binding option on June 15, 1971, to purchase property owned by the foundation at any time before June 15, 1972, the act of self-dealing has occurred on June 15, 1971. Similarly, in the case of a conditional sales contract, the act of self-dealing shall be considered as occurring on the date the property is transferred subject only to the condition that the buyer make payment for receipt of such property.

(3) *Special rule.* Where a notice of deficiency referred to in subparagraph (1)(i) of this paragraph is not mailed because there is a waiver of the restrictions on assessment and collection of a deficiency, or because the deficiency is paid, the date of filing of the waiver or the date of such payment, respectively, shall be treated as the end of the taxable period.

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

Example (1). On July 16, 1970, F, a manager of private foundation X acting on behalf of the foundation, willfully and without reasonable cause engaged in an act of self-dealing by selling certain real estate to A, a disqualified person. On March 25, 1973, the Internal Revenue Service mailed a notice of deficiency to A with respect to the tax imposed on the sale under section 4941(a)(1). The taxable period with respect to the act of self-dealing for both A and F is July 16, 1970, through March 25, 1973.

Example (2). Assume the facts as stated in Example (1), except that the act of self-dealing is corrected by A on March 17, 1971. The taxable period with respect to the act of self-dealing for both A and F is July 16, 1970, through March 17, 1971.

Example (3). Assume the facts as stated in Eaxmple (1), except that on August 20, 1972, A files a waiver of the restrictions on assessment and collection of the tax imposed on the sale under section 4941(a)(1). The taxable period with respect to the act of self-dealing for both A and F is July 16, 1970, through August 20, 1972.

(b) *Amount involved*—(1) *In general.* For purposes of any act of self-dealing, the term "amount involved" means the greater of the amount of money and the fair market value of the other property given or the amount of money and the fair market value of the other property received. In the case of the payment of compensation for personal services, the amount involved shall be only the excess compensation paid by the private foundation. Where the use of money or other property is involved, the amount involved shall be the greater of the amount paid for such use or the fair market value of such use for the period for which the money or other property is used. Thus, for example, in the case of a lease of a building by a private foundation to a disqualified person, the amount involved is the greater of the amount of rent received by the foundation from the disqualified person or the fair rental value of the building for the period such building is used by the disqualified person. The fair market value of the property or the use thereof, as the case may be, shall be determined as of the date on which the act of self-dealing occurred in the case of the initial taxes imposed by section 4941(a) and shall be the highest fair market value during the correction period in the case of the additional taxes imposed by section 4941(b).

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). A, a disqualified person with respect to private foundation M, uses an airplane owned by M on June 15 and June 16, 1970, for a 2-day trip to New York City on personal business and pays M $500 for the use of such airplane. The fair rental value for the use of the airplane for those 2 days is $3,000. For purposes of section 4941(a), the amount involved with respect to the act of self-dealing is $3,000.

Example (2). On April 10, 1970, B, a manager of private foundation P, borrows $100,000 from P at 6 percent interest per annum. Both principal and interest are to be paid 1 year from the date of the loan. The fair market value of the use of the money on April 10, 1970, is 10 percent per annum. Six months later, B and P terminate the loan, and B repays the $100,000 principal plus $3,000 ($100,000×6 percent for one-half year) interest. For purposes of section 4941(a), the amount involved with respect to the act of self-dealing is $5,000 ($100,000×10 percent for one-half year) for each year or partial year in the taxable period.

Example (3). C, a substantial contributor to private foundation S, leases office space in a building owned by S for $3,600 for 1 year beginning on January 1, 1971. The fair rental value of the building for a 1-year lease on January 1, 1971, is $5,600. On December 31, 1971, the lease is terminated. For purposes of section 4941(a), the amount involved with respect to the act of self-dealing is $5,600 for each year or partial year in the taxable period.

Example (4). D, a disqualified person with respect to private foundation T, purchases 100 shares of stock from T for $5,000 on June 15, 1972. The fair market value of the 100 shares of stock on such date is $4,800. D sells the 100 shares of stock on December 20, 1973, for $6,000. Subsequently, D receives a notice of deficiency with respect to the taxes imposed under subsections (a) and (b) of section 4941. D fails to correct during the correction period. Between June 15, 1972, and the end of the correction period, the stock was quoted on the New York Stock Exchange at a high of $67 per share. The amount involved with respect to the tax imposed under subsection (a) is $5,000, and the amount involved with respect to the tax imposed under subsection (b) for failure to correct is $6,700 (100 shares at $67 per share), the highest fair market value during the correction period.

(c) *Correction*—(1) *In general.* Correction shall be accomplished by undoing the transaction which constituted the act of self-dealing to the extent possible, but in no case shall the resulting financial position of the private foundation be worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards. For example, where a disqualified person sells property to a private foundation for cash, correction may be accomplished by recasting the transaction in the form of a gift by returning the cash to the foundation. Subparagraphs (2) through (6) of this paragraph illustrate the minimum standards of correction in the case of certain specific acts of self-dealing. Principles similar to the principles contained in such subparagraphs shall be applied with respect to other acts of self-dealing. Any correction pursuant to this paragraph and section 4941 shall not be an act of self-dealing.

(2) *Sales by foundation.* (i) In the case of a sale of property by a private foundation to a disqualified person for cash, undoing the transaction includes, but is not limited to, requiring rescission of the sale where possible. However, in order to avoid placing the foundation in a position worse than that in which it would be if rescission were not required, the amount returned to the disqualified person pursuant to the rescission shall not exceed the lesser of the cash received by the private foundation or the fair market value of the property received by the disqualified person. For purposes of the preceding sentence, fair market value shall be the lesser of the fair market value at the time of the act of self-dealing or the fair market value at the time of rescission. In addition to rescission, the disqualified person is required to pay over to the private foundation any net profits he realized after the original sale with respect to the property he received from the sale. Thus, for example, the disqualified person must pay over to the foundation any income derived by him from the property he received from the original sale to the extent such income during the correction period exceeds the income derived by the foundation during the correction period from the cash which the disqualified person originally paid to the foundation.

(ii) If, prior to the end of the correction period, the disqualified person resells the property in an arm's length transaction to a bona fide purchaser who is not the foundation or another disqualified person, no rescission is required. In such case, the disqualified person must pay over to the foundation the excess (if any) of the greater of the fair market value of such property on the date on which correction of the act of self-dealing occurs or the amount realized by the disqualified person from such arm's length resale over the amount which would have been returned to the disqualified person pursuant to subdivision (i) of this subparagraph if rescission had been required. In addition, the disqualified person is required to pay over to the foundation any net profits he

realized, as described in subdivision (i) of this subparagraph.

(iii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). On July 1, 1970, private foundation M sold a painting to A, a disqualified person, for $5,000. The fair market value of the painting on such date was $6,000. On March 25, 1971, the painting is still owned by A and has a fair market value of $7,200. A did not derive any income as a result of purchasing the painting. In order to correct the act of self-dealing under this subparagraph on March 25, 1971, the sale must be rescinded by the return of the painting to M. However, pursuant to such rescission, M must not pay A more than $5,000, the original consideration received by M.

Example (2). Assume the facts as stated in Example (1), except that A sold the painting on December 15, 1970, in an arm's length transaction to C, a bona fide purchaser who is not a disqualified person, for $6,100. In addition, assume that the fair market value of the painting on March 25, 1971, is $7,600. In order to correct the act of self-dealing under this subparagraph on March 25, 1971, A must pay M $2,600 ($7,600, the fair market value at the time of correction, less $5,000, the amount which would have been returned to A if rescission had been required). Since the painting was sold to C in an arm's length transaction prior to correction, no rescission is required.

(3) *Sales to foundation.* (i) In the case of a sale of property to a private foundation by a disqualified person for cash, undoing the transaction includes, but is not limited to, requiring rescission of the sale where possible. However, in order to avoid placing the foundation in a position worse than that in which it would be if rescission were not required, the amount received from the disqualified person pursuant to the rescission shall be the greatest of the cash paid to the disqualified person, the fair market value of the property at the time of the original sale, or the fair market value of the property at the time of rescission. In addition to rescission, the disqualified person is required to pay over to the private foundation any net profits he realized after the original sale with respect to the consideration he received from the sale. Thus, for example, the disqualified person must pay over to the foundation any income derived by him from the cash he received from the original sale to the extent such income during the correction period exceeds the income derived by the foundation during the correction period from the property which the disqualified person originally transferred to the foundation.

(ii) If, prior to the end of the correction period, the foundation resells the property in an arm's length transaction to a bona fide purchaser who is not a disqualified person, no rescission is required. In such case, the disqualified person must pay over to the foundation the excess (if any) of the amount which would have been received from the disqualified person pursuant to subdivision (i) of this subparagraph if rescission had been required over the amount realized by the foundation upon resale of the property. In addition, the disqualified person is required to pay over to the foundation any net profits he realized, as described in subdivision (i) of this subparagraph.

(iii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). On February 10, 1972, D, a disqualified person with respect to private foundation P, sells 100 shares of X stock to P for $2,500 in a transaction which does not fall within any of the exceptions to self-dealing. The fair market value of the 100 shares of X stock on February 10, 1972, is $3,200. On June 1, 1973, the 100 shares of X stock have a fair market value of $2,900. From February 10, 1972, through June 1, 1973, P has received dividends of $90 from the stock, and D has received interest of $300 from the $2,500 which D received as consideration for the stock. In order to correct the act of self-dealing under this subparagraph on June 1, 1973, the sale must be rescinded by the return of the stock to D. However, pursuant to such rescission, D must pay P $3,200, the fair market value of the stock on the date of sale. In addition, D must pay P $210, the amount of income derived by D during the correction period from the $2,500 received from P ($300) minus the income derived by P during the correction period from the stock sold to P ($90).

Example (2). Assume the facts as stated in Example (1), except that on September 1, 1972, P sells the 100 shares of X stock to E, a bona fide purchaser who is not a disqualified person, in an arm's length transaction for $2,750. Assume further that P has not received any dividends from the stock prior to the sale to E, but that P receives interest of $260 from the $2,750 received as consideration for the stock for the period from September 1, 1972, to June 1, 1973. In order to correct the act of self-dealing under this subparagraph on June 1, 1973, D must pay P $450 ($3,200, the amount which would have been received from D if rescission had been required, less $2,750, the amount realized by P from the sale to E). In addition, D must pay P $40, the amount of income derived by D during the correction period from the $2,500 received from P ($300) minus the income derived by P during the correction period from the stock sold to P ($260 from the $2,750 received as consideration for the stock). Since the stock was sold to E in an arm's length transaction prior to correction, no rescission is required.

(4) *Use of property by a disqualified person.* (i) In the case of the use by a disqualified person of property owned by a private foundation, undoing the transaction includes, but is not limited to, terminating the use of such property. In addition to termination, the disqualified person must pay the foundation—

(*a*) The excess (if any) of the fair market value of the use of the property over the amount paid by the disqualified person for such use until such termination, and

(*b*) The excess (if any) of the amount which would have been paid by the disqualified person for the use of the property on or after the date of such termination, for the period such disqualified person would have used the property (without regard to any further extensions or renewals of such period) if such termination had not occurred, over the fair market value of such use for such period.

In applying (*a*) of this subdivision the fair rental value per period in the case shall be the higher of the rate (that is, fair market value of the use of property of use of property other than money or fair interest rate in the case of use of money) at the time of the act of self-dealing (within the meaning of paragraph (e) (1) of this section) or such rate at the time of correction of such act of self-dealing. In applying (*b*) of this subdivision the fair market value of the use of property shall be the rate at the time of correction.

(ii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). On January 1, 1972, private foundation S rented the third story of its office building to A, a disqualified person, for one year at an annual rent of $10,000. Both S and A are on the calendar year basis. The fair rental value of such office space for a 1-year period on January 1, 1972, is $12,000. On June 30, 1972, the fair rental value of such office space for a 1-year period is $13,000. In order to correct the act of self-dealing under this subparagraph on June 30, 1972, A must terminate his use of the property. In addition, A must pay S $1,500, the excess of $6,500 (the fair rental value for 6 months as of June 30, 1972) over $5,000 (the amount paid to S from January 1, 1972, to June 30, 1972).

Example (2). On January 1, 1972, private foundation H rented the fourth story of its office building to B, a disqualified person, for 1 year at an annual rent of $10,000. Both H and B are on the calendar year basis. On January 1, 1973, B continues to rent the office space as a periodic tenant paying his rent monthly at an annual rate of $10,000. The fair rental value of such office space for a 1-year period on January 1, 1972, is $12,000, and as of January 1, 1973, is $1,250 per month. As of December 31, 1973, the fair rental value of such office space is $14,000 for a 1-year period and $1,200 on a monthly basis. In order to correct his acts of self-dealing (within the meaning of paragraph (e) (1) of this section) under this subparagraph on December 31, 1973, B must terminate his use of the property. In addition, B must pay H $9,000, $4,000 for his use of the property for 1972 (the excess of $14,000, the fair rental value for 1 year as of December 31, 1973, over $10,000, the amount B paid H for his use of the property for 1972) and $5,000 for his use of the property for 1973 (the excess of $15,000, the fair rental value for 12 months as of January 1, 1973, over $10,000, the amount B paid H for his use of the property for 1973).

Example (3). B, a substantial contributor to private foundation T, leases office space in a building owned by T for $5,000 for 1 year beginning on November 10, 1972. The fair rental value of the building for a 1-year period on November 10, 1972, is $4,000. On May 10, 1973, the fair rental value of the building for the remaining period of the lease is $2,200. In order to correct the acts of self-dealing under this subparagraph on May 10, 1973, B and T must terminate the lease. In addition, B must pay T $300 (the excess of $2,500, the amount which would have been paid by B for the remaining period of the lease if it had not been terminated, over $2,200, the fair rental value at the time of correction for the remaining period of the lease).

(5) *Use of property by a private foundation.* (i) In the case of the use by a private foundation of property

owned by a disqualified person, undoing the transaction includes, but is not limited to, terminating the use of such property. In addition to termination, the disqualified person must pay the foundation—

(*a*) The excess (if any) of the amount paid to the disqualified person for such use until such termination over the fair market value of the use of the property, and

(*b*) The excess (if any) of the fair market value of the use of the property, for the period the foundation would have used the property (without regard to any further extensions or renewals of such period) if such termination had not occurred, over the amount which would have been paid to the disqualified person on or after the date of such termination for such use for such period.

In applying (*a*) of this subdivision the fair market value of the use of property shall be the lesser of the rate (that is, fair rental value per period in the case of use of property other than money or fair interest rate in the case of use of money) at the time of the act of self-dealing (within the meaning of paragraph (e)(1) of this section) or such rate at the time of correction of such act of self-dealing. In applying (*b*) of this subdivision the fair market value of the use of property shall be the rate at the time of correction.

(ii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). On July 1, 1972, private foundation X leases office space in a building owned by C, a disqualified person, for 1 year at an annual rent of $6,000. Both X and C are on the calendar year basis. The fair rental value of such office space for a 1-year period as of July 1, 1972, is $4,200. As of January 1, 1973, the fair rental value of such office space for a 1-year period is $5,400, and as of June 30, 1973, the fair rental value of such office space for a 1-year period is $4,800. In order to correct his acts of self-dealing (within the meaning of paragraph (e)(1) of this section) under this subparagraph on June 30, 1973, C must terminate X's use of the property. In addition, C must pay X $1,500, $900 for X's use of the office space for 1972 (the excess of $3,000, the amount paid to C from July 1, 1972, through December 31, 1972, over $2,100, the fair rental value for 6 months as of July 1, 1972) and $600 for his use of the office space for 1973 (the excess of $3,000, the amount paid to C from January 1, 1973, through June 30, 1973, over $2,400, the fair rental value for 6 months as of June 30, 1973).

Example (2). On April 1, 1973, D, a disqualified person with respect to private foundation Y, loans $100,000 to Y at 6 percent interest per annum. Both principal and interest are to be paid on April 1, 1978. The fair market value of the use of the money on April 1, 1973, is 9 percent per annum. On April 1, 1974, D and Y terminate the loan. On such date, the fair market value of the use of $100,000 is 10 percent per annum. In order to correct the act of self-dealing on April 1, 1974, in addition to the termination of the loan from D to Y, D must pay Y $16,000, the excess of $40,000 ($100,000×10 percent, the fair market value of the use determined at the time of correction, from April 1, 1974, to April 1, 1978) over $24,000 (the amount of interest Y would have paid to D from April 1, 1974, to April 1, 1978, if the loan from D to Y had not been terminated).

(6) *Payment of compensation to a disqualified person.* In the case of the payment of compensation by a private foundation to a disqualified person from the performance of personal services which are reasonable and necessary to carry out the exempt purpose of such foundation, undoing the transaction requires that the disqualified person pay to the foundation any amount which is excessive. However, termination of the employment or independent contractor relationship is not required.

(d) *Correction period*—(1) *In general.* For purposes of section 4941, the correction period shall begin with the date on which the act of self-dealing occurs and end 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by section 4941(b)(1). This period shall be extended by (i) any period in which a deficiency cannot be assessed under section 6213(a), and (ii) any other period which the Commissioner determines is reasonable and necessary to bring about correction of the act of self-dealing.

(2) *Extensions of correction period.* (i) Except as provided in subdivision (ii) of this subparagraph, the Commissioner ordinarily will not extend the correction period for an act of self-dealing unless the following factors are present:

(*a*) The foundation or an appropriate State officer (as defined in section 6104(c)(2)) is actively seeking in good faith to correct the act of self-dealing;

(*b*) Adequate corrective action cannot reasonably be expected to result during the unextended correction period; and

(*c*) The act of self-dealing appears to have been an isolated occurrence and it appears unlikely that similar acts of self-dealing will occur in the future.

(ii) If a claim for refund is filed with respect to a tax imposed under section 4941(a)(1) or (2) within the unextended correction period, the Commissioner shall extend the correction period during the pendency of the claim. If such claim is denied, the correction period will be extended by an additional 90 days to permit the disqualified person or foundation manager who filed such claim to file a suit or proceeding referred to in section 7422(b) with respect to such claim or to make the required correction. If such suit or proceeding is filed, the correction period will be extended during the pendency of such suit or proceeding.

(e) *Act of self-dealing*—(1) *Number of acts; use of money or property*—(i) *In general.* If a transaction between a private foundation and a disqualified person is determined to be self-dealing (as defined in section 4941(d)), for purposes of section 4941 there is generally one act of self-dealing. For the date on which such act is treated as occurring, see paragraph (a)(2) of this section. If, however, such transaction relates to the leasing of property, the lending of money or other extension of credit, other use of money or property, or payment of compensation, the transaction will generally be treated (for purposes of section 4941 but not section 507 or 6684) as giving rise to an act of self-dealing on the day the transaction occurs plus an act of self-dealing on the first day of each taxable year or portion of a taxable year which is within the taxable period and which begins after the taxable year in which the transaction occurs.

(ii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). On August 31, 1970, X private foundation sells a building to A, a disqualified person with respect to X. A is on the calendar year basis. Under these circumstances, the transaction between A and X is one act of self-dealing which is treated for purposes of section 4941 as occurring on August 31, 1970.

Example (2). Assume the facts as stated in Example (1), except that, instead of selling the building to A, X leases the building to A for a term of 4 years beginning July 31, 1970, at an annual rental of $12,000. The fair rental value of the building is also $12,000 per annum as of July 31, 1970, and throughout the next 4 years. This transaction is corrected on September 30, 1973, in accordance with paragraph (c)(4) of this section. Under these circumstances, the transaction between A and X constitutes four separate acts of self-dealing, which are treated for purposes of section 4941 as occurring on July 31, 1970, January 1, 1971, January 1, 1972, and January 1, 1973. Consequently, there are four taxable periods. The first taxable period is from July 31, 1970, to September 30, 1973; the second is from January 1, 1971, to September 30, 1973; the third is from January 1, 1972, to September 30, 1973; and the fourth is from January 1, 1973, to September 30, 1973. For purposes of the initial taxes in section 4941(a), the amount involved is $5,000 for the first taxable period, $12,000 for the second, $12,000 for the third, and $9,000 for the fourth. The initial taxes to be paid by A are thus $1,000 ($5,000×5%×4 taxable years or partial taxable years in the taxable period) for the first act; $1,800 ($12,000×5%×3) for the second act; $1,200 ($12,000×5%×2) for the third act; and $450 ($9,000×5%1) for the fourth act.

Example (3). Assume the facts as stated in the example in § 53.4941(d)-4(c)(4)(ii). If the debentures are held by Y after December 31, 1979, the extension of credit will not be excepted from the definition of an act of self-dealing, because a new act of self-dealing will be treated (for purposes of section 4941) as occurring on January 1, 1980.

(2) *Number of acts; joint participation by disqualified persons*—(i) *In general.* If joint participation in a transaction by two or more disqualified persons constitutes self-dealing (such as a joint sale of property to a private foundation or joint use of its money or property), such transaction shall generally be treated as a separate act of self-dealing with respect to each disqualified person for purposes of section 4941. For purposes of section 507 and, in the case of a foundation manager, section 6684, however, such transaction shall be treated as only one act of self-dealing. For purposes of this subparagraph, an individual

and one or more members of his family (within the meaning of section 4946(d)) shall be treated as one person, regardless of whether a member of the family is a disqualified person not only by reason of section 4946(a)(1)(D) but also by reason of another subparagraph of section 4946(a)(1). However, the liability imposed on a disqualified person and one or more members of his family for joint participation in an act of self-dealing shall be joint and several in accordance with section 4941(c)(1) and § 53.4941(c)-1(a).

(ii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). X private foundation permits A, a substantial contributor to X, and his spouse, W, to use an automobile owned by X and normally used in its foundation activities to travel from State Z to State Y for a vacation on December 1, 1971. The automobile is then returned to X until December 21, 1971, when X again permits them to use the automobile to return to their home in State Z. Under these circumstances, there is one act of self-dealing on December 1, 1971, and a second act of self-dealing on December 21, 1971.

Example (2). Assume the facts as stated in Example (1), except that B joined A and W on their vacation and traveled with them both to and from State Y. B is a disqualified person with respect to X, but he is not related by blood or marriage to A or W. Assume also that X is not paid for the use of its automobile, but that the fair rental value during the correction period is $300 (or $100 per person) for a one-way trip between State Y and State Z. Under these circumstances, there are four acts of self-dealing, two with respect to A and W and two with respect to B. The amount involved with respect to A and W is $200 for each act, and the amount involved with respect to B is $100 for each act.

(f) *Fair market value.* For purposes of §§ 53.4941(a)-1 through 53.4941(f)-1, fair market value shall be determined pursuant to the provisions of § 53.4942(a)-2(c)(2).

§ 53.4941(f)-1 Effective dates.

(a) *In general.* Except as provided in paragraph (b) of this section, §§ 53.4941(a)-1 through 53.4941(e)-1 shall apply to all acts of self-dealing engaged in after December 31, 1969.

(b) *Transitional rules*—(1) *Commitments made prior to January 1, 1970, between private foundations and government officials.* Section 4941 shall not apply to a payment for one or more purposes described in section 170(c)(1) or (2)(B) made on or after January 1, 1970, by a private foundation to a government official, if such payment is made pursuant to a commitment entered into prior to such date, but only if such commitment was made in accordance with the foundation's usual practices and is reasonable in amount in light of the purposes of the payment. For purposes of this subparagraph, a commitment will be considered entered into prior to January 1, 1970, if prior to such date, the amount and nature of the payments to be made and the name of the payee were entered on the records of the payor, or were otherwise adequately evidenced, or the notice of the payment to be received was communicated to the payee in writing.

(2) *Special transitional rule.* In the case of an act of self-dealing engaged in prior to the 30th day after [insert date on which notice of proposed rule making under section 4941 is published in the FEDERAL REGISTER], section 4941(a)(1) shall not apply if—

(i) The participation (as defined in § 53.4941(a)-1(a)(3)) by the disqualified person in such act is not willful and is due to reasonable cause (as defined in § 53.4941(a)-1(b)(4) and (5)),

(ii) The transaction would not be a prohibited transaction if section 503(b) applied, and

(iii) The act is corrected (within the meaning of § 53.4941(e)-1(c)) within a period ending 90 days after [insert date on which final regulations under section 4941 are filed by the Office of the Federal Register], extended (prior to the expiration of the original period) by any period which the Commissioner determines is reasonable and necessary (within the meaning of § 53.4941(e)-1(d)) to bring about correction of the act of self dealing.

[FR Doc.71-7735 Filed 6-4-71;8:45 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 917]

FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Handling

Consideration is being given to the following proposal submitted by the Peach Commodity Committee, established pursuant to the amended marketing agreement and Order No. 917, as amended (7 CFR Part 917; 35 F.R. 7510), regulating the handling of fresh pears, plums, and peaches grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The proposal is to further amend § 917.421 (Peach Reg. 1; 36 F.R. 8671; 36 F.R. 9765) to specify minimum sizes, by name, for additional varieties of peaches and raise the minimum size requirements for varieties, not specifically named in the regulation, shipped on and after July 1, 1971. Such amendment would recognize that the later maturing varieties are larger in size at maturity than the earlier varieties and limitations should be set accordingly.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, DC 20250, not later than the seventh day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

As proposed to be amended the said § 917.421 reads as follows:

§ 917.421 Peach Regulation 1.

(a) Order: During the period June 21, 1971, through October 31, 1971, no handler shall handle:

(1) Any package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade:

(2) Any package or container of Arm Gold, Pat's Pride, Springtime, or Royal Gold variety peaches unless:

(i) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the lug box; or

(ii) Such peaches when packed in any container, other than a No. 22d standard lug box, measure not less than 2$^{3}/_{16}$ inches in diameter as measured by a rigid ring: *Provided,* That not more than 10 percent by count of peaches in any such container may fail to meet such diameter requirement.

(3) Any package or container of Robin, Babcock, Blazing Gold, Cardinal, Dixired, Gold Dust, Merrill Gemfree, Royal May, or Early Coronet variety peaches unless:

(i) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 88 peaches in the lug box;

(ii) Such peaches when packed in a No. 12B standard peach box are of a size that will pack, in accordance with the requirements of standard pack, not more than 75 peaches in the box; or

(iii) Such peaches when packed in any container, other than a No. 22D standard lug box, or a No. 12B standard peach box measure not less than 2¼ inches in diameter as measured by a rigid ring: *Provided,* That not more than 10 percent, by count, of peaches in any such container may fail to meet such diameter requirement.

(4) Any package or container of Coronet, Redhaven, Regina, Red Top, Merrill Gem, or Gaiety variety peaches unless:

(i) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the lug box;

(ii) Such peaches when packed in a No. 12B standard peach box are of a size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the box; or

(iii) Such peaches when packed in any container, other than a No. 22D standard lug box or a No. 12B standard peach box, measure not less than 2⅜ inches in diameter as measured by a rigid ring: *Provided,* That not more than 10 percent, by count, of peaches in any such container may fail to meet such diameter requirement.

(5) Any package or container of Alamar, Carnival, July Elberta (Early Elberta, Kim Elberta, and Socala), Fay Elberta, Regular Elberta, Fayette, Fiesta, Fortyniner, John Gee, J. H. Hale, Halloween, Pacifica, Pageant, Summerset, Suncrest, Red Globe, or Rio Oso Gem variety peaches unless:

(i) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the lug box;

(ii) Such peaches when packed in a No. 12B standard peach box are of a size that will pack, in accordance with the requirements of standard pack, not more than 65 peaches in the peach box; or

(iii) Such peaches when packed in any container, other than a No. 22D standard lug box or a No. 12B standard peach box, measure not less than 2 7/16 inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of peaches in any such container may fail to meet such diameter requirement.

(b) During the period June 21, 1971, through June 30, 1971, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraph (2), (3), (4), or (5) of paragraph (a) of this section unless:

(1) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the lug box; or

(2) Such peaches when packed in any container, other than a No. 22D standard lug box, measure not less than 2 3/16 inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent by count of peaches in any such container may fail to meet such diameter requirement.

(c) During the period July 1, 1971, through October 31, 1971, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraph (2), (3), (4), or (5) of paragraph (a) of this section unless:

(1) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the lug box;

(2) Such peaches when packed in a No. 12B standard peach box are of a size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the peach box; or

(3) Such peaches when packed in any container, other than a No. 22D standard lug box or a No. 12B standard peach box, measure not less than 2 3/8 inches in diameter as measured by a rigid ring: *Provided*, That more than 10 percent by count of peaches in any such container may fail to meet such diameter requirement.

(d) Terms used in the amended marketing agreement and order shall, when used herein have the same meaning as given to the respective term in said amended marketing agreement and order: "U.S. No. 1", and "standard pack," and shall have the same meaning as when used in the U.S. Standards for Peaches (§§ 51.1210–51.1223 of this title); "No. 22D standard lug box" and "No. 12B standard peach box" shall have the same meaning as set forth in section 43601 of the Agricultural Code of California; and "diameter" shall mean the distance through the widest portion of the cross section of a peach at right angles to a line running from the stem to the blossom end.

Dated: June 2, 1971.

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

[FR Doc.71-7906 Filed 6-4-71;8:51 am]

[7 CFR Part 1094]

MILK IN NEW ORLEANS, LA., MARKETING AREA

Notice of Proposed Termination of Certain Provisions of Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.) the termination of certain provisions of the order regulating the handling of milk in the New Orleans, La., marketing area effective September 1 is being considered.

All persons who desire to submit written data, views, or arguments in connection with the proposed termination should file the same with the Hearing Clerk, Room 112–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be terminated are as follows:

1. Section 1094.19 in its entirety.

2. In § 1094.22(k)(2), the words "through 1094.74."

3. In § 1094.30(a)(1), the words "and for each month of the base operating period, the total quantities of base milk and excess milk."

4. In § 1094.30(b), the words "and base and excess milk" appearing at the end of the first sentence of said subparagraph.

5. In § 1094.31(a)(2), the words "and for the base operating period the total pounds of base and excess milk."

6. In § 1094.31(b)(2)(i), the words "with separate totals for base and excess milk for the base operating period."

7. In § 1094.72(b), the words "in the months of August through January."

8. Sections 1094.73 and 1094.74 in their entirety.

9. In § 1094.75, the words "base price and excess price" immediately following the words "uniform price."

10. In § 1094.76(a), the words "and the uniform price for base milk."

11. In § 1094.77, paragraph (b) in its entirety.

12. In § 1094.77(c), the words "through 1094.74."

13. In § 1094.80(a)(2), the words "or to §§ 1094.73 and 1094.74 as the case may be."

14. In § 1094.80(b)(2), subdivision (ii) in its entirety.

15. In § 1094.80(c)(2), subdivision (ii) in its entirety.

16. Sections 1094.90, 1094.91, 1094.92, 1094.93, and 1094.94 in their entirety.

The proposed termination of the provisions specified would eliminate from the order the base-excess plan currently used during the months of February to July as a means of distributing to producers returns for their milk.

Statement of considerations. A cooperative association which represents a majority of the producers supplying the New Orleans market has requested the termination of the base-excess plan of the order. The association contends that the plan no longer tends to effectuate the declared policy of the Act. It is their contention that producers have overresponded to the plan in that production, particularly in the base-forming months, greatly exceeds the market's requirements for Class I milk. They state that elimination of the base-excess plan and the attendant "race for base" in the fall months will bring supplies more nearly into line with the market's requirements.

They request that the proposed termination order be issued at the earliest possible date so that producers will have ample time to arrange their production schedule prior to September 1, the date on which the base-forming period otherwise would commence.

Signed at Washington, D.C., on June 2, 1971.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[FR Doc.71-7905 Filed 6-4-71;8:51 am]

DEPARTMENT OF COMMERCE

U.S. Travel Service

[15 CFR Part 1200]

ISSUANCE OF GRANTS TO PROMOTE TRAVEL TO STATES OR THEIR POLITICAL SUBDIVISIONS BY FOREIGN RESIDENTS

Notice of Proposed Rule Making

On February 2, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 1541), stating

that the U.S. Travel Service, Department of Commerce, was considering proposed regulations prescribing the procedures for the administration of the Federal Matching Grant program authorized by the amendments made by Public Law 91–477 to the International Travel Act of 1961, as amended (22 U.S.C. 2121 et seq.). That notice also invited public comment on the proposed regulations.

The purpose of this notice is to withdraw the proposed regulations set forth in that notice and substitute the proposed regulations set forth below.

All persons who desire to submit written views or comments for consideration in connection with the issuance of these regulations, should file them in duplicate with the Assistant Secretary of Commerce for Tourism, U.S. Travel Service, U.S. Department of Commerce, Washington, D.C. 20230, within 20 days of the date of publication of this notice in the FEDERAL REGISTER.

Sec.

AUTHORITY: The provisions of this Part 1200 issued pursuant to Public Law 87–63, as amended by Public Law 88–426 and Public Law 91–477; Department of Commerce Organization Order 10–7 of November 12, 1970.

§ 1200.1 Background and purpose.

The regulations in this part are issued under the authority of the International Travel Act of 1961, as amended. The purpose of the Act is to strengthen the domestic and foreign commerce of the United States; promote friendly understanding and appreciation of the United States by encouraging foreign residents to visit the States, as defined in § 1200.2; and facilitate international travel in general. On October 21, 1970, the Act was amended by Public Law 91–477. One of the amendments made to the Act by Public Law 91–477 authorized the U.S. Travel Service to make matching Federal grants to States or their political subdivisions, or private or public nonprofit organizations, in an effort to encourage foreign residents to visit the United States and to upgrade and improve the tourist host and reception facilities in this country thereby furthering the stated purposes of the Act.

§ 1200.2 Definitions.

(a) "Act" means the International Travel Act of 1961, as amended (22 U.S.C. 2121 et seq.).

(b) "Assistant Secretary" means the Assistant Secretary of Commerce for Tourism or such official as may be designated to act in his behalf.

(c) "State" means one of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

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

(e) "Private or public non-profit organizations" means an institution, organization, or association, either private or public, which has tax exempt status as defined in section 501(a) of the Internal Revenue Code.

(f) "Applicant" means a State or political subdivision or combination thereof, or private or public nonprofit organization seeking a Federal grant for a travel promotional project.

(g) "Travel promotional project" means an activity or program designed to enhance a State or political subdivision as a desired travel destination of residents of foreign countries or to inform such residents and to encourage them to visit a State or political subdivision through such means as:

(1) Preparing and disseminating materials, including brochures, leaflets, booklets, posters, and displays featuring domestic regional and local attractions in appropriate foreign languages in foreign cities and countries that constitute a potential travel market to the States;

(2) Carrying out either singly or in conjunction with other States and/or other political subdivisions and/or with U.S. Travel Service, special promotions of facilities, attractions, events and services of an area by means of exhibits, shows, films, etc.;

(3) Planning, developing and sponsoring advertising campaigns in foreign countries to inform and encourage foreign residents to visit;

(4) Undertaking projects to upgrade and improve tourist facilities and services to better serve the foreign resident;

(5) Carrying out other projects that indicate a high probability of increasing foreign tourism;

(h) "Matching funds" means funds that are provided by the State or political subdivision or by a combination thereof, or from other non-Federal sources and may include fees, contributions, donations, gifts of money, and special user charges from persons and private profit or nonprofit firms, organizations, or institutions.

§ 1200.3 Applications for Federal grant for travel promotional projects.

(a) Each applicant seeking a Federal grant for a travel promotional project shall file an application, as further specified below, with the Assistant Secretary.

(b) Every application, exhibit, or enclosure, except where specifically waived by the Assistant Secretary, shall be in quadruplicate, duly authenticated and referenced, and addressed to the Assistant Secretary of Commerce for Tourism, U.S. Travel Service, U.S. Department of Commerce, Washington, D.C. 20230.

(c) Every application shall be on USTS Form, "Request for Travel Promotion Project Grant," which is available from the U.S. Travel Service. This application form incorporates assurances of compliance with the nondiscrimination requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1 et seq.) and implementing regulations (§ 8.1 et seq. of this title). Also, the form shall contain the date, address, and official title of the applicant and shall be signed by an authorized representative.

(d) Every application, except where specifically waived by the Assistant Secretary, shall be accompanied by the following exhibits:

(1) *Exhibit No. 1.* A statement setting forth in detail the current level of tourism in area in terms of (i) numbers of tourists in area, both foreign and domestic; (ii) impact of tourism on area economy (i.e., employment and income); and (iii) current efforts to develop and promote tourism in area.

(2) *Exhibit No. 2.* A project statement setting forth in detail the existing need for Federal assistance, the goals and objective thereof, in terms of tourism receipts and their effects on area jobs and income, the specific methods proposed for accomplishing these objectives in terms of personnel and funds and the procedures that will be used to evaluate the project.

(3) *Exhibit No. 3.* A statement setting forth in detail the budget proposed for the project, together with procedures for fiscal control, funding, accounting and auditing to assure proper disbursement of funds paid to the applicant.

(4) *Exhibit No. 4.* Documentation establishing that the applicant has coordinated the travel promotion project with other States (when regional cooperation is desirable) and with other publicly supported activities within the States or political subdivision, as appropriate, and the extent and manner in which such coordination has been carried out by identifying such projects and activities and indicating how any duplication of other travel promotion project in the area has been avoided.

(5) *Exhibit No. 5.* Certification by the Governor of the State or the chief political officer of the political subdivision or the president of the private or public nonprofit organization, as the case may be, that the applicant has—

(i) Established adequate standards and rules to insure that no officer or employee of the State or political subdivision or their designated agencies, or private or public organization, shall receive compensation from sources other than his employer for tourism development or promotional services for which funds are provided under the Act and that no such officer or employee shall otherwise maintain any private interest in conflict with his public responsibility. Each applicant will furnish a copy of the standards and rules which are established to avoid any conflict of interest in connection with the administration of a grant which may be made under the Act. Such rules shall clearly set forth the standards and procedures which officers, employees, and consultants can follow to

avoid any conflict of interest.

(ii) Determined that matching funds will be available from States or other non-Federal sources. In addition, each applicant shall indicate the basis for the determination by identifying such sources.

(iii) Determined that such travel promotional project supported by a grant under the Act does not provide or arrange transportation for, or accommodations to, persons traveling between foreign countries and the States in competition with any private business engaged in providing or arranging for such transportation and accommodations.

(iv) Planned no services specially related to a particular firm or company, public work or other capital project except insofar as the services are of general concern to the industry and commerce of the State or political subdivision. If the applicant has planned services which are specially related to a particular firm or company, public work or other capital project, a statement shall be furnished by the applicant to the Assistant Secretary describing such services and the basis for the determination that such services are of general concern to the industry and commerce of the State or political subdivision.

§ 1200.4 Action on application.

(a) Upon receipt of an application, the Assistant Secretary shall designate an employee of the U.S. Travel Service who will investigate the application and accompanying exhibits for compliance with the provisions of § 1200.3 and report his findings with respect thereto to the Assistant Secretary.

(b) The Assistant Secretary, within a reasonable time after receipt of the report referred to in paragraph (a) of this section, may authorize a grant to the applicant provided he finds that (1) the travel promotional project is designed to carry out the purposes of the Act; (2) the project will facilitate and encourage travel to the State or political subdivision or combination thereof by foreign residents; and (3) matching funds will be available from State or other non-Federal sources.

(c) In no event shall the amount of any grant made under the regulations of this part for any travel promotion project exceed 50 percent of the total cost of the project.

§ 1200.5 Grant accounting and records.

(a) Accounting for grant funds shall consist of any generally accepted accounting system and internal control procedures, including provisions for audit, provided that they meet the following requirements:

(1) Separate ledger accounts are established for each grant or grant project which conforms to or permits ready identification with grant budget categories. Such accounts should provide separate and specific accountability of receipts, expenditures, and balances. Separate accounts may be maintained for each annual period, but are not required.

(2) Supporting records of project expenditures are maintained in sufficient detail and itemization to show the exact nature of each expenditure. Such records should clearly indicate to which major budget category and subitems within the category an expenditure is charged.

(3) Reimbursements of travel expenses are supported by vouchers containing the signature of the individual performing the travel and the person authorized by the applicant to approve such travel. Vouchers should show the starting point and destination of travel, dates of travel, itemization of amounts expended for transportation and a statement of the amounts expended for transportation and a statement of the amount of per diem due (not to exceed the per diem authorized by the State or political subdivision or the rate of $25 per day (whichever is less)).

(4) Each expenditure is referenced to a supporting purchase order, contract, voucher, invoice, or bill, properly approved. Special voucher forms are not necessary since ordinarily the documents used by a designated agency to support expenditures from its own funds will be sufficient. Whenever possible, separate orders should be issued for purchases charged to grant funds in order that bills or invoices will not contain items charged to other funds.

(5) Grant number, account number, date, and expense classification are identified on invoices or vouchers charged to other funds.

(6) Payroll authorizations are maintained to effect control on salaries and wages charged against grant funds. These authorizations shall be approved by the appropriate authority in the State or political subdivision.

(7) Some objective evidence of time devoted to the grant project is maintained. As a minimum, a statement should be prepared at the end of each pay period showing the names of employees, the percentage of time each devoted to grant projects, the gross amounts of salaries and approval by appropriate authority in the designated agency.

(8) Adequate records are maintained supporting charges for fringe benefits, such as pensions, retirement, social security tax (FICA), etc., when included in the project budgets.

(9) All canceled checks are filed and are readily accessible for examination. When cash disbursements are made, they must be supported by receipts approved by appropriate authority.

(10) The accounting system is adequate to permit immediate identification of project balances and funds in general accounts, or separate bank accounts may be established for project funds.

(11) Inventory records are maintained for all equipment purchased with grant funds.

(12) The applicant receiving Federal funds under the Act shall require all subcontractors to provide documentation covering receipt and expenditure of grant and matching funds for which the designated agency is held responsible.

(13) The grant accounting system provides for adequate internal audits and the use of written policies and instructions defining accounting policies, procedures and controls.

(14) All income from project activity (sale of publications, entrance fees, user charges, etc.) is accounted for and clearly identified in financial reports.

§ 1200.6 Reports.

Financial reports and descriptive reports will be required as the Assistant Secretary may specify. Each applicant is also required to submit to the Assistant Secretary within 90 days after the official termination date of the grant (a) a final financial report, and (b) a descriptive report describing and evaluating the project accomplishments.

§ 1200.7 Inspection and audit.

(a) The Assistant Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination, any books, documents, papers, and records of the designated agency that are pertinent to Federal assistance received under the Act.

(b) Financial records must be kept on file for a minimum of 3 years following the termination of the grant. The required retention period may be extended by written notification by the Assistant Secretary.

§ 1200.8 Publications.

(a) If the applicant desires to publish information resulting from the grant, the general provisions accompanying the grant will contain regulations regarding acknowledgment and disclaimer requirements.

(b) A determination as to responsibilities will be made on a case-by-case basis; however, the Government reserves a nonexclusive license to use and reproduce for Government purposes, without payment, any publishable matter or information collected, including copyrighted material, arising out of the applicant's activities.

§ 1200.9 Collection of information.

If the applicant collects information from the public on its own initiative in connection with a research or other general purpose project, it will not, without prior written approval of the Assistant Secretary, in any way represent that the information is being collected by or for a Federal agency.

§ 1200.10 Termination.

(a) Grants may be terminated, in whole or in part, by the Assistant Secretary if he finds that any of the following conditions exist:

(1) The applicant, or those with whom such agency has contracted or subcontracted, is not complying with the provisions of the Act, with the regulations in this part, or with any of the provisions of the grant; or

(2) Any funds paid to the applicant under the provisions of the Act or the

regulations in this part have been lost, misapplied, or otherwise diverted from or improperly used or expended for other than the purposes for which they were paid.

(b) The Assistant Secretary may, in his sole discretion, terminate the grant, in whole or in part, if he finds that any of the conditions described in paragraph (a) of this section exist. Such termination shall be effective 30 days after the mailing of a written notice of termination to the applicant.

§ 1200.11 **Repayment.**

In the event that the grant is terminated, any funds that have been paid to the applicant by the U.S. Travel Service which have not been expended or contracted for upon receipt of the notice of termination shall be repaid to the Assistant Secretary within 30 days of such notice.

§ 1200.12 **Federal coordination.**

The Assistant Secretary may, prior to approving any travel promotional project, take such steps as he deems appropriate, to coordinate such project with other Federal agencies or seek the advice of such committees as may be established for the purpose of reviewing tourist development or promotion plans and programs.

Done in Washington, D.C., this 26th day of May 1971.

C. LANGHORNE WASHBURN,
Assistant Secretary of Commerce for Tourism, U.S. Travel Service, Department of Commerce.

[FR Doc.71-7864 Filed 6-4-71;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

FOOD ADDITIVES

Resinous and Polymeric Coatings

Notice was given in the FEDERAL REGISTER of May 29, 1968 (33 F.R. 7850), that a petition (FAP 8B2295) was filed by E. I. du Pont de Nemours & Co., Inc., 1007 Market Street, Wilmington, DE 19898, proposing that paragraph (b)(3)(xxv) of § 121.2514 *Resinous and polymeric coatings* be amended to lower from 300 to 100 the minimum centistokes viscosity of silicone release agents. The petitioner subsequently revised the petition to limit the lower viscosity silicone release agents for use only on metal substrates.

Having considered the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that in addition to the proposed amendments, § 121.2514 should be amended to reflect the identity of the silicone release agents that have been shown to be toxicologically safe and to clarify the identity of the related item "Silicones, as the basic polymers, and their curing catalysts."

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that § 121.2514(b)(3) be amended:

1. By revising the item "Silicones (not less than 300 * * *" in subdivision (xxv).

2. By adding to subdivision (xxv) a new item "Silicones (not less than 100 * * *".

3. By revising subdivision (xxviii).

The affected portions would read as follows:

§ 121.2514 **Resinous and polymeric coatings.**

* * * * *

(b) * * *

(3) * * *

(xxv) * * *

Silicones (not less than 300 centistokes viscosity): Dimethylpolysiloxanes and/or methylphenylpolysiloxanes. The methylphenylpolysiloxanes contain not more than 2.0 percent by weight of cyclosiloxanes having up to and including 4 siloxy units.

Silicones (not less than 100 centistokes viscosity): Dimethylpolysiloxanes and/or methylphenylpolysiloxanes limited to use only on metal substrates. The methylphenylpolysiloxanes contain not more than 2.0 percent by weight of cyclosixonanes having up to and including 4 siloxy units.

* * * * *

(xxviii) Silicones and their curing catalysts:

(*a*) Silicones as the basic polymers: Siloxane resins originating from methyl hydrogen polysiloxane, dimethyl polysiloxane, and methylphenyl polysiloxane.

(*b*) Curing (cross-linking) catalysts for silicones (the maximum amount of tin catalyst used shall be that required to effect optimum cure but shall not exceed one part of tin per 100 parts of siloxane resins solids):

Dibutyltin dilaurate.
Stannous oleate.
Tetrabutyl titanate.

* * * * *

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: May 26, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-7840 Filed 6-4-71;8:46 am]

[21 CFR Part 130]

CERTAIN INTRAURETERINE DEVICES FOR HUMAN USE

Proposed Policy Statement Regarding New-Drug Status

The Commissioner of Food and Drugs proposes to establish the following policy regarding new-drug status of certain intrauterine devices for contraceptive use in humans. Accordingly, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201 (g), (p), 505, 701(a), 52 Stat. 1041-42, as amended, 1052-53, as amended, 1055; 21 U.S.C. 321 (g), (p), 355, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that a new section be added to Part 130, Subpart A, as follows:

§ 130.___ **Certain intrauterine devices for human use for the purpose of contraception.**

(a) The Food and Drug Administration has become aware of the increased clinical use for the purpose of contraception of intrauterine devices that incorporate heavy metals or other substances (usually drugs). The amount of local irritation has been reported as being correlated, in animal studies, to the efficacy of such implants in achieving their contraceptive effect. Also, several investigators have reported different pregnancy rates which appear to be dependent on the type of metal used and/or the amount of exposed surface of the metal. Drugs have been incorporated with otherwise inert intrauterine devices to increase the contraceptive effect, decrease adverse reactions, or provide increased medical acceptability.

(b) After considering these and other factors, the Commissioner concludes that intrauterine implants used for the purpose of contraception and incorporating heavy metals, drugs or other added substances are not generally recognized as safe and effective for contraception and are new drugs within the meaning of section 201(p) of the Federal Food, Drug and Cosmetic Act. A completed and signed "Notice of Claimed Investigational Exemption for a New Drug" (Form FD 1571 set forth in § 130.3(a)(2)) must therefore be submitted to cover clinical investigations to obtain evidence that such preparations are safe and effective for this use. An approved new-drug application is required for the marketing of such articles.

(c) This section does not apply to intrauterine devices that contain a component, such as barium, added exclusively for the purpose of visualization by X-ray.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane,

Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: May 26, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-7841 Filed 6-4-71;8:46 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 71-EA-34]

HARTZELL PROPELLERS

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Hartzell type airplane propellers.

There have been reports of propellers overspeeding because of the loss of the air charge in the cylinder. Since this condition is likely to exist or develop in propellers of similar type design, it is proposed to issue an airworthiness directive which will require modification of the propeller.

Interested persons are invited to participate in the making of the proposed rule by submitting written data and views. Communications should identify the docket number and be submitted in duplicate to the Office of Regional Counsel, FAA, Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430.

All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before taking action upon the proposed rule. The proposals contained in the notice may be changed in light of comments received. All comments will be available in the Office of Regional Counsel for examination by interested persons.

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 by adding the following new airworthiness directive:

HARTZELL PROPELLERS. Applies to Models HC-E2YK-2RB, HC-E2YR-2RB, and HC-E2YL-2( ) Propellers equipped with 8465-7R, 7663-4, or J7663-4 noncounterweighted type blades.

Compliance required as indicated, unless already accomplished.

To prevent overspeeds in flight due to inadvertent loss of the propeller's air charge, accomplish the following:

(a) Propellers with 900 hours or more time in service since new or last overhaul as of the effective date of this AD, must be modified in accordance with paragraph (c) within the next 100 hours' time in service.

(b) Propellers with less than 900 hours in service since new or last overhaul as of the effective date of this AD must be modified in accordance with paragraph (c) prior to the accumulation of 1,000 hours in service since new, or last overhaul.

(c) Install appropriate Spring Backup Kit in accordance with Hartzell Service Letter No. 62 dated June 23, 1970, revised August 6, 1970, or subsequent FAA-approved revision. An equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423, and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on May 21, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[FR Doc.71-7856 Filed 6-4-71;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-98]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the De Land, Fla., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The De Land transition area, would be designated as:

That airspace extending upword from 700 feet above the surface within an 8.5-mile radius of De Land Municipal/Sidney H. Taylor (lat. 29°04'03" N., long. 81°17'00" W.); excluding the portion within Daytona Beach transition area.

The proposed designation is required to provide controlled airspace protection for IFR operations at De Land Municipal/Sidney H. Taylor Field. A prescribed instrument approach procedure to this airport, utilizing the Daytona Beach VORTAC, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of Section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on May 25, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-7857 Filed 6-4-71;8:47 am]

[14 CFR Part 75]

[Airspace Docket No. 71-WA-20]

AREA HIGH ROUTES

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would designate six area high routes in the United States.

Amendments to Parts 71 and 75 of the Federal Aviation Regulations were published in the FEDERAL REGISTER (35 F.R. 10653) which established regulatory bases for the designation of specific area high and low routes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue, SW., Washington, DC 20590. All communications received within 60 days after publication of this notice in the FEDERAL REGISTER will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590.

The FAA proposes to amend Part 75 of the Federal Aviation Regulations by designating area high routes as follows:

J-980R LOS ANGELES, CALIF., TO ST. LOUIS, MO.

Needles, Calif., 179.6° M/41.1 NM, lat. 34°-06'07" N., long. 114°40'53" W.;
Phoenix, Ariz., 325° M/81.6 NM, lat. 34°42'69" N., long. 112°28'46" W.;
St. Johns, Ariz., 5.3° M/51.4 NM, lat. 35°13'-59" N., long. 108°47'53" W.;
Albuquerque, N. Mex., 329.7° M/40.8 NM, lat. 35°41'34" N., long. 107°03'49" W.;

Las Vegas, N. Mex., 12.7° M/39.6 NM, lat. 36°15'07" N., long. 104°46'52" W.;
Garden City, Kans., 155.2° M/45.6 NM, lat. 37°10'46" N., long. 100°29'50" W.;
Ponca City, Okla., 337.7° M/60.5 NM, lat. 37°43'40" N., long. 97°27'11" W.;
Springfield, Mo., 342.7° M/61.3 NM, lat. 38°-21'43" N., long. 93°33'60" W.;
Farmington, Mo., 327.2° M/70.4 NM, lat. 38°42'35" N., long. 90°55'60" W.

J-981R Los Angeles, Calif., to Washington, D.C.

Oceanside, Calif., 300.7° M/45.6 NM, lat. 33°-46'60" N., long. 118°03'14" W.;
Needles, Calif., 179.6° M/41.1 NM, lat. 34°06'-07" N., long. 114°40'53" W.;
Phoenix, Ariz., 325° M/81.6 NM, lat. 34°42'09" N., long. 112°28'46" W.;
St. Johns, Ariz., 5.3° M/51.4 NM, lat. 35°13'-59" N., long. 108°47'53" W.;
Albuquerque, N. Mex., 329.7° M/40.8 NM, lat. 35°41'34" N., long. 107°03'49" W.;
Las Vegas, N. Mex., 12.7° M/39.6 NM, lat. 36°15'07" N., long. 104°46'52" W.;
Garden City, Kans., 155.2° M/45.6 NM, lat. 37°10'46" N., long. 100°29'50" W.;
Ponca City, Okla., 337.7° M/60.5 NM, lat. 37°43'40" N., long. 97°27'11" W.;
Springfield, Mo., 342.7° M/61.3 NM, lat. 38°-21'43" N., long. 93°33'60" W.;
Farmington, Mo., 327.2° M/70.4 NM, lat. 38°42'35" N., long. 90°55'59" W.;
Farmington, Mo., 10.3° M/65.7 NM, lat. 38°-43'46" N., long. 89°51'54" W.;
Indianapolis, Ind., 179.3° M/62.8 NM, lat. 38°46'02" N., long. 86°22'34" W.;
Charleston, W. Va., 295° M/57 NM, lat. 38°-42'02" N., long. 82°53'43" W.;
Gordonsville, Va., 4° M/64.6 NM., lat. 39°05'-26" N., long. 78°12'02" W.

J-982R Los Angeles, Calif., to Kansas City, Mo.

Needles, Calif., 179.6° M/41.1 NM, lat. 34°06'-07" N., long. 114°40'53" W.;
Phoenix, Ariz., 325° M/81.6 NM, lat. 34°42'09" N., long. 112°28'46" W.;
St. John, Ariz., 5.3° M/51.4 NM, lat. 35°13'59" N., long. 108°47'53" W.;
Albuquerque, N. Mex., 329.7° M/40.8 NM, lat. 35°41'34" N., long. 107°03'49" W.;
Las Vegas, N. Mex., 12.7° M/39.6 NM, lat. 36°15'07" N., long. 104°46'52" W.;
Garden City, Kans., 155.2° M/45.6 NM, lat. 37°10'46" N., long. 100°29'50" W.;
Salina, Kans., 164.2° M/69.7 NM, lat. 37°43'-40" N., long. 97°27'11" W.;
Salina, Kans., 77.9° M/119 NM, lat. 38°57'48" N., long. 95°05'22" W.

J-983R Miami, Fla., to New Orleans, La.

St. Petersburg, Fla., 166.2° M/31.3 NM, lat. 27°23'51" N., long. 82°33'16" W.;
Crestview, Fla., 196.3° M/140.5 NM, lat. 28°-36'26" N., long. 87°38'33" W.;
Grand Isle, La., 350° M/51.3 NM, lat. 30°01'-47" N., long. 90°10'20" W.

J-984R Houston, Tex., to Miami, Fla.

Lake Charles, La., 258.2° M/117.2 NM, lat. 29°57'24" N., long. 95°20'44" W.;
Grand Isle, La., VORTAC, lat. 29°10'30" N., long. 90°06'14" W.;
Crestview, Fla., 191.8° M/138.9 NM, lat. 28°-34'52" N., long. 87°20'58" W.;
St. Petersburg, Fla., 166.2° M/31.3 NM, lat. 27°23'51" N., long. 82°33'16" W.;
West Palm Beach, Fla., 200.8° M/46.3 NM, lat. 25°57'47" N., long. 80°27'39" W.

J-985R San Antonio, Tex., to Los Angeles, Calif.

Junction, Tex., 119.6° M/90.8 NM, lat. 29°38'-38" N., long. 98°27'40" W.;
Wink, Tex., 154.9° M/56.9 NM, lat. 30°57'07" N., long. 102°58'31" W.;
Wink, Tex., 232.2° M/46.4 NM, lat. 31°31'23" N., long. 104°03'00" W.;
Truth or Consequences, N. Mex., 149.5° M/65.4 NM, lat. 32°14'48" N., long. 106°52'20" W.;
San Simon, Ariz., 002.7° M/32.9 NM, lat. 32°47'55" N., long. 109°05'10" W.;
Phoenix, Ariz., VORTAC, lat. 33°25'53" N., long. 111°53'17" W.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 27, 1971.

T. McCormack,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-7858 Filed 6-4-71;8:47 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 512]

[Docket No. 71-63]

VESSEL OPERATING COMMON CARRIERS IN DOMESTIC OFFSHORE TRADES

Reports of Rate Base and Income Account

On June 17, 1964, the Federal Maritime Commission published in the Federal Register (29 F.R. 7721, at 7723) regulations for the purpose of requiring the filing of additional information by common carriers by water subject to the Commission's General Order 5 (46 CFR Part 511) so that the Commission would be able to expedite the discharge of its duties under the Intercoastal Shipping Act, 1933.

Experience indicates that the usefulness of this order to the Commission can be enhanced by amending it to dispense with the filing of statements and data required for the first 6 months of each year beginning with 1971; and in lieu thereof, require the filing of financial and operating data in support of initial, new, or changed tariff rates at the same time that such initial, new, or changed tariff rates themselves are filed with the Federal Maritime Commission. This amendment to General Order 11 will free carriers from the requirement of submitting 6-month statements, but instead will require that financial and operating data in support of initial, new, or changed tariff rates be filed simultaneously with the filing of such initial, new, or changed tariff rates, rather than to continue the present practice of informally requesting such data after the tariff rates under reference have been accepted for filing.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and sections 18, 21, and 43 of the Shipping Act, 1916, (46 U.S.C. 817, 820, and 841(a)), and sections 2, 4, and 7 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844, 845(a), and 847), notice is hereby given that the Federal Maritime Commission is considering amending Part 512 of its regulations.

It is proposed that Title 46 CFR, Chapter IV, Part 512, be amended in the following respects:

Section 512.3(d) would be revised to read as follows:

§ 512.3 General requirements.

* * * * *

(d) Whenever a carrier files with the Federal Maritime Commission a tariff or tariffs containing initial rates, new rates, or changed rates which will increase or decrease 50 percent of its domestic offshore tariff items by 3 percent or more, or increase or decrease its domestic offshore gross revenue by 3 percent or more, per trade, it shall file simultaneously therewith financial and operating data as follows:

(1) Exhibit A's (of the nature required by section 512.7(b) of this part), in duplicate, as at the end of the month preceding the month in which the initial, new, or changed rates are filed with the Commission; and at the end of a 12-month period beginning with the month following the month in which the initial, new, or changed rates are proposed to become effective (the latter mentioned Exhibit A will have to be constructed, and should be predicated on the very best estimates that is possible for the carrier to make).

(2) Exhibit B's (of the nature required by § 512.7(c)), in duplicate, supported by schedules similar to those normally required by the annual filings for a 12-month period ending on the last day of the month in which the initial, new, or changed rates were filed with the Commission (this requirement applies only with respect to changed rates—it does not apply to initial or new rates); and for a constructed 12-month period (taking into account effect of proposed rate changes) commencing with the month following the month in which the changed rates are proposed to become effective.

The foregoing itemization of data is general in nature, because it is intended to apply to all domestic offshore carriers. Due to this it should be understood that no implication is intended that will either limit the requirements for data to that which has been specified, or preclude verification of such data to the carrier's accounts and records. Other data or additional information may be required if the circumstances with respect to any particular carrier's case would indicate a need or use therefor. On the other hand it is not intended that there be any limitation on the carrier. In addition to the information specifically requested, the carrier should also furnish any other evidence, advice, or information which, in its opinion, would tend to strengthen the justness of proposed initial, new, or changed rates. Failure to furnish the financial and operating data under reference in this

paragraph certified as is requested by § 512.4, simultaneously with initial, new, or changed tariff rates, may leave the Commission with no alternative other than to suspend such rates for a part or all of the 4 months' period authorized by section 3 of the Intercoastal Shipping Act, 1933.

* * * * *

Interested persons may participate in this rulemaking proceeding by filing with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 21, 1971, an original and 15 copies of their views or arguments pertaining to the proposed rules.

By order of the Federal Maritime Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-7891 Filed 6-4-71;8:50 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 71-144]

CRUDE PETROLEUM

Entry of Net Quantities After Release Under Immediate Delivery Permit; Optional Procedure on Basis of Landed Quantity

A notice of a proposal to permit crude petroleum released under an immediate delivery permit in accordance with § 8.59 of the Customs Regulations (19 CFR 8.59) to be entered on the basis of the net landed quantity computed by deducting from the landed quantity any water and sediment in excess of 0.3 percent as ascertained by a commercial laboratory test was published in the FEDERAL REGISTER for March 4, 1971 (36 F.R. 4301). Interested persons were given an opportunity to submit relevant data, views, or arguments in writing regarding the proposed change.

No objection to the proposal has been received. Therefore, the optional procedure for entry of crude petroleum on the basis of the net landed quantity is hereby adopted as follows:

As an alternative to entering the total quantity of crude petroleum released under an immediate delivery permit in accordance with § 8.59 of the Customs Regulations (19 CFR 8.59), importers may file entry for the net quantity of crude petroleum landed. The net quantity is to be determined by deducting the quantity of sediment and water present in excess of 0.3 percent, as reported in a commercial laboratory test made by a laboratory which has been approved by the Commissioner of Customs and filed with the entry. Applications of commercial laboratories for approval of the use of their tests in determining the net landed quantity of crude petroleum shall be directed to the Commissioner of Customs, Washington, D.C. 20226. For purposes of this ruling, the approval of a public gauger by the Commissioner of Customs in accordance with the provisions of § 13.10(a)(5) of the Customs Regulations (19 CFR 13.10(a)(5)) shall constitute approval of the commercial laboratories operated by the public gauger as a part of the services rendered by him for his customers.

Samples of the imported merchandise will continue to be tested by the Customs laboratory in the usual manner. The results of the Customs laboratory tests will be used in the liquidation of the entry and in determining the quantity chargeable against the importer's oil import license. However, where there is a variance between the quantity reported by the Customs approved commercial laboratory and the quantity found by the Customs laboratory, no adjustment will be made in the quantity subject to liquidation to conform to the quantity found by the Customs laboratory, when the differences do not exceed the differences set forth in the following table (adapted from ASTM Designation D 1796, Fig. 3):

Percentage of water and sediment found by Customs laboratory	*Maximum percentage difference allowable*
0.05 to 0.50	0.1
0.51 to 1.50	0.2
more than 1.50	0.3

Effective date. Because use of the procedure herein authorized is optional with the importer and because this ruling relieves restrictions on the use of oil import licenses, good cause is found for dispensing with the 30-day delayed effective date provision of 5 U.S.C. 553. This ruling shall be effective upon the publication of this notice in the FEDERAL REGISTER (6-5-71).

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

[FR Doc.71-7882 Filed 6-4-71;8:49 am]

[T.D. 71-145]

SWISS FRANC

Rates of Exchange

MAY 24, 1971.

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Swiss franc between May 18 and May 21, 1971.

Treasury Decision 71-101 published as the rate of exchange for the Swiss franc for use during the calendar quarter beginning April 1 through June 30, 1971, $0.232800, as certified to the Secretary of the Treasury by the Federal Reserve Bank of New York under the provisions of section 522(c) of the Tariff Act of 1930, as amended (31 U.S.C. 372(c)).

For the dates listed below, the Federal Reserve Bank of New York certified rates for the Swiss franc which vary by 5 per centum or more from the rate $0.232800. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert Swiss currency into currency of the United States, conversion shall be at the daily rate certified by the Federal Reserve Bank of New York, as herewith published:

Swiss franc:	
May 18, 1971	$0.244666
May 19, 1971	.244700
May 20, 1971	.244687
May 21, 1971	.245500

Rates of exchange certified for the Swiss franc which vary by 5 per centum or more from the rate of $0.232800 during the balance of the calendar quarter ending June 30, 1971, will be published in a Treasury Decision for dates subsequent to May 21, 1971, and before July 1, 1971.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[FR Doc.71-7883 Filed 6-4-71;8:49 am]

Fiscal Service

[Dept. Circ. 570, 1970 Rev., Supp. No. 13]

COLONIAL SURETY COMPANY

Surety Company Acceptable on Federal Bonds

A Certificate of Authority as an acceptable surety on Federal bonds has been issued by the Secretary of the Treasury to the following company under sections 6 to 13 of title 6 of the United States Code. An underwriting limitation of $254,000.00 has been established for the company.

Name of company, location of principal executive office, and State in which incorporated:

Colonial Surety Company

Philadelphia, Pennsylvania

Certificates of Authority expire on June 30 each year, unless sooner revoked, and new Certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact fidelity and surety business and other information. Copies of the Circular, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Audit Staff, Washington, D.C. 20226.

Dated: April 9, 1971.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.71-7967 Filed 6-4-71;11:05 am]

Internal Revenue Service

FRANK BAYES

Notice of Granting of Relief

Notice is hereby given that Frank Bayes, 2742 Kalihi Street, Honolulu, HI 96819, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on September 24, 1948, in the Circuit Court, First Judicial Circuit, Territory of Hawaii, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Frank Bayes because of such conviction,

to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Frank Bayes to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Frank Bayes' application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Frank Bayes be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 25th day of May 1971.

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

[FR Doc.71-7893 Filed 6-4-71;8:50 am]

GEORGE WASHINGTON COOK

Notice of Granting of Relief

Notice is hereby given that George Washington Cook, 18010 Griggs Street, Detroit, MI 48221, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on March 19, 1958, in the Recorder's Court of the city of Detroit, Mich., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for George W. Cook because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for George W. Cook to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered George W. Cook's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That George W. Cook be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 25th day of May 1971.

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

[FR Doc.71-7894 Filed 6-4-71;8:50 am]

RONALD LEE DREW

Notice of Granting of Relief

Notice is hereby given that Ronald Lee Drew, 422½ Carrington Street, Waupun, WI 53963, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on June 11, 1965, in the Columbia County Court, Portage, Wis., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Ronald Lee Drew because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Ronald Lee Drew to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Ronald Lee Drew's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Ronald Lee Drew be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 26th day of May 1971.

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

[FR Doc.71-7895 Filed 6-4-71;8:50 am]

CHARLES H. HESSELRODE, JR.

Notice of Granting of Relief

Notice is hereby given that Charles H. Hesselrode, Jr., 2103 Orr Road, Poplar Bluff, MO 63901, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on July 6, 1964 in the Butler County, Mo., Circuit Court, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Charles Hesselrode, Jr. because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Charles Hesselrode, Jr. to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Charles Hesselrode, Jr.'s application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Charles Hesselrode, Jr. be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 26th day of May 1971.

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

[FR Doc.71-7896 Filed 6-4-71;8:50 am]

BENJAMIN FRANKLIN HULL

Notice of Granting of Relief

Notice is hereby given that Benjamin Franklin Hull, Route 2, Vale, N.C. 28168, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on March 16, 1943, in the U.S. District Court for the Western District of North Carolina, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Benjamin F. Hull because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Benjamin F. Hull to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Benjamin F. Hull's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Benjamin F. Hull be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove decribed.

Signed at Washington, D.C., this 25th day of May 1971.

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

[FR Doc.71-7897 Filed 6-4-71;8:50 am]

MICHAEL EDWARD LANE

Notice of Granting of Relief

Notice is hereby given that Michael Edward Lane, 5013 Lea Meadow, Garland, TX, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on December 10, 1962, in the Dallas County District Court, Dallas County, Tex., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Michael E. Lane because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C. Appendix), because of such conviction, it would be unlawful for Michael E. Lane to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Michael E. Lane's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Michael E. Lane be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 26th day of May 1971.

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

[FR Doc.71-7899 Filed 6-4-71;8:51 am]

KENNETH JUAN MARTINEZ

Notice of Granting of Relief

Notice is hereby given that Kenneth Juan Martinez, also known as Candleiro Juan Delfinio Martinez, also known as Candelario Juan Martinez, 4110 Debarr Avenue, Anchorage, Alaska, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on October 7, 1955, in the District Court, Otero County, Colo.; June 19, 1956, in the District Court, Otero County, Colo., on or about November 14, 1969, in the Superior Court for the State of Alaska, of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Kenneth Juan Martinez because of such convictions, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Kenneth Juan Martinez to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Kenneth Juan Martinez application and:

(1) I have found that the convictions were made upon charges which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Kenneth Juan Martinez be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 27th day of May 1971.

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

[FR Doc.71-7898 Filed 6-4-71;8:51 am]

AARON M. McMILLAN

Notice of Granting of Relief

Notice is hereby given that Aaron M. McMillan, 2854 Wirt Street, Omaha, NE 68111, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on April 24, 1969, in the U.S. District Court, Omaha, Nebr., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Aaron McMillan because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Aaron McMillan to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Aaron McMillan's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Aaron McMillan be, and he hereby it, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 26th day of May 1971.

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

[FR Doc.71-7900 Filed 6-4-71;8:51 am]

DONALD JOSEPH SULLIVAN

Notice of Granting of Relief

Notice is hereby given that Donald Joseph Sullivan, 3202 Rue Voltaire No. 1117, South Bend, IN, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on or about August 22, 1950, and on May 5, 1952, in the Marion County, Ind., Criminal Court, and on April 7, 1952, in the Monroe County, Ind., Circuit Court, of crimes punishable by imprisonment for a term exceeding year. Unless relief is granted, it will be unlawful for Donald Joseph Sullivan because of such convictions, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Donald Joseph Sullivan to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Donald Joseph Sullivan's application and:

(1) I have found that the convictions were made upon charges which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Donald Joseph Sullivan be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 27th day of May 1971.

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

[FR Doc.71-7901 Filed 6-4-71;8:51 am]

CLARENCE O'BRIEN WILEY, JR.

Notice of Granting of Relief

Notice is hereby given that Clarence O'Brien Wiley, Jr., 1606 Landover Drive, Mechanicsville, VA 23111, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on December 8, 1955, in the U.S. District Court, Richmond, Va., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Clarence O. Wiley because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Clarence O. Wiley to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Clarence O. Wiley's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Clarence O. Wiley be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 26th day of May 1971.

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

[FR Doc.71-7902 Filed 6-4-71;8:51 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt. 15]

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Fiscal Year Ending June 30, 1971)

The CCC Monthly Sales List for the fiscal year ending June 30, 1971, published in 35 F.R. 10922, is amended as follows:

1. Section 33 entitled "Linseed Oil (Raw) Unrestricted Use Sales", is amended by the insertion of the following sentence after the first sentence: "For June the price will be $0.1120 per pound."

2. Section 43 entitled "Peanuts, Shelled or Farmers Stock—Unrestricted Use Sales", is amended by the revision of the second sales item to read as follows:

2. Shelled graded peanuts equal to or exceeding requirements of U.S. grades

may be purchased for export without limitation on their use.

Signed at Washington, D.C., on May 28, 1971.

CARROLL G. BRUNTHAVER,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.71-7903 Filed 6-4-71;8:51 am]

Consumer and Marketing Service

EGG PRICES AND MARKET CONDITIONS

Modification of Market News

Correction

In F.R. Doc. 71-7560 appearing at page 9888 in the issue of Saturday, May 29, 1971, the penultimate sentence of the last paragraph in the center column should read as follows: "In addition a mostly price will be reported when possible."

Rural Electrification Administration

ARIZONA ELECTRIC POWER COOPERATIVE, INC.

Draft Environmental Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Draft Environmental Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with a loan application from the Arizona Electric Power Cooperative, Inc., of Benson, Ariz. This loan application, together with funds from other sources, includes financing for 16 miles of 230-kV. transmission line between Apache and Benson, Ariz.

Additional information may be secured on request submitted to Mr. James N. Myers, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality guidelines of April 23, 1971. The Draft Environmental Statement may be examined during regular business hours at the offices of REA, in the South Agriculture Building, 12th and Independence Avenue SW., Washington, DC, Room 4322, or at the offices of the Arizona Electric Power Cooperative, Inc., at Benson, Ariz., and at the Trico Electric Cooperative, Inc., 1144 West Miracle Mile, Tucson, AZ.

Comments concerning the environmental effects of the construction proposed should be addressed to Mr. Myers, at the address given above. Comments must be received within sixty (60) days of the date of publication of this notice (thirty (30) days in the case of agencies receiving a specific request for comment) to be considered in connection with the proposed use of loan funds.

Any loan which may be made pursuant to this application will be subject to, and release of funds thereunder contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects and after compliance with Environmental Statement procedures required by the National Environmental Policy Act.

Dated at Washington, D.C., this 2d day of June 1971.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.71-7907 Filed 6-4-71;8:51 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. G-501]

LONNIE ROY ANDERSON

Notice of Loan Application

JUNE 1, 1970.

Lonnie Roy Anderson, Route 1, Box 531, Gulf Breeze, FL 32561, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 41 feet in length, to engage in the fishery for shrimp and oysters.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief, Division of Financial Assistance.

[FR Doc.71-7862 Filed 6-4-71;8:47 am]

[Docket No. G-500]

LLOYD R. HENRY

Notice of Loan Application

MAY 26, 1971.

Lloyd R. Henry, Pointe A La Hache, La. 70082, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new wood vessel, about 41-foot in length, to engage in the fishery for shrimp and oysters.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief, Division of Financial Assistance.

[FR Doc.71-7835 Filed 6-4-71;8:45 am]

[Docket No. G-503]

NATHANIEL C. WILSON ET AL.

Notice of Loan Application

JUNE 1, 1971.

Nathaniel C. Wilson, Harvey Jordan, and Robert Lee Jordan, 206 East Hall Street, St. Marys, GA 31558, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 72-foot in length, to engage in the fishery for shrimp.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief, Division of Financial Assistance.

[FR Doc.71-7863 Filed 6-4-71;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 1650]

DISODIUM HYDROGEN CITRATE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Citralka Liquid, containing disodium hydrogen citrate; Parke, Davis & Co., Box 118, G.P.O., Detroit, Michigan 48232 (NDA 1-650).

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 report, as well as other available evidence, and concludes that this drug is effective for the indications described in the labeling "Indications" section below.

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.* Disodium hydrogen citrate preparations are in liquid form suitable for oral 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

For the relief of mild acidosis, for increasing serum pH or serum bicarbonate (alkaline reserve), and for use during sulfonamide therapy and other situations when increased alkalinity of the urine is desired.

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.

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 1650, 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 Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the 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 the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 7, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc. 71-7842 Filed 6-4-71; 8:46 am]

[DESI 8218]

POLYMYXIN B SULFATE OINTMENT

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Polymyxin B Sulfate Ointment; Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, New York 10017 (8-218).

Preparations containing polymyxin B sulfate are subject to the antibiotic certification procedures pursuant to section 507 of the Federal Food, Drug, and Cosmetic Act. Requests for certification of the drug in the dosage form described above should provide for labeling information in accord with the reevaluation of the drug as published in this announcement.

The Food and Drug Administration concludes that polymyxin B sulfate ointment is probably effective for the topical treatment of localized cutaneous infections due to polymyxin B susceptible organisms, particularly *Pseudomonas aeruginosa*.

The drug should be labeled to comply with all requirements of the Act and regulations. Its labeling should bear adequate information for safe and effective use of the drug and be in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The sections in the labeling for Indications and Warnings are as follows:

INDICATIONS

For topical treatment of localized cutaneous infections due to polymyxin B susceptible organisms, particularly *Pseudomonas aeruginosa*.

WARNINGS

No more than 200 mgms per day should be applied to raw or denuded skin because of the danger of systemic absorption with possible nephro- and neurotoxicity.

The Food and Drug Administration further concludes that polymyxin B sulfate ointment is possibly effective for prophylactic use for the above indications.

Batches of the drug which bear labeling with these indications and are otherwise in accord with the labeling conditions herein will be accepted for release or certification by the Food and Drug Administration for a period of 12 months and 6 months from the publication date of this announcement to allow any applicant to obtain and submit data to provide substantial evidence of effectiveness of the drug for use in those conditions for which it has been evaluated as probably effective and possibly effective, respectively.

To be acceptable for consideration in support of the effectiveness of the 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 12-month and 6-month periods any such data will be evaluated to determine whether there is

substantial evidence of effectiveness for such uses. After that evaluation, the conclusions concerning the drug will be 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 not be eligible for release or certification.

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 appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 8218, directed to the attention of the appropriate office listed below, and addressed (unless other specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland, 20852:

Amendment (identify with NDA number): 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.

Request for NAS-NRC report: Press Relations Office (CE-200), 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: May 7, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-7843 Filed 6-4-71;8:46 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-100]

DIRECTOR, COMPREHENSIVE PLANNING RESEARCH AND DEMONSTRATION, OFFICE OF ASSISTANT SECRETARY FOR RESEARCH AND TECHNOLOGY

Redelegation of Authority With Respect to Urban Planning Research and Demonstration Program

SECTION A. *Redelegation of Authority.* The Director, Comprehensive Planning Research and Demonstration, Office of the Assistant Secretary for Research and Technology, is authorized to exercise the following authority of the Secretary of Housing and Urban Development with respect to the Urban Planning Research and Demonstration Program under section 701(b) of the Housing Act of 1954 (68 Stat. 640, 40 U.S.C. 461):

1. To execute grant contracts and amendments thereto within the amounts and conditions of allocation orders approved by the Assistant Secretary or Deputy Assistant Secretary for Research and Technology.

2. To approve requisition for funds, third-party contracts, and budget amendments.

Revocation. The redelegation of authority by the Assistant Secretary for Research and Technology to the Acting Director, Urban Planning Research and Demonstration Program, published at 35 F.R. 4309, March 10, 1970, is hereby revoked.

(Secretary's delegation to Assistant Secretary for Research and Technology effective Mar. 1, 1971 (36 F.R. 5007, Mar. 1, 1971))

Effective date. This redelegation of authority shall be effective as of March 1, 1971.

HAROLD B. FINGER,
Assistant Secretary for Research and Technology.

[FR Doc.71-7878 Filed 6-4-71;8:49 am]

[Docket No. D-71-101]

DIRECTOR, ENVIRONMENTAL FACTORS AND PUBLIC UTILITIES DIVISION, OFFICE OF ASSISTANT SECRETARY FOR RESEARCH AND TECHNOLOGY

Redelegation and Revocation of Authority With Respect to Administration of Contracts for Grants for Urban Mass Transportation Projects

SECTION A. *Redelegation of authority.* The Director, Environmental Factors and Public Utilities Division, Office of the Assistant Secretary for Research and Technology, is authorized to exercise the following authority of the Secretary of Housing and Urban Development with respect to the administration of contracts for grants for urban mass transportation research, development, and demonstration projects under section 6(a), and research and training projects under section 11, of the Urban Mass Transportation Act of 1964 (78 Stat. 302, 49 U.S.C. 1601), and as modified by Reorganization Plan No. 2 of 1968 (49 U.S.C. 1608 note):

To approve requisitions for funds, third-party contracts, and budget amendments.

SEC. B. *Revocation.* The redelegation of authority by the Assistant Secretary for Research and Technology to the Director, Utilities Technology, published at 35 F.R. 4770, March 19, 1970, is hereby revoked.

(Secretary's delegation to Assistant Secretary for Research and Technology effective Mar. 1, 1971 (36 F.R. 5007, Mar. 16, 1971))

Effective date. This redelegation of authority shall be effective as of March 1, 1971.

HAROLD B. FINGER,
Assistant Secretary for Research and Technology.

[FR Doc.71-7879 Filed 6-4-71;8:49 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 71-51]

POLLOCK RIP AND GREAT ROUND SHOAL CHANNELS IN NANTUCKET SOUND

Notice of Public Hearing on Aids to Navigation

Notice is hereby given that a public hearing will be held by the Commander, First Coast Guard District, to determine whether certain changes should be made to aids to navigation at the eastern entrance to Nantucket Sound. These changes would improve the aids to navigation system at the Great Round Shoal Channel and reduce the number of aids to navigation in the Pollock Rip Channel. The hearings will be held at the main public library, corner of Pleasant and Williams Streets, New Bedford, Mass., on Tuesday, June 22, 1971, at 7 p.m. and at Coast Guard Station Chatham, Chatham, Mass., on Wednesday, June 23, 1971, at 7 p.m.

The specific changes proposed have been published in the Local Notices to Mariners Nos. 4 through 9. The Coast Guard has received written objections to the proposed changes. The main issue that has been raised is whether the Coast Guard should reduce the aids to navigation in the Pollock Rip Channel. The Channel is presently marked as a main channel for deep draft vessels. These vessels are using the Great Round Shoal Channel instead of the Pollock Rip Channel, and it appears that most of the present aids to navigation in the Pollock Rip Channel are unnecessary.

The hearing will be informal. It will be conducted by a representative of the Commander, First Coast Guard District who will make an opening statement presenting a brief summary of the proposed changes. Interested persons will then have an opportunity to present their oral statements. Additional procedures for conducting the hearing will be announced at the hearing. A summary of the hearing will be made available to the public.

Interested persons may submit written data, views, or arguments to the Commander (oan), First Coast Guard District, John F. Kennedy Federal Building, Government Center, Boston, Mass. 02203. Each person submitting comments should include his name and address, identify the subject, state his views on the effect discontinuance of the aids to navigation will have on safety to navigation, commerce and the public interest, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander,

First Coast Guard District. Written comments may also be submitted at the public hearings.

(Sec. 1, 63 Stat 500, 80 Stat. 937; 14 U.S.C. 81, 49 U.S.C. 1655(b)(1); 33 CFR 62.01–1, 62.05–1, 49 CFR 1.46(b))

Dated: May 28, 1971.

T. R. SARGENT,
Vice Admiral, U. S. Coast Guard,
Acting Commandant.

[FR Doc.71–7881 Filed 6–4–71;8:49 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50–313]

ARKANSAS POWER & LIGHT CO.

Notice of Receipt of Application for Facility Operating License

Please take notice that Arkansas Power & Light Co., Ninth and Louisiana Streets, Post Office Box 551, Little Rock, AR 72203, pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended (the Act), has filed an application, together with a final safety analysis report, by letter dated April 23, 1971, for a license to operate a nuclear power reactor at its site in Pope County, Ark.

The nuclear power reactor is a pressurized water reactor, designated by the applicant as Arkansas Nuclear One, Unit 1, designed for operation at 2,568 thermal megawatts with a gross electrical output of 880 megawatts.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Arkansas River Valley Regional Library, Dardanelle, Ark. 72834, Mrs. Robert Keathly, Librarian.

Dated at Bethesda, Md., this 28th day of May 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71–7832 Filed 6–4–71;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23455; Order No. 71–6–6]

AIRBORNE FREIGHT CORP.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of June 1971.

By tariff revisions filed May 3, marked to become effective June 3, 1971, Airborne Freight Corp. (Airborne) proposes to reduce substantially all of its airport-to-airport specific commodity rates from Chicago to New York and Newark. For several commodities, reductions are proposed at all weight breaks from 100 to 3,000 pounds. For most commodities no change is proposed for shipments of 100–199 pounds, but a 200-pound weight break would be introduced for shipments involving decreases for shipments of 200–999 pounds, as well as decreases at higher weights.

Complaints requesting investigation and suspension have been filed by American Airlines, Inc. (American), The Flying Tiger Line Inc. (Flying Tiger), and Trans World Airlines, Inc. (TWA). The complaints variously assert, inter alia, that the proposed rates would result in a significant diversion from scheduled air transportation and would seriously jeopardize the existence of such transportation, now operating unprofitably. In its justification and answer to the complaints, Airborne asserts that its proposals are based upon the use of chartered aircraft which will permit significant economies, both in terminal and line-haul costs and through higher load factors, and that the lower rates are needed to expand the use of air freight.

Upon consideration of all relevant factors, the Board finds that Airborne's proposed reductions may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful and should be investigated. The Board further concludes that the rates should be suspended pending investigation.

The proposed rates would effect reductions ranging from $2.35 to $5.35 per hundred pounds or between 25 and 47 percent below its currently effective group rates for each of its 28 specific commodity groups (containing many more individual commodities) from Chicago to New York. The reductions would undercut the direct carriers' bulk rates by as much as 49 percent.[1]

Airborne, however, does not indicate the source of the traffic that it hopes to obtain by its proposal, nor does it present factual data indicating that its proposed rates would be economic. In view of these circumstances, the Board will not permit such sharp reductions in a prime market to become effective without investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the rate from Chicago, Ill. to Newark, N.J./New York, N.Y. subject to minimum weight of 100 pounds applicable to Commodity Group No. 100 and the rates from Chicago, Ill. to Newark, N.J./New York, N.Y. subject to minimum weights of 200, 1,000, 2,000, and 3,000 pounds, on 51st and 52nd Revised Pages 32–D of Airborne Freight Corp's. CAB No. 9 (Pacific Air Freight, Inc. Series), and rules, regulations, or practices affecting such rates, are or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates, and rules, regulations, or practices affecting such rates;

2. Pending hearing and decision by the Board, the rate from Chicago, Ill. to Newark, N.J./New York, N.Y. subject to minimum weight of 100 pounds applicable to Commodity Group No. 100 and the rates from Chicago, Ill. to Newark, N.J./New York, N.Y. subject to minimum weights of 200, 1,000, 2,000, and 3,000 pounds, on 51st and 52nd Revised Pages 32–D of Airborne Freight Corp's. CAB. No. 9 (Pacific Air Freight, Inc. Series), are suspended and their use deferred to and including August 31, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board.

3. The proceeding herein designated Docket 23455 be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated;

4. The complaints of American Airlines, Inc., in Docket 23321; The Flying Tiger Line Inc., in Docket 23318; and Trans World Airlines, Inc., in Docket 23313 are dismissed, except to the extent granted herein; and

5. Copies of this order shall be filed with the tariff and served upon Airborne Freight Corp., American Airlines, Inc., The Flying Tiger Line Inc., and Trans World Airlines, Inc., which are hereby made parties to Docket 23455.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[2]

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71–7892 Filed 6–4–71;8:50 am]

[1] There is some variation among the rates in effect for the several direct carriers, Airlift International, Inc., American Airlines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Northwest Airlines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc. With a few exceptions, Airborne's reduced rates would be below all of the direct carriers' rates at all weight breaks. For a number of commodities at selected weight breaks, however, the forwarder's rates would be above those in effect for one or more carriers.

[2] Partial dissenting statement of member Minetti filed as part of the original document.

FEDERAL COMMUNICATIONS COMMISSION

[Report 546]

COMMON CARRIER SERVICES INFORMATION[1]

Domestic Public Radio Services Applications Accepted for Filing[2]

JUNE 1, 1971.

Pursuant to §§ 1.227(b)(3) and 21.30(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the list set

[1] All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cut-off rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

forth below, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

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

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

File No., applicant, call sign and nature of application

6539-C2-TC-71—Radiofone Corp. of New Jersey, Consent to transfer of control from Robert Edward, Transferor, to Radiofone Corp., Transferee.

6572-C2-P-(7)71—Southwestern Bell Telephone Co. (KKA282), C.P. to add frequencies 454.475, 454.500, 454.600, and 454.650 MHz and change the antenna system operating on 454.375, 454.400, and 454.425 MHz at station located at 1.7 miles east of Interstate Highway No. 35 on Southeast 89th Street, Oklahoma City, OK.

6573-C2-P-(2)71—New York Telephone Co. (KEC932), C.P. for additional air-ground facilities to operate on frequency 454.775 MHz base and frequencies 459.700 and 459.775 MHz test at station located at 125-10 Queens Boulevard, Kew Gardens, NY.

6579-C2-P-71—Frank A. Del Vecchio (New), C.P. for a new 2-way station to be located at 4505 Valley Forge Drive, Rockville, MD, to operate on 152.120 MHz.

6580-C2-P-(2)71—General Telephone Co. of Illinois (KSJ620), C.P. to replace the transmitter operating on 152.21 MHz and add a second channel on 152.72 MHz at station located at 112 East Washington Street, Bloomington, IL.

6581-C2-P-71—Airsignal International, Inc. (KIF651), C.P. for additional facilities to operate on 35.58 MHz at a new site described as location No. 2: 3471 North Federal Highway, Fort Lauderdale, FL.

6582-C2-P-(6)71—Capital Telephone Co., Inc. (KEC937), C.P. to replace transmitters; change the antenna system and relocate the base facilities operating on 152.030 and 152.180 MHz to Helderberg 2, 2.2 miles west-northwest of New Salem, New Scotland, N.Y., also add repeater facilities on 75.50 and 75.82 MHz at same location and add control facilities on 72.58 and 72.66 MHz at 611 Union Street, Schenectady, NY.

6583-C2-P-(9)71—Industrial Communications (KOP321), C.P. to add a second base channel to operate on 152.06 MHz, replace the transmitter and change the antenna system operating on 152.21 MHz and add a second repeater channel to operate on 459.350 MHz, replace the transmitter and change the antenna system operating on 459.050 MHz at location No. 1: Blue Mountain, Utah; at location No. 2: 625 West Fifth North, Vernal, UT, add control facilities to operate on 454.350 and 454.175 MHz and replace the transmitter operating on 454.050 MHz and at a new site described as location No. 3: Tabby Mountain, 4.5 miles west of Tabiona, Utah, additional facilities to operate on 152.12 MHz base and 459.175 MHz repeater.

6586-C2-P-71—Airsignal International, Inc. (KOA796), C.P. for additional facilities to operate on 35.580 MHz at a new site described as location No. 3: Rocky Butte Circle Road, Portland, OR.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE—continued

6587-C2-AL-71—Kost Communications, Inc., Consent to assignment of license from Kost Communications, Inc., Assignor, to Mankato Answering Service, Inc., Assignee. Station: KFL923, North Mankato, MN.

6603-C2-P-71—Mount Beacon Mobilephone Service (KFL560), C.P. to change the antenna operating on 454.25 MHz located at North Beacon Mountain, Fishkill, N.Y.

6604-C2-P-71—Mobile Radio Message Service, Inc. (KEA260), C.P. for additional facilities to operate on 152.09 MHz at a new site described as location No. 2: 5 Horizon Road, Fort Lee, N.J.

6693-C2-P-71—Mobilfone (KQZ772), C.P. to change the antenna system and relocate facilities operating on 152.24 MHz to 600 Building, located at 600 Leopard Street, Corpus Christi, TX.

6694-C2-P-71—Anserfone of St. Lucie County, Inc. (KIG838), C.P. to add a second channel to operate on frequency 152.12 MHz at station located at 464 North Ninth Street, Fort Pierce, FL.

CORRECTION—MAJOR AMENDMENT

6112-C2-P-71—Mobilfone Corp. (New), Correct to read as follows:
Business Communication, Inc., Amend to change base frequency to 454.325 MHz. All other particulars to remain same as reported on Public Notice dated May 10, 1971, Report No. 543.

RURAL RADIO SERVICE

6584-C1-P-71—Continental Telephone Co. of California (New), C.P. for a new rural subscriber station to be located at 13 miles northeast of Victorville, Calif., to operate on on frequency 157.80 MHz communicating with Station KMM664, Boron, Calif.

6585-C1-P-71—Continental Telephone Co. of California (New), C.P. for a new rural subscriber station to be located at Galileo Hill, 16 miles northwest of Boron, Calif., to operate on frequency 157.80 MHz communicating with Station KMM664, Boron, Calif.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

6545-C1-P-71—The Pacific Telephone & Telegraph Co. (KMO89), C.P. to add frequency 3910 MHz toward Cloverdale, Calif., and 3930 MHz toward Red Mountain, Calif. Station location: 516 Third Street, Santa Rosa, CA.

6546-C1-P-71—The Pacific Telephone & Telegraph Co. (KMO90), C.P. to add frequencies 3730 and 3810 MHz toward Walker Ridge, Calif., and 3870 MHz toward Santa Rosa, Calif. Station location: 5 miles north of Cloverdale, Calif.

6547-C1-P-71—The Pacific Telephone & Telegraph Co. (KMQ41), C.P. to add frequencies 3770 and 3850 MHz toward Pennington, Calif. Station location: Wolf Creek, 6 miles southwest of Grass Valley, Calif.

6548-C1-P-71—The Pacific Telephone & Telegraph Co. (KMQ63), C.P. to add frequencies 3730 and 3810 MHz toward Wolf Creek, Calif., and 3730 and 3810 MHz toward Walker Ridge, Calif. Station location: 1 mile southwest of Pennington, Calif.

6549-C1-P-71—The Pacific Telephone & Telegraph Co. (KMQ64), C.P. to add frequencies 3770 and 3850 MHz toward Pennington, Calif., and 3770 and 3850 MHz toward Cloverdale, Calif. Station location: Walker Ridge, 4 miles west of Wilbur Springs, Calif.

6550-C1-P-71—The Pacific Telephone & Telegraph Co. (KNB53), C.P. to add frequency 3890 MHz toward San Rafael Hill, Calif. Station location: 99 Moultrie Street, San Francisco, CA.

6551-C1-P-71—The Pacific Telephone & Telegraph Co. (WBO59), C.P. to add frequency 3890 MHz toward Santa Rosa and San Rafael Hill, Calif. Station location: Red Mountain, 3.3 miles northeast of Kenwood, Calif.

6552-C1-P-71—The Pacific Telephone & Telegraph Co. (WBO61), C.P. to add frequency 3930 MHz toward San Francisco and Red Mountain, Calif. Station location: San Rafael Hill, 1.5 miles northeast of San Rafael, Calif.

6569-C1-P-71—Olympic Telephone Co. (New), C.P. for a new station to be located at 3,000 feet north of Kingston, Wash. Frequencies: 4407.5 MHz toward Fort Lawton, Wash., and 4822.5 MHz toward Vashon, Wash.

6570-C1-P-71—Vashon Telephone Co. (New), C.P. for a new station to be located at 11,000 feet south of Vashon, Wash. Frequencies: 4422.5 MHz toward Rattle Snake, Wash., via passive reflector and 4522.5 MHz toward Kingston, Wash.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—Continued

6571–C1–P–71—American Telephone & Telegraph Co. (KAA65), C.P. for additional facilities to add frequency 3710 MHz toward Cedar Rapids, Iowa. Station location: 2 miles east-northeast of Homestead, Iowa.

6574–C1–P–71—Cincinnati Bell Inc. (KQN89), C.P. to add frequencies 5967.4 and 10,995 MHz toward Owensville, Ohio. Station location: 209 West Seventh Street, Cincinnati, OH.

6575–C1–P–71—Cincinnati Bell Inc. (KQN90), C.P. to add frequencies 6219.5 and 11,445 MHz toward Cincinnati, Ohio, and 6234.3 and 11,645 MHz toward Roachester, Ohio. Station location: 2.7 miles north of Owensville, Ohio.

6576–C1–P–71—Wisconsin Telephone Co. (KSO85), C.P. to add frequencies 6100.9 and 11,155 MHz toward Osborn, Wis. Station location: 126 North Superior Street, Appleton, WI.

6577–C1–P–71—Wisconsin Telephone Co. (KSO86), C.P. to add frequencies 6293.6 and 11,605 MHz toward Appleton, Wis. and 6249.1 and 11,325 MHz toward Green Bay, Wis. Station location: 3.7 miles southwest of Seymour, Wis. (Osborn).

6578–C1–P–71—Wisconsin Telephone Co. (KSO87), C.P. for additional facilities to add frequencies 6145.3 and 10,875 MHz toward Osborn, Wis. Station location: 205 South Jefferson Street, Green Bay, WI.

6600–C1–P–71—Michigan Bell Telephone Co. (KQH77), C.P. to add frequency 3930 MHz toward Flint, Mich. Station location: 10389 Hadley Road, Atlas, MI.

6601–C1–P–71—Michigan Bell Telephone Co. (KQG59), C.P. to add frequency 3890 MHz toward Atlas, Mich. Station location: 502 Beach Street, Flint, MI.

6605–C1–P–71—The Chesapeake and Potomac Telephone Co. of Virginia (KJG52), C.P. to add frequencies 6412.2 and 11,305 MHz toward Norfolk, Va. Station location: 3305 Huntington Avenue, Newport News, VA.

6695–C1–P–71—Southern Bell Telephone & Telegraph Co. (KIP48), C.P. to add frequency 6390.0 MHz toward Greenough, Ga. Station location: 304 Pine Avenue, Albany, GA.

6696–C1–P–71—Southern Bell Telephone & Telegraph Co. (KJL38), C.P. to add frequency 6049.0 MHz toward Meigs, Ga., and 4030 MHz toward Albany, Ga. Station location: 4.5 miles southeast of Baconton, Ga. (Greenough).

6697–C1–P–71—Southern Bell Telephone & Telegraph Co. (KJL39), C.P. to add frequency 4070 MHz toward Greenough and Thomasville, Ga. Station location: 2.2 miles west of Meigs, Ga.

6698–C1–P–71—Southern Bell Telephone & Telegraph Co. (KIU49), C.P. to add frequency 4030 MHz toward Meigs, Ga. Station location: 122 Remington Avenue, Thomasville, GA.

6699–C1–MP–71—Southwestern Bell Telephone Co. (WDE62), Modification of C.P. to add frequencies 3730, 3810, 3890, 3970, 6226.9, and 6345.5 MHz toward Odessa, Tex., a new point of communication. Station location: Interstate Highway 20 and State Highway 349, Midland, Tex.

6700–C1–P–71—Southwestern Bell Telephone Co. (KLT69), C.P. to add frequencies 3930, 4010, 4090, 4170, 5974.8, and 6093.5 MHz toward Midland R.S., Tex., which replaces point of communication at Midland, Tex. Corrected coordinates to read: latitude 32°02'11" N., longitude 102°22'42" W. Station location: 10 miles north of Odessa, Tex.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

6541–C1–P/ML–71—Eastern Microwave, Inc. (KEM34), C.P. and modification of license to add frequency band 5960.0 MHz–6390.0 MHz and to add six 6 GHz transmitters to present temporary-fixed authorization (2355–C1–R–66).

6553–C1–P–71—United Video, Inc. (New), C.P. for a new station 0.5 mile west of McNeill, Miss., at latitude 30°40'00" N., longitude 89°38'54" W. Frequencies: 6241.7 and 6360.3 MHz on azimuth 80°59'.

6554–C1–P–71—United Video, Inc. (New), C.P. for a new station 2 miles northeast of Perry, Miss., at latitude 30°44'22" N., longitude 89°06'35" W. Frequencies: 6137.9 and 6167.6 MHz on azimuth 69°16'.

6555–C1–P–71—United Video, Inc. (New), C.P. for a new station 1.5 miles south-southwest of Lucedale, Miss., at latitude 30°54'19" N., longitude 88°35'55" W. Frequencies: 6301 and 6360.3 MHz on azimuth 114°49'.

6556–C1–P–71—United Video, Inc. (New), C.P. for a new station 1 mile west of Semmes, Ala., at latitude 30°46'38" N., longitude 88°16'44" W. Frequencies: 6019.3 and 6167.6 MHz on azimuth 112°24' and frequency 6019.3 MHz on azimuth 62°08'.

6557–C1–P–71—United Video, Inc. (New), C.P. for a new station 4 miles southwest of Rabun, Ala., at latitude 31°00'30" N., longitude 87°46'09" W. Frequency: 6182.4 MHz on azimuth 355°45'.

POINT-TO-POINT MIRCOWAVE RADIO SERVICE (NONTELEPHONE)—continued

6558–C1–P–71—United Video, Inc. (New), C.P. for a new station 5 miles southeast of Jackson, Ala., at latitude 31°27'40" N., longitude 87°48'30" W. Frequency: 6390.0 MHz on azimuth 83°05".

6559–C1–P–71—United Video, Inc. (New), C.P. for a new station 2.3 miles west of Mexia, Ala., at latitude 31°30'00" N., longitude 87°25'42" W. Frequency: 6078.6 MHz on azimuth 51°53'.

6560–C1–P–71—United Video, Inc. (New), C.P. for a new station 2 miles northwest of Midway, Ala., at latitude 31°43'58" N., longitude 87°04'50" W. Frequency: 6390.0 MHz on azimuth 49°09'.

6561–C1–P–71—United Video, Inc. (New), C.P. for a new station 3 miles south-southeast of Macedonia, Ala., latitude 31°57'00" N., longitude 86°47'08" W. Frequency: 5960.0 MHz on azimuth 90°40', and frequency 6078.6 MHz on azimuth 328°11'.

6562–C1–P–71—United Video, Inc. (New), C.P. for a new station 5 miles west of Highland Home, Ala., at latitude 31°56'44" N., longitude 86°23'56" W. Frequency: 6390.0 MHz on azimuth 62°13'.

6563–C1–P–71—United Video, Inc. (New), C.P. for a new station 2.5 miles west-northwest of Shopton, Ala., at latitude 32°07'48" N., longitude 85°59'10" W. Frequency: 5960.0 MHz on azimuth 114°26'.

6564–C1–P–71—United Video, Inc. (New), C.P. for a new station 1 mile southwest of Mount Andrew, Ala., at latitude 31°57'17" N., longitude 85°32'09" W. Frequency: 6390.0 MHz on azimuth 97°33'.

6565–C1–P–71—United Video, Inc. (New), C.P. for a new station 2 miles east-southeast of Kings, Ala., at latitude 32°11'38" N., longitude 86°57'49" W. Frequency: 6345.5 MHz on azimuth 317°53'.

6566–C1–P–71—United Video, Inc. (New), C.P. for a new station 3 miles southeast of Harrell, Ala., at latitude 32°23'58" N., longitude 87°11'12" W. Frequency: 6108.3 MHz on azimuth 353°59'.

6567–C1–P–71—United Video, Inc. (New), C.P. for a new station 0.75 mile east of Levert, Ala., at latitude 32°45'46" N., longitude 87°13'51" W. Frequency: 6360.3 MHz on azimuth 352°14'.

6568–C1–P–71—United Video, Inc. (New), C.P. for a new station 4.5 miles northeast of Hagler, Ala., at latitude 33°04'18" N., longitude 87°16'51" W. Frequency: 6108.3 MHz on azimuth 306°23'.

(INFORMATIVE: Applicant proposes to provide the television signal of Station WWOM–TV of New Orleans, La., to Teleprompter Corp. in Tuscaloosa and Mobile, Ala., and to Lake Shore Master Antenna Corp. in Eufaula, Ala. Applicant also proposes to provide the signal of WYES–TV to Teleprompter Corp. in Mobile, Ala. Waiver requested for section 21.701(1) of the rules.)

6588–C1–P–71—United Video, Inc. (WAN82), C.P. to add frequencies 11,425 and 11,585 MHz on azimuth 229°12'. Location: 1.28 miles west-northwest of Phelps, Mo., at latitude 37°11'43" N., longitude 93°55'39" W. (Applicant is proposing to reroute a previously authorized service to Neosho, Mo.)

6589–C1–P–71—First Television Corp. (KGN77), C.P. to power split frequencies 5960.0, 6019.3, 6078.6, and 6137.9 MHz on azimuth 192°00'. Location: 5 miles northwest of Salisbury, Md., at latitude 38°24'13" N., longitude 75°37'28" W.

(INFORMATIVE: Applicant proposes to provide the television signals of Stations WMAR–TV, WBAL–TV, WJZ–TV, and WTTG–TV to Princess Anne CATV, Inc., in Princess Anne, Md.)

6602–C1–TC–(3)–71—First Television Corp. Consent to transfer of control from: Bernard Briskin et al. to: Transferor to: Ed. Phillips & Sons Co., Transferee. Stations: KGN55, Georgetown, Del.; KGN76, Salisbury, Md.; KGN77, Cambridge, Md.

(INFORMATIVE: Applicant proposes a regional microwave network for the purpose of providing two-way terminal-to-terminal common carrier video transmission services for commercial and public television broadcast stations in New England.)

6701–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station 2.2 miles southwest of Woburn, Mass., at latitude 42°27'20" N., longitude 71°10'50" W. Frequencies 11,665V on azimuth 144°19' toward Boston, Station WHDH; 11,465V on azimuth 137°10' to passive repeater and on azimuth 333°30' from passive repeater toward Station WNAC, Boston; 11,585V on azimuth 145°12' toward Boston, Station WKBG; 11,385V on azimuth 159°20' toward Boston, Station WBZ; 11,625V on azimuth 159°20' to passive repeater at WBZ to

Station WGBH on azimuth 100°57′ from passive repeater; 11,425V on azimuth 166°19′ toward Brighton, Station WSBK; 6004.5V and 6063.8V on azimuth 351°28′ toward Warner Hill; 11,505V on azimuth 253°04′ toward Boylston, Station WSMW; 6004.5H, 6034.2V, 6123.1H, and 6152.8V on azimuth 244°12′ toward Charlton, Mass.; 5945.2H, 6004.5H, 6034.2V, 6123.1H, 6152.8V on azimuth 203°24′ toward Beacon Pole Hill, R.I.

6702–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station at 50 Morrissey Boulevard, Boston at latitude 42°19′06″ N., longitude 71°02′52″ W. Frequency 10,975V on azimuth 324°24′ toward Woburn, Mass.

6703–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station at RKO Building, Government Center, Boston at latitude 42°21′43″ N., longitude 71°03′42″ W. Frequency 10,735V on azimuth 153°30′ to passive repeater and on azimuth 317°15′ toward Woburn, Mass.

6704–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station at 75 Morrissey Boulevard, Boston, at latitude 42°19′00″ N., longitude 71°03′02″ W. Frequency 11,175V on azimuth 325°17′ toward Woburn, Mass.

6705–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station at 1170 Soldiers Field Road, Boston, at latitude 42°21′54″ N., longitude 71°08′04″ W. Frequency 10,775V on azimuth 339°22′ toward Woburn, Mass.

6706–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station at 125 Western Avenue, Boston, at latitude 42°21′49″ N., longitude 71°07′29″ W. Frequency 11,015V on azimuth 280°58′ to passive repeater and on azimuth 339°22′ toward Woburn, Mass.

6707–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station at Brighton, Mass., at latitude 42°21′33″ N., longitude 71°08′56″ W. Frequency 10,895V on azimuth 346°20′ toward Woburn, Mass.

6708–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station 2.6 miles north of Shrewsbury, Boylston, Mass., at latitude 42°20′01″ N., longitude 71°42′53″ W. Frequency 10,815V on azimuth 72°42′ toward Woburn, Mass.

6709–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station at Warner Hill Road, Derry, N.H., latitude 42°53′10″ N., longitude 71°16′06″ W. Frequencies 6256.5V and 6315.9V on azimuth 51°10′ toward Mount Agamenticus, Maine.

6710–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station 5.3 miles north of York Corner, Maine, at latitude 43°13′25″ N., longitude 70°41′34″ W. Frequencies 5945.2V and 6004.5V on azimuth 35°52′ toward Portland, Maine.

6711–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station 3.8 miles east of Woonsocket, Beacon Pole Hill, R.I., at latitude 41°59′39″ N., longitude 71°26′53″ W. Frequencies 11,225V on azimuth 184°00′ to passive repeater at Providence and on azimuth 195°05′ toward Station WSBE; 11,465V and 11,305V on azimuth 171°23′ to passive repeater at Providence and on azimuth 146°31′ toward Station WJAR, Providence and 278°25′ toward Station WPRI, Providence; 6404.8H on azimuth 154°00′ toward Tiverton, R.I.

6712–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station 2.2 miles southeast of Tiverton, R.I., at latitude 41°35′48″ N., longitude 71°11′24″ W. Frequency 11,665V on azimuth 79°15′ toward New Bedford, Mass.

6713–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station 2.3 miles north of Charlton, Mass., at latitude 42°10′05″ N., longitude 71°58′20″ W. Frequencies 6226.9H, 6256.5V, 6286.2H, 6197.2H, 6345.5H, 6375.2V, and 6404.8H on azimuth 63°40′ toward Woburn, Mass.; 6226.9V, 6286.2V, 6404.8V, and 6345.5V on azimuth 274°23′ toward Blandford, Mass.

6714–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station 3 miles north of Blandford, Mass., at latitude 42°13′10″ N., longitude 72°56′47″ W. Frequencies 6004.5H, 6034.2V, 6093.5V, and 6123.1H on azimuth 166°45′ toward Talcott Mountain, Conn.; 5945.2H, 5974.8V, 6004.5H, 6034.2V, 6063.8H, 6093.5V, and 6123.1H on azimuth 93°44′ toward Charlton, Mass.; 5945.2H, 6063.8H, and 6004.5H on azimuth 332°05′ toward Berlin Mountain, N.Y.; 11,665V on azimuth 106°29′ toward Springfield, Mass., Station WHYN; and 11,585V on azimuth 126°57′ toward Springfield, Mass., Station WWLF

6715–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station 4.48 miles east of Berlin, Berlin Mountain, N.Y., at latitude 42°41′33″ N., longitude 73°17′11″ W. Frequencies 11,585V on azimuth 263°51′ toward Albany, Station EEN; 6197.2H on azimuth 151°52′ toward Blandford, Mass.; 11,665V and 11,345V on azimuth 266°47′ toward Albany, Station WTEN.

6716–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station at Alfred E. Smith Building, Albany, N.Y., at latitude 42°39′14″ N., longitude 73°45′37″ W. Frequency 10,895V on azimuth 83°32′ toward Berlin Mountain, N.Y.

6717–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station 2.9 miles south of Avon, Talcott Mountain, Conn., at latitude 41°46′27″ N., longitude 72°48′23″ W. Frequencies 6177.5H, 6226.9V, 6286.2V, 6315.9H, 6345.5V, 6375.2H, and 6404.8V on azimuth 346°51′ toward Blandford, Mass.; 6226.9V, 6286.2V, 6345.5V on azimuth 202°27′ toward Prospect, Conn.; 11,425V on azimuth 94°07′ toward Hartford, Station WHCT; 11,585V on azimuth 142°30′ toward Hartford, Station WHNB; 11,665V on azimuth 110°05′ toward Hartford, Station WEDH; 11,345V on azimuth 95°22′ to passive repeater in Hartford and 62°02′ toward Station WTIC.

6718–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station at 24 Summit Street, Hartford, Conn., at latitude 41°44′35″ N., longitude 72°41′34″ W. Frequency 10,975V on azimuth 290°05′ toward Talcott Mountain, Conn.

6719–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station 1.9 miles south of Prospect, Conn., at latitude 41°28′18″ N., longitude 72°58′21″ W. Frequencies 5974.8V, 6004.5H, 6034.2V, 6093.5V, 6123.1H, 6152.8V on azimuth 22°20′ toward Talcott Mountain; 6034.2V, 6093.5V, 6152.8V on azimuth 219°48′ toward Booth Hill, Conn.

6720–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station 2.3 miles northeast of Long Hill, Booth Hill, Conn., at latitude 41°16′43″ N., longitude 73°11′08″ W. Frequencies 6226.9V, 6286.2V, 6345.5V, 6404.8V, 6256.5H, 6315.9H on azimuth 39°40′ toward Prospect; 11,425V on azimuth 28°00′ toward Waterbury, Station WATR; 11,665V on azimuth 81°50′ to passive repeater, New Haven and on azimuth 221°42′ toward Station WNHC; 6256.5H, 6315.9H, 6375.2H on azimuth 229°06′ toward Empire State Building, New York, N.Y.

6721–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station at Fifth Avenue at 34th Street, New York, NY, at latitude 40°44′54″ N., longitude 73°59′10″ W. Frequencies 6004.5H, 6063.8H, 6123.1H, 6034.2V, 6093.5V, 6152.8V on azimuth 48°34′ toward Booth Hill, Conn.; 11,425V on azimuth 23°13′ toward Station NBC; 11,665V on azimuth 350°24′ toward Station CBS; 11,265V on azimuth 11°30′ to passive repeater and on azimuth 343°16′ to Station ABC.

6722–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station at 57 West 56th Street, New York, NY, at latitude 40°46′23″ N., longitude 73°58′48″ W. Frequency 11,055V on azimuth 163°16′ to passive repeater and on azimuth 191°31′ toward Empire State Building, New York, N.Y.

6723–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station at 30 Rockefeller Plaza, New York, NY, at latitude 40°45′31″ N., longitude 73°58′49″ W. Frequency 10,735V MHz on azimuth 203°13′ toward Empire State Building, New York, N.Y.

6724–C1–P–71—Video Microwave, Inc. (New), C.P. for a new station at 524 West 57th Street, New York, NY, at latitude 40°46′11″ N., longitude 73°59′27″ W. Frequency 10,975V on azimuth 170°24′ toward Empire State Building, New York, N.Y.

[FR Doc.71-7817 Filed 6-4-71;8:45 am]

FEDERAL MARITIME COMMISSION

[Docket No. 71-42; Special Permission 5343]

SEA-LAND SERVICE, INC.

General Increases in Rates in U.S. Atlantic and Gulf/Puerto Rico Trade; First Supplemental Order

By the original order in this proceeding served April 22, 1971, the Commission placed under investigation a general rate increase of the subject carrier, and suspended to and including August 24, 1971, supplements No. 9 to Tariffs FMC–F No. 18 and FMC–F No. 21. The Commission's order prohibits changes in tariff matter held in effect by reason of suspension, during the period of suspension, unless otherwise ordered by the Commission.

By Special Permission Application No. 300 authority is sought to depart from the terms of Rule 20(c) of Tariff Circular No. 3 and the terms of the original order in this proceeding to permit the filing, upon not less than 1 day's notice, of certain revised pages which will change tariff matter continued in effect by reason of suspension in this proceeding. Authority is further sought to obtain con-

tinuing special permission to make changes in rates and provisions held in effect by reason of suspension in said docket, upon lawful notice, but only to the extent that such changes will result in a reduction in rates and charges.

A full investigation of the matters involved in the application having been made, which application is hereby referred to and made a part hereof:

It is ordered, That:

1. Authority to depart from Rule 20(c) of Tariff Circular No. 3 and the terms of the order in Docket No. 71–42 to make the changes in rates and provisions as set forth in the Appendix to Special Permission Application No. 300, said changes to become effective on full statutory notice, is hereby granted. The short notice authority requested by Special Permission Application No. 300 is hereby denied.

2. Authority is further granted to Sea-Land Service, Inc., to depart from the terms of Rule 20(c) of the Commission's Domestic Tariff Circular No. 3 and the terms of the original order in Docket No. 71–42 to make changes in rates and provisions in its Tariffs FMC–F No. 18 and FMC–F No. 21 or held in effect by reason of suspension in said docket, upon lawful notice, but only to the extent that such changes will result in a reduction in rates or charges, unless otherwise authorized by the Commission. This authority extends to and including August 24, 1971.

3. The authority granted hereby does not prejudice the right of this Commission to suspend any publications submitted pursuant thereto, either upon receipt of protest or upon the Commission's own motion under section 3 of the Intercoastal Shipping Act, 1933.

4. Publications issued and filed under this authority shall bear the following notation: "Issued under authority of First Supplemental Order in Docket No. 71–42 and Federal Maritime Commission Special Permission No. 5343."

5. This special permission does not modify any outstanding formal orders of the Commission except insofar as it allows the aforementioned changes and permits the statutory filing of reduced rates, nor waive, except as herein authorized, any of the requirements of its rules relative to the construction and filing of tariff publications.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.71–7889 Filed 6–4–71;8:50 am]

[Docket No. 71–30; Special Permission 5346]

TRANSAMERICAN TRAILER TRANSPORT, INC.

Increases in Rates in U.S. Atlantic/Puerto Rico Trade; Second Supplemental Order

By the original order in this proceeding served March 31, 1971, the Commission placed under investigation a general rate increase of the subject carrier, and suspended to and including August 24, 1971, Supplement No. 8 to Tariff FMC–F No. 1. The Commission's order prohibits changes in tariff matter held in effect by reason of suspension, during the period of suspension, unless otherwise ordered by the Commission.

By Special Permission Application No. 50 authority is sought to depart from the terms of Rules 20(c) of Tariff Circular No. 3 and the terms of the original order in this proceeding to permit the filing, upon full statutory notice of 30 days, certain revised pages which will change tariff matter continued in effect by reason of suspension in this proceeding. In view of this request consideration was given to granting a continuing special permission to make changes in rates and provisions held in effect by reason of suspension in said docket, upon lawful notice, but only to the extent that such changes will result in a reduction in rates and charges.

A full investigation of the matters involved in the application having been made, which application is hereby referred to and made a part hereof:

It is ordered, That:

1. Authority to depart from Rule 20(c) of Tariff Circular No. 3 and the terms of the order in Docket No. 71–30 to make the changes in rates and provisions as set forth in exhibits in Special Permission Application No. 50, said changes to become effective on full statutory notice, is hereby granted.

2. Authority is further granted to Transamerican Trailer Transport, Inc., to depart from the terms of Rule 20(c) of the Commission's Domestic Tariff Circular No. 3 and the terms of the original order in Docket No. 71–30 to make changes in rates and provisions held in effect by reason of suspension in said docket, upon lawful notice, but only to the extent that such changes will result in a reduction in rates or charges, unless otherwise authorized by the Commission. This authority extends to and including August 24, 1971.

3. The authority granted hereby does not prejudice the right of this Commission to suspend any publications submitted pursuant thereto, either upon receipt of protest or upon the Commission's own motion under section 3 of the Intercoastal Shipping Act, 1933.

4. Publications issued and filed under this authority shall bear the following notation: "Issued under authority of Second Supplemental Order in Docket No. 71–30 and Federal Maritime Commission Special Permission No. 5346."

5. This special permission does not modify any outstanding formal orders of the Commission except insofar as it allows the aforementioned changes and permits the statutory filing of reduced rates, nor waive, except as herein authorized, any of the requirements of its rules relative to the construction and filing of tariff publications.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.71–7890; Filed 6–4–71;8:50 am]

FEDERAL POWER COMMISSION

NATIONAL GAS SURVEY EXECUTIVE ADVISORY COMMITTEE

Order Designating Additional Member

MAY 28, 1971.

The Federal Power Commission by orders issued April 6, 1971, established an Executive Advisory Committee of the National Gas Survey.

1. *Membership.* An additional member to the Executive Advisory Committee, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

George P. Mitchell, President, George Mitchell & Associates, Inc.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[FR Doc.71–7875 Filed 6–4–71;8:48 am]

[Docket No. RI71–1061]

AMERADA HESS CORP. ET AL.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

MAY 28, 1971.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until"

column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI71-1061	Amerada Hess Corp. et al...	95	8	Montana-Dakota Utilities Co. (Nesson Antiecline Area, Williams County, N. Dak.).	$391,186	4-28-71	.....	10-29-71	19.0442	[1] 22.4167	RI71-507.

*The pressure base is 14.73 p.s.i.a.
[1] Increase based on rise of Bureau of Labor Statistic's index of wholesale prices on all commodities.

The proposed increase of Amerada Hess Corp. is for a sale in North Dakota where no ceiling rates have been established. However, the proposed rate exceeds the highest certificated rate in North Dakota which is 16 cents per Mcf. It also exceeds the corresponding rate filing limitation imposed in Southern Louisiana in Order No. 413, as amended.[2] The proposed increase is therefore suspended for five months from the expiration of the 30-day statutory notice period.

Additionally, Amerada requests an effective date for which adequate notice was not given. Good cause has not been shown for granting this request and it is denied.

[FR Doc.71-7865 Filed 6-4-71;8:48 am]

[Docket No. E-7548, etc.]

GEORGIA POWER CO. ET AL.

Order Directing Conference on Data Requests and Dismissing Renewal of Complaints in Terminated Proceedings

MAY 28, 1971.

Georgia Power Co., Docket No. E-7548; Southern Electric Generating Co., Docket No. E-7569; and Southern Services, Inc., Georgia Power Co., Alabama Power Co., Gulf Power Co., and Mississippi Power Co., Docket No. E-7570.

By a pleading entitled "Renewals of Complaints, Motion for Order of Compliance and Motion to Consolidate", filed March 18, 1971, the customer-intervenors (Intervenors) in Docket No. E-7548, Georgia Power Co.'s wholesale rate increase case, seek to renew their complaints in Dockets Nos. E-7569 and E-7570, requesting initiation of an investigation therein, and consolidation of those dockets with E-7548, as well as an order requiring the several parties named in the caption above to comply with Intervenors' data requests.[1] The complaints in Dockets Nos. E-7569 and E-7570 were originally filed on October 14, 1970, and were dismissed by our order issued January 15, 1971. The above-mentioned pleading, insofar as it seeks renewal of the complaints and consolidation, is no more than a petition for rehearing of our January 15 order, and under the provisions of section 313(a) of the Federal Power Act must be dismissed as untimely filed.

The above-mentioned pleading also seeks an order directing compliance with Intervenors' data request[2] addressed to the several members of the Southern Co. system. The member companies (other than Georgia) have declined to comply with the request.

Upon review of the documents filed herein we find that Intervenors have set forth no facts upon which we can reach a determination whether or not the data they request are relevant and material to the issues in Docket No. E-7548. Accordingly, we neither grant nor deny at this time Intervenors' request for an order directing compliance with their data request. Moreover, the Presiding Examiner is in a better position in the first instance to assess the materiality and relevance of the various items contained in the data request. Accordingly, we are directing that a conference be held, on the record, before the Presiding Examiner in Docket No. E-7548. At such conference the parties shall set forth their positions and arguments with regard to the materiality and relevance of the data requests with sufficient particularity to enable the Presiding Examiner to rule on the materiality and relevance of each item, and to direct the production of all items he determines to be relevant and material.

The Commission orders:

(A) A conference before the Presiding Examiner in Docket No. E-7548 shall be held in a hearing room of the Federal Power Commission, Washington, D.C. 20426, commencing at 10 a.m., e.d.s.t., on June 15, 1971, for the purposes herein described.

(B) The renewals of complaints in Dockets Nos. E-77569 and E-7570 are dismissed.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[FR Doc.71-7868 Filed 6-4-71;8:48 am]

[1] See the Commission's order issued Mar. 22, 1971, granting in part and denying in part applications for rehearing of the Commission's order issued Feb. 18, 1971, which is entitled "Outstanding Suspension Proceedings and Temporary Certificates Involving Independent Producers."

[1] Answers were filed by all the parties named in the caption above, and Intervenors filed a reply thereto.

[2] Originally submitted on March 1, 1971; subsequently, a less extensive request was substituted. The latter is the one presently in issue.

[Docket No. RP70-6, etc.]

LAWRENCEBURG GAS TRANSMISSION CORP.

Order Accepting Tracking Increase for Filing, Allowing Proposed Revised Tariff Sheets To Become Effective Subject to Further Orders and Consolidating Proceedings

MAY 28, 1971.

Lawrenceburg Gas Transmission Corp. (Lawrenceburg), on April 28, 1971, tendered for filing in Docket No. RP71-113 proposed changes in its FPC Gas Tariff, Original Volume No. 1,[1] designed solely to track the rate increase filed by its supplier, Texas Gas Transmission Corp. (Texas Gas), to become effective June 1, 1971. Lawrenceburg proposes that its increase become effective on June 1, 1971, but requests that if its filing is suspended, such suspension not extend beyond the date on which Texas Gas' rate filing becomes effective. Lawrenceburg's proposed rate changes would increase charges under its two jurisdictional rate schedules, CDS-1 and EX-1, by approximately $34,357 annually based on volumes for the 12 months ended June 30, 1969.

In support of its filing, Lawrenceburg submitted cost of service and other data substantially identical to that which it submitted in support of its rate increase filings in Dockets Nos. RP70-6, RP70-26, RP70-44, and RP71-95.

In view of the fact that the purpose of Lawrenceburg's filing is to track its supplier's rate increase, we will accept Lawrenceburg's revised tariff sheets for filing and allow them to become effective June 1, 1971, subject to further orders

[1] The proposed revised tariff sheets are Seventh Revised Sheets Nos. 4 and 12.

of the Commission in Docket No. RP70–6, et al., as consolidated herein.

The fact that the cost and related data relied upon by Lawrenceburg in support of its filings in Docket No. RP71–113 and in each of the other above-captioned dockets are substantially the same, raises issues of law and fact common to each proceeding. Under these circumstances, it is appropriate that Docket No. RP71–113 be consolidated with the latter proceedings for purposes of hearing and decision.

The Commission finds: It is reasonable and appropriate that the proposed revised tariff sheets contained in Footnote 1, above, be accepted for filing and allowed to become effective June 1, 1971, as hereinafter ordered and conditioned.

The Commission orders:

(A) Seventh Revised Sheets Nos. 4 and 12 of Lawrenceburg's FPC Gas Tariff, Original Volume No. 1, are accepted for filing, to become effective June 1, 1971, subject to further orders of the Commission as may be issued in the proceedings in Docket No. RP70–6 et al., as consolidated herein.

(B) The proceedings in Dockets Nos. RP71–113 and RP70–6, et al. are hereby consolidated.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71–7871 Filed 6–4–71;8:48 am]

[Docket No. RP71–112]

MICHIGAN WISCONSIN PIPE LINE CO.

Order Providing for Hearing, Establishing Hearing Procedures, Rejecting Proposed Revised Tariff Sheets, and Accepting and Suspending Proposed Alternate Revised Tariff Sheets

MAY 28, 1971.

On April 29, 1971, Michigan Wisconsin Pipe Co. tendered for filing certain proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1, and First Revised Volume No. 2, to become effective on June 1, 1971. The proposed rate changes would increase Michigan Wisconsin's charges for jurisdictional sales and services by $40,061,069 annually based on sales for the 12 months ended January 31, 1971.

Michigan Wisconsin submitted two sets of proposed tariff sheets to its Second Revised Volume No. 1: (1) Revised tariff sheets, which contain a purchased gas adjustment clause, and (2) alternate revised tariff sheets, which do not contain a purchased gas adjustment clause. Michigan Wisconsin requests a waiver of § 154.38(d)(3) of the Commission's regulations to permit the revised tariff sheets containing the purchased gas adjustment clause to become effective as proposed. If the waiver of § 154.38(d)(3) is not granted, Michigan Wisconsin proposes that its alternate revised tariff sheets without the purchased gas adjustment clause be considered in lieu of and in substitution for the proposed revised tariff sheets which contain such clause. The tariff sheets in First Revised Volume No. 2 relate to transportation services and exchange agreements and therefore a purchased gas adjustment clause is not applicable.

Michigan Wisconsin states that its proposed rate increase is necessary as a result of (1) the increased cost of capital resulting in a claimed overall rate of return of 8¾ percent, (2) the increased cost of acquiring additional gas supplies, (3) a return to normalized accounting for liberalized depreciation in the determination of income taxes, (4) increased depreciation and taxes, (5) costs related to compliance with the safety standards promulgated by the Department of Transportation, and (6) the increased cost of labor, supplies, and other expenses of operation.

The reasonableness of including a purchased gas adjustment provision in Michigan Wisconsin's tariff has not been tested in any evidentiary proceeding. If accepted at this time, this provision would become operative when made effective after suspension. The purchased gas adjustment provision raises a number of substantive issues which should be fully explored and resolved before rates and charges to Michigan Wisconsin's customers are subjected to changes by application of this proposed adjustment provision. Accordingly, we deem it inappropriate at this time to waive the provisions of § 154.38(d)(3) of the Commission's regulations to permit the filing of Michigan Wisconsin's proposed revised tariff sheets containing a purchased gas adjustment provision. However, during the pendency of this proceeding and prior to the determination of this issue Michigan Wisconsin will not be precluded from requesting permission to track supplier rate increases which increase the purchased gas costs filed for by Michigan Wisconsin in this proceeding.

A review of Michigan Wisconsin's rate increase filing indicates that it raises issues which require development in an evidentiary proceeding. The proposed increased rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Michigan Wisconsin's FPC gas tariff, as proposed to be amended herein, and that the revised tariff sheets set forth in Appendix A be suspended, and the use thereof be deferred as herein provided.

(2) Michigan Wisconsin's proposed revised tariff sheets containing a purchased gas adjustment clause should be rejected.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing commencing with a prehearing conference shall be held on July 20, 1971, concerning the lawfulness of the rates, charges, classifications, and services contained in Michigan Wisconsin's FPC gas tariff, as proposed to be amended herein.

(B) On or before September 5, 1971, the Commission's staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of any and all intervenors shall be served on or before September 15, 1971. Any rebuttal evidence by Michigan Wisconsin shall be served on or before October 5, 1971. Cross-examination of the evidence filed shall commence at 10 a.m. on October 19, 1971, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426.

(C) At the hearing on July 20, 1971, Michigan Wisconsin's prepared testimony (Statement P), together with its entire rate filing submitted on April 29, 1971, shall be admitted into the record as its complete case-in-chief as provided by § 154.63(e)(1) of the Commission's regulations under the Natural Gas Act, subject to appropriate motions, if any, by the parties to the proceeding. Following admission of Michigan Wisconsin's complete case-in-chief, the parties shall proceed to effectuate the intent and purpose of § 2.59, and particularly § 2.59(f) of the Commission's rules of practice and procedure and of this order as set forth above.

(D) Michigan Wisconsin's proposed revisions to its FPC gas tariff, Second Revised Volume No. 1, consisting of alternate revised tariff sheets not containing a gas purchase adjustment clause, and its proposed revised tariff sheets to its FPC gas tariff, First Revised Volume No. 2, all as set forth in Appendix A, are hereby suspended and their use deferred until November 1, 1971, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(E) Michigan Wisconsin's proposed revised tariff sheets incorporating a purchased gas adjustment clause are hereby rejected. These proposed tariff sheets may be considered, along with any modifications or alternative provisions submitted by the parties or the Commission's staff, as a proposed purchased gas adjustment provision to be included in Michigan Wisconsin's tariff.

(F) A presiding examiner to be designated by the chief examiner for that purpose (18 CFR 3.5(d)), shall preside at the hearing initiated by this order, and shall conduct such hearing in accordance with the terms of this order and the provisions of § 2.59 of the Commission's rules of practice and procedure. Upon a showing of good cause, the presiding examiner may grant such ex-

tensions of time as he may deem necessary or appropriate.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

APPENDIX A

MICHIGAN WISCONSIN PIPE LINE COMPANY PROPOSED TARIFF SHEETS FILED APRIL 29, 1971

Second Revised Volume No. 1 (tariff sheets without purchased gas adjustment clause).
Sixteenth Revised Sheet No. 6.
Fourteenth Revised Sheet No. 7.
Eighth Revised Sheet No. 9B.
Eighth Revised Sheet No. 9C.
Seventh Revised Sheet No. 9E.
Seventh Revised Sheet No. 9F.
Third Revised Sheet No. 9H.
Third Revised Sheet No. 9J.
Fourteenth Revised Sheet No. 10.
Fourteenth Revised Sheet No. 11.
Ninth Revised Sheet No. 12.
Twelfth Revised Sheet No. 13.
Eighth Revised Sheet No. 14A.
Eighth Revised Sheet No. 14D.
First Revised Volume No. 2.
Second Revised Sheet No. 92.
Second Revised Sheet No. 110.
Second Revised Sheet No. 129.
Second Revised Sheet No. 130.
First Revised Sheet No. 141.
First Revised Sheet No. 142.
First Revised Sheet No. 171.

[FR Doc.71-7869 Filed 6-4-71;8:48 am]

[Docket No. CP71-267]

NUECES INDUSTRIAL GAS CO.

Order Setting Matter for Formal Hearing, Permitting Interventions, Prescribing Procedures, and Fixing Date of Hearing

MAY 27, 1971.

On April 15, 1971, the Commission, acting pursuant to the authority of the Natural Gas Act, as amended, particularly sections 4, 5, 7, 8, 10, and 16 thereof (52 Stat. 822, 823, 824, 825, 826, 830; 56 Stat. 83, 85, 15 U.S.C. secs. 717c, 717d, 717f, 717g, 717i, and 717), issued Order No. 431 promulgating a statement of general policy with respect to the establishment of measures to be taken for the protection of as reliable and adequate service as present natural gas supplies and capacities will permit.

Nueces Industrial Gas Co. has filed, in the above-entitled Docket No. CP71-267, an application, pursuant to section 7(c) of the Natural Gas Act and pursuant to Order No. 431 in Docket No. 418, for a limited-term certificate of public convenience and necessity, with pregranted abandonment, authorizing the operation of certain facilities for the sale of emergency gas to Transcontinental Gas Pipe Line Corp. (Transco). The limited-term certificate provides that Nueces sell up to a maximum daily volume of 250,000 Mcf of natural gas to Transco for a 1-year period commencing May 11, 1971, or as soon thereafter as the requisite certificate authorization is issued herein. The contractually agreed rate for the gas is 33.50 cents per Mcf.

In Order 431, the Commission amended Part 2, Subchapter A, General Rules, Chapter I, Title 18 of the Code of Federal Regulations by adding a new § 2.70, which reads:

(3) The Commission recognizing that additional short-term gas purchases may still be necessary to meet the 1971-72 demands, will continue the emergency measures referred to earlier for the stated 60-day period. If the emergency purchases are to extend beyond the 60-day period, paragraph 12 in the notice issued by the Commission on July 17, 1970, in Docket No. R-389A should be utilized (35 F.R. 11638). The Commission will consider limited-term certificates with pregranted abandonment, if the pipeline demonstrates emergency need * * *.

Paragraph 12 of R-389A provided, in part, that applicants requesting certificates for sales of natural gas in excess of the ceiling or guideline rate, shall state the grounds for claiming that the present or future public convenience and necessity requires issuance of a certificate on the terms proposed in the application.

The application in this proceeding represents a sizeable volume of gas potentially available to the interstate market at a rate in excess of existing in-line or guideline rates. In view of data which indicates to the Commission the inability of interstate pipelines to procure contracts for emergency supplies of gas at existing guideline rates, we believe it advisible to act expeditiously by setting this application for public hearing. The hearing will be held to allow the presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of a limited-term certificate on the terms proposed in that application.

Pursuant to the notice of the instant application issued May 10, 1971, the following parties filed petitions to intervene.

New York Public Service Commission filed a notice of intervention.
Philadelphia Electric Co.
Atlanta Gas Light Co.
Long Island Lighting Co.
Commonwealth Natural Gas Corp.
Brooklyn Union Gas Co.
North Penn Gas Co.
Commissioner of Public Works of Greenwood, S.C.
Washington Gas Light Co.
Consolidated Edison Company of New York.
Public Service Electric and Gas Co.
Transcontinental Gas Pipeline Co.
Piedmont Natural Gas Co., Inc.
South Jersey Gas Co.
Union Gas Co. et al.
Eastern Shore Natural Gas Co.
U.G.I. Corp.
Consolidated Gas Supply Corp.
Delmarva Power and Light Co.
Owens-Corning Fiberglas Corp.
Pennsylvania Gas and Water Co.
Carolina Pipeline Co.
Cities of Buford, Bowman, Georgia, Sugar Hill, Tri-County Natural Gas, Georgia.

The Commission finds:

(1) The application for a limited-term certificate herein shall be set for formal hearing.

(2) It is desirable to permit all of the aforementioned parties, who filed timely petitions, to intervene in this proceeding.

The Commission orders:

(A) The application for limited-term certificate for the sale of natural gas filed in Docket No. CP71-267 is hereby set for hearing.

(B) Pursuant to the authority contained in, and subject to the authority conferred upon the Federal Power Commission by the Natural Gas Act, including particularly sections 7, 15, and 16, and the Commission's rules and regulations under that Act, a public hearing shall be held commencing June 10th, 1971, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning whether the present or future public convenience and necessity requires the issuance of a limited-term certificate for the sale of natural gas on the terms proposed in this application and whether the issuance of said certificate should be conditioned in any way. The Chief Examiner or an examiner designated by him shall preside at the hearing and shall prescribe such other procedures, consistent with those herein, as would expedite the early disposition of the instant proposal.

(C) All of the aforementioned parties who filed timely petitions to intervene herein are hereby permitted to become intervenors, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene: *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any orders or order of the Commission entered in this proceeding.

(D) The applicant seeking a limited term certificate and the proposed purchaser, Transcontinental, as well, as all other supporting intervenors shall, on or before June 4th, 1971, file with the Commission and serve on all parties to this proceeding, including the Commission staff, all testimony of all witnesses to be sponsored in support of the instant application.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-7870 Filed 6-4-71;8:48 am]

[Docket No. E-7618]

SOUTHERN CALIFORNIA EDISON CO.

Order Denying Motion To Reject Filing, Suspending Proposed Rate Schedule Changes, Providing for Hearing, and Granting Intervention

MAY 27, 1971.

Southern California Edison Co. (Edison), a public utility subject to the juris-

diction of this Commission, has filed proposed changes to its R–1 (Resale Service) and R–2 (Resale Service—Large) rates, affecting 11 wholesale customers and 12 rate schedules. The filing was originally made on March 23, 1971, and was supplemented with additional required information on April 26, 1971. Based on forecasts for the period May 1971–June 1972, the proposed increased rates would result in an increase to the R–1 customers of $84,475 (17.6 percent) and to the R–2 customers of $3,755,651 (12.5 percent). The changed rates are proposed to become effective May 27, 1971. Edison states in support of the filing that it is necessary to compensate for increases in money, labor, and material costs since its present resale rate level was established in 1965, and to maintain the financial integrity of and attract capital for the company. An overall rate of return of 8 percent is claimed.

Petitions to intervene have been filed by the Cities of Anaheim, Riverside, and Banning (Anaheim et al.) and the Secretary of the Navy. Anaheim et al., also moved to reject the filing for failure to comply with the requirements of the Commission's regulations, for lack of contractual authorization under F.P.C. v. Sierra Pacific Power Co., 350 U.S. 348 (1956), and for alleged violation of the antitrust laws. Anaheim et al., and the Secretary of the Navy also request that the proposed changed rates be suspended for the full 5-month period permitted by section 205(e) of the Federal Power Act.

The arguments made by Anaheim, et al., in favor of rejection of the filing are not meritorious. The filing, as supplemented by the additional information furnished by Edison, is in substantial compliance with the requirements of § 35.13 of our regulations. The argument that the proposed changed rates lack contractual authorization is unsound in that section 2 of the applicable contracts specifically provides:

> All electric service provided hereunder shall be paid for by the Customer under Rate Schedule No. R–2 or any effective superseding rate schedule and in accordance with the applicable Rules. * * *.

This contractual language is parallel to that which the Supreme Court held in United Gas Pipeline Co. v. Memphis Light, Gas & Water Division, 358 U.S. 103 (1958) permitted the filing of increased rates. The present contract is thus clearly distinguishable from those found not to authorize such filings in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and F.P.C. v. Sierra Pacific Power Co., 350 U.S. 348 (1956), on which Anaheim et al., rely. The language of section 7 of the contract,[1] reciting that it is subject to such changes as the Public Utilities Commission of California may order, is no more than a recognition of the parties' belief at the time of drafting the contract that the State Commission had jurisdiction over the sales in question. The fact that these sales were under the jurisdiction of this Commission was subsequently confirmed in F.P.C. v. Southern California Edison Co., 376 U.S. 205 (1964). Clearly, the parties could not by contract oust this Commission of jurisdiction over these sales. We note also that Anaheim and Edison subsequently executed a "Contract for Reduction in Electric Rates and for Settlement of Claims" in which the jurisdiction of this Commission over the sale involved was plainly recognized.

The antitrust arguments raised by Anaheim et al., raise factual questions which can be resolved only after an evidentiary hearing such as we are ordering herein. The filing does not disclose on its face such inconsistency with the antitrust laws as would require rejection. It would be premature to reject the filing on those grounds in the absence of an evidentiary hearing. The motion to reject should therefore be denied.

A preliminary review of the filing indicates that the proposed rates may be excessive, unduly discriminatory, or otherwise unjust and unreasonable. The allegations made in support of the changed rates and the arguments against them raise questions best resolved through a public hearing. Accordingly, we are ordering a hearing to determine the lawfulness of the proposed changed rates and we shall suspend them in accordance with section 205(e) of the Federal Power Act.

The Commission further finds:

(1) Edison's proposed changed rates, as identified in Appendix A hereto, may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful under the Federal Power Act.

(2) It is necessary and appropriate for the purposes of the Federal Power Act, particularly sections 10, 205, 206, 301, 307, 308, and 309 thereof, that the Commission enter upon a hearing concerning the lawfulness of Edison's proposed changed rates, as identified in appendix A, and that they be suspended and the use thereof deferred, as hereinafter provided.

(3) Participation by Anaheim et al., and the Secretary of the Navy may be in the public interest.

(4) The motion of Anaheim et al., to reject the filing herein should be denied.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, and pursuant to the Commission's rules of practice and procedure, a public hearing shall be convened, to commence with a prehearing conference to be held on August 2, 1971, at 10 a.m., e.d.s.t., at the offices of the Federal Power Commission, Washington, D.C., concerning the lawfulness of the proposed changed rates of Southern California Edison Co., as identified in appendix A hereto. Edison shall serve its direct testimony and exhibits on the Presiding Examiner and all parties on or before June 28, 1971. The Commission staff and Intervenors shall serve their testimony and exhibits on or before September 10, 1971. Edison shall serve its rebuttal testimony and exhibits on or before October 1, 1971. Cross-examination of all witnesses shall commence on October 18, 1971. Modification of the dates herein prescribed will be granted only upon good cause shown to the Presiding Examiner.

(B) Pending such hearing and decision thereon, Edison's proposed changed rates as identified in appendix A hereto are hereby suspended and the use thereof deferred until October 29, 1971. On that date they shall take effect in the manner prescribed by the Federal Power Act, and Edison, subject to further orders of the Commission, shall charge and collect the increased rates and charges set forth in the aforesaid changes for all power sold thereunder.

(C) Edison shall refund, at such times and in such manner as may be required by final order of the Commission, the portion of the increased rates and charges found by the Commission in this proceeding not justified, together with interest either at the prime rate charged by the Bank of America on October 29, 1971, or in accordance with such order as shall have been issued by the Commission, on or before that date, in Docket No. R–419, from the date of payment to Edison until refunded; shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the increased rates and charges effective as of October 29, 1971, for each billing period; and shall report (original and one copy) in writing and under oath, to the Commission monthly, for each billing period, the billing determinants of electric energy sold and delivered under the above-described increased rates, and the revenues resulting therefrom as computed under the rates in effect immediately prior to October 29, 1971, and under the rates and charges made effective by this order, together with the differences in revenues so computed.

(D) Unless otherwise ordered by the Commission, Edison shall not change the terms or provisions of the increased rates identified in Appendix A hereto until this proceeding has been terminated or until the period of suspension has expired.

(E) Petitioners Anaheim et al., and the Secretary of the Navy are hereby permitted to intervene in the proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenors shall be limited to the matters affecting asserted rights and interests specifically set forth in their petitions to intervene:

[1] Section 7 reads:

This contract shall at all times be subject to such changes or modifications by the Public Utilities Commission of the State of California as said Commission may from time to time direct in the exercise of its jurisdiction.

And provided further, That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered in this proceeding.

(F) The motion of Anaheim et al., to reject the filing herein is denied.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

APPENDIX A

[Docket No. E-7618]

SOUTHERN CALIFORNIA EDISON CO.

Designations	Instrument	Other party
Supplement No. 3 to Rate Schedule FPC No. 6 (Supersedes Supplement No. 2 to Rate Schedule FPC No. 6).	Resale Service Schedule No. R-1.	Arizona Public Service Co. (Cibola).
Supplement No. 3 to Rate Schedule FPC No. 11 (Supersedes Supplement No. 2 to Rate Schedule FPC No. 11).	do	U.S. Naval Ammunition Depot.
Supplement No. 4 to Rate Schedule FPC No. 13 (Supersedes Supplement No. 3 to Rate Schedule FPC No. 13).	Resale Service—Large Schedule No. R-2.	City of Vernon, Calif.
Supplement No. 3 to Rate Schedule FPC No. 15 (Supersedes Supplement No. 2 to Rate Schedule FPC No. 15).	do	City of Anaheim, Calif.
Supplement No. 3 to Rate Schedule FPC No. 16 (Supersedes Supplement No. 2 to Rate Schedule FPC No. 16).	do	City of Azusa, Calif.
Supplement No. 3 to Rate Schedule FPC No. 17 (Supersedes Supplement No. 2 to Rate Schedule FPC No. 17).	do	City of Riverside, Calif.
Supplement No. 2 to Rate Schedule FPC No. 19 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 19).	Resale Service Schedule No. R-1.	Anza Electric Cooperative, Inc.
Supplement No. 2 to Rate Schedule FPC No. 21 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 21).	Resale Service—Large Schedule No. R-2.	City of Banning, Calif.
Supplement No. 2 to Rate Schedule FPC No. 22 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 22).	Resale Service Schedule No. R-1.	Sierra Pacific Power Co. (Mineral County Power System).
Supplement No. 1 to Rate Schedule FPC No. 29 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 29).	do	Arizona Public Service Co. (Ehrenberg).
Supplement No. 3 to Rate Schedule FPC No. 31 (Supersedes Supplement No. 2 to Rate Schedule FPC No. 31).	Resale Service—Large Schedule No. R-2.	City of Colton, Calif.
Supplement No. 1 to Rate Schedule FPC No. 33	do	Southern California Water Co.

[FR Doc.71-7872 Filed 6-4-71;8:48 am]

[Docket No. CP71-276]

SOUTHERN NATURAL GAS CO.

Notice of Application; Correction

JUNE 2, 1971.

In the Notice of Application, issued May 26, 1971, and published in the FEDERAL REGISTER June 2, 1971 (36 F.R. 10755), in paragraph 6, line 8, change "June 21, 1971" to "June 7, 1971".

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-7908 Filed 6-4-71;8:51 am]

[Dockets Nos. RP69-41, RP70-14]

TEXAS GAS TRANSMISSION CORP.

Notice of Petition to Amend Stipulation and Agreement

JUNE 2, 1971.

Take notice that Texas Gas Transmission Corp. (Texas Gas), on May 26 1971, filed a petition to amend the stipulation and agreement approved in these proceedings by the Commission's order issued on July 17, 1970.

The proposed amendment would: (1) Extend the expiration date of Texas Gas' authority to increase its rates to reflect rate increases of its suppliers and the requirement to reduce its rates to reflect supplier rate reductions, as contained in the provisions of Article III of the Agreement, from November 1, 1971 to March 1, 1972 and (2) as a corollary, likewise extend the expiration date of the moratorium period on rate increases of Texas Gas, as provided in Article VIII of the Agreement, from November 1, 1971 to March 1, 1972. Texas Gas states that increased rates of several of its suppliers will become effective January 1, 1972, which will result in substantial increases in its purchased gas costs and that unles the tracking proviion of its settlement agreement are extended, as proposed in its amendment thereto, Texas Gas will be required to file a general rate increase to become effective on January 1, 1972.

Copies of the petition were served on all parties to these proceedings, all of Texas Gas' jurisdictional customers and interested state commissions.

Answers or comments relating to the petition may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before June 11, 1971.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-7909 Filed 6-4-71;8:51 am]

[Docket No. RP71-118]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Filing and Order Providing for Hearing and Suspending Proposed Revised Tariff Sheets

MAY 27, 1971.

Take notice that on May 17, 1971, Transcontinental Gas Pipe Line Corp. (Transco) filed a written report, pursuant to paragraph (A) (2) of the Commission's Order No. 431, issued April 15, 1971, in Docket No. R-418, and tendered for filing proposed changes in its FPC Gas Tariff, Original Volume Nos. 1 and 2,[1] to become effective May 28, 1971, in order to effectuate a gas curtailment policy in the event a gas shortage on its system should develop.

Transco avers that among the steps it has taken to avoid substantial curtailments of its customers' firm requirements is the purchase of emergency supplies, such as those it proposes to acquire from Nueces Industrial Gas Co. pursuant to Nueces' application filed May 6, 1971, in Docket No. CP71-267. Transco alleges that if it is unable to acquire the gas which Nueces proposes to sell, it "* * * will be forced into implementation of its curtailment program immediately after such date."

Transco's curtailment plan is set forth in original sheet Nos. 44-A, 44-B, and 44-C which are designed to replace section 13 of the General Terms and Conditions of Transco's presently-effective tariff. Section 13.1 of the new curtailment proposal consists merely of a recitation that the new gas apportionment plan is filed pursuant to Order No. 431. The curtailment procedures which Transco will utilize in the event of a gas deficiency are set forth in section 13.2 which provides that Transco will first curtail, to the extent necessary, all sales made under its resale interruptible rate schedules and direct interruptible industrial contracts. Interruptible transportation services will also be curtailed if rendering such services would affect Transco's gas supply. After complete curtailment of all interruptible services affecting its gas supply, Transco will ratably curtail sales made under its resale CD (Contract Demand), LTF (Limited Term Firm), and ACQ (Annual Contract Quantity) rate schedules and direct firm industrial contracts by establishing a curtailment percentage to govern each period of curtailment. That percentage will be applied uniformly to the contract demands under Transco's CD and LTF rate schedules as well as the contract demands under direct firm industrial contracts. The curtailment percentage will be used to reduce deliveries under the ACQ rate schedule by multiplying 1/365th of the ACQ by the number of days in the curtailment period by the curtailment percentage.

Sales to small volume customers under the G (General Service) and OG (Optional General Service) rate schedules are omitted from the curtailment provisions of section 13.2 because, although there are 35 customers of that nature on Transco's system, Transco states that they represent only 1.5 percent of the total sales volumes.

When force majeure or repair or maintenance of facilities results in inability to meet total requirements, the provisions set forth in section 13.3, instead of section 13.2, of the General Terms and Conditions will apply. Under section 13.3 Transco will first curtail, to the extent necessary, all sales under its resale interruptible and ACQ rate schedules and direct interruptible industrial sales contracts and interruptible transportation rate schedules. After complete curtailment of all interruptible sales and services, Transco will ratably reduce

[1] The tariff sheets submitted by Transco are listed in Appendix A to this order.

from the firm contract transportation demand all firm transportation services. Thereafter curtailments will be made ratably in sales under its CD, LTF, G, and OG resale rate schedules and direct firm industrial contracts. Firm services under Transco's GSS (General Storage Service), S–2 (Storage Service), LG–A (Liquified Natural Gas Storage Service) and PS (Peaking Service) rate schedules have the highest priority when curtailments occur under section 13.3.

No adjustment in demand charges will be made for curtailments occurring under section 13.2 as a result of a gas supply deficiency, but demand charge adjustments will be made for curtailments arising under section 13.3 as a result of force majeure or maintenance and repair of facilities.

Transco's filing also submitted changes in its CD, G, OG, E, LTF, and ACQ rate schedules to make them conform with the above-described provisions in sections 13.2 and 13.3 of the General Terms and Conditions.

Although Transco's CD and LTF rate schedules provide for equitable curtailment of gas to be used or resold for boiler fuel when gas is needed to refill Transco's underground storage reservoirs, Transco states that it does not intend to attempt any control over the end use of gas because (1) such curtailments require a policing operation which Transco is not equipped to do, (2) any attempt to reduce boiler-fuel delveries presupposes that such usage is always "inferior" even where air pollution problems exist, and (3) relegation of boiler-fuel usage to the lowest priority would have an adverse economic impact on those customers who sell large volumes of boiler fuel without having a corresponding economic effect on those customers who sell little boiler fuel. Therefore, Transco concludes that an across-the-board percentage reduction is the most equitable curtailment plan to use in light of the circumstances prevailing on its system.

Transco avers that any curtailments it might make under section 13.2 will not affect its ability to refill storage reservoirs because sufficient gas will be available under the customers' various firm rate schedules to meet their nominations of the gas required for storage injection.

Transco requests that the Commission waive the 30-day notice requirement in § 154.22 of the Commission's regulations under the Natural Gas Act in order to permit the submission of the tariff sheets listed in Appendix A. The proposed tariff changes, which constitute Transco's proposed curtailment policy, present complicated issues which may require development in evidentiary proceedings. The tariff changes have not been shown to be justified and their operation may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful. Therefore, it appears appropriate to suspend the effectiveness of the proposed tariff sheets for 1 day from May 28, 1971.

Transco states that it has served copies of its report and tariff changes upon its customers and interested State Commissions. Transco's report and tariff changes, submitted pursuant to Order No. 431, are on file with the Commission and available for public inspection.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed tariff sheets listed in Appendix A and that such tariff sheets be suspended and the use thereof be deferred as herein provided.

(2) It is appropriate to grant the requested waiver of the requirements of § 154.22 of the Commission's regulations.

The Commission orders:

(A) Pending hearing and decision on the issues raised by Transco's filing in Docket No. RP71–118, the proposed tariff sheets listed in Appendix A of this order are hereby suspended and the use thereof is deferred until May 29, 1971, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(B) The requirements of § 154.22 of the Commission's regulations under the Natural Gas Act are waived with respect to Transco's tender for filing of the tariff sheets listed in Appendix A.

(C) Any person desiring to be heard or make any protest with respect to said filing should on or before June 14, 1971, file with the Federal Power Commission, 441 G Street NW., Washington, DC 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 a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

APPENDIX A

TRANSCONTINENTAL GAS PIPE LINE CORPORATION

List of Tariff Sheets Being Filed

Original Volume No. 1 of FPC Gas Tariff Rate Schedule:	*Sheet Number*
CD–1	Third Revised Sheet No. 4.
	Thirty-Second Revised Sheet No. 5.
	Second Revised Sheet No. 6.
	Fourth Revised Sheet No. 7.
	Fourth Revised Sheet No. 8.
	First Revised Sheet No. 8–A.
	First Revised Sheet No. 8–B.
	Thirtieth Revised Sheet No. 9.
CD–2	Fourth Revised Sheet No. 11.
	Thirty-Second Revised Sheet No. 12.
	Second Revised Sheet No. 13.
	Sixth Revised Sheet No. 14.
	Fourth Revised Sheet No. 15.
	First Revised Sheet No. 15–A.
	First Revised Sheet No. 15–B.
	Thirty-First Revised Sheet No. 16.
CD–3	Second Revised Sheet No. 17–A.
	Twenty-Ninth Revised Sheet No. 17–B.
	First Revised Sheet No. 17–C.
	Fifth Revised Sheet No. 17–D.
	Third Revised Sheet No. 17–E.
	First Revised Sheet No. 17–E.1.
	First Revised Sheet No. 17–E.2.
	Twenty-Eighth Revised Sheet No. 17–F.
G–1	Fourth Revised Sheet No. 20.
G–2	Fourth Revised Sheet No. 25.
G–3	Third Revised Sheet No. 26–C.
OG–1	Third Revised Sheet No. 26–H.
OG–2	Third Revised Sheet No. 26–M.
OG–3	Third Revised Sheet No. 26–R.
E–1	Fifth Revised Sheet No. 28–A.
E–2	Second Revised Sheet No. 28–A.3.
E–3	Second Revised Sheet No. 28–A.6.
LTF–2	Third Revised Sheet No. 28–H.
	Thirtieth Revised Sheet No. 28–I.
	Third Revised Sheet No. 28–J.
	Fourth Revised Sheet No. 28–K.
LTF–3	First Revised Sheet No. 28–K.1.
	Twenty-Second Revised Sheet No. 28–K.2.
	First Revised Sheet No. 28–K.3.
	First Revised Sheet No. 28–K.4.
ACQ–2	First Revised Sheet No. 28–X.1.
	First Revised Sheet No. 28–X.4.
	First Revised Sheet No. 28–X.5.
ACQ–3	First Revised Sheet No. 28–Y.
	Third Revised Sheet No. 28–BB.
	First Revised Sheet No. 28–CC.

List of Tariff Sheets Being Filed

Original Volume No. 1 of FPC Gas Tariff Rate Schedule:	*Sheet Number*
General Terms and Conditions.	Original Sheet No. 44–A.
	Original Sheet No. 44–B.
	Original Sheet No. 44–C.
	Second Revised Sheet No. 45.
	Fourth Revised Sheet No. 46–B.
	Second Revised Sheet No. 46–B.1.
	Second Revised Sheet No. 46–C.
Original Volume No. 2 of FPC Gas Tariff:	
	Original Sheet No. 1–A.

[FR Doc.71–7873 Filed 6–4–71;8:48 am]

[Dockets Nos. RP71–29, RP71–120]

UNITED GAS PIPE LINE CO.

Notice of Filing and Order Suspending Proposed Revised Tariff Sheets, Consolidating Issues in Pending Proceeding and Scheduling Distribution of Evidence

MAY 28, 1971.

On May 17, 1971, United Gas Pipe Line Co. (United), pursuant to Commission Order No. 431 issued in Docket No. R–418 on April 15, 1971, submitted for filing proposed tariff sheets to become part of its tariff, First Revised Volume No. 1, consisting of (a) First Revised Sheet No. 71, superseding Original Sheet No. 71; (b) Third Revised Sheet No. 72, superseding Second Revised Sheet No. 72, and (c) Original Sheet No. 72–A now designated as Docket No. RP71–120. United proposed that the said tariff sheets be permitted to become effective November 1, 1971. United also requested that the requirements of § 154.22 of the Commission's regulations be waived to permit the said filing to be made more than 60 days in advance of the proposed effective date.

The proposed tariff sheets revise the existing Impairment of Deliveries provision contained in section 12 of the General Terms and Conditions of United's tariff, dealing with Proration of Impaired Deliveries setting out the categories and order of curtailment in the event of a shortage of gas which impairs United's ability to fulfill customers' requirements. The revision also provides that no payments or credits for substitute fuels will be made or given in the event of curtailment. Provision is also made prohibiting resale customers from offsetting the effects of United's industrial gas curtailments by selling their resale valley gas to such industries.

There is presently pending before a Presiding Examiner in Docket No. RP71–29, a proceeding covering an application for a declaratory order filed by United on October 26, 1970, subsequently amended on November 20, 1970, and supplemented on February 22, 1971. The said petition involves interpretation of the present section 12 of the General Terms and Conditions in United's tariff and whether the curtailment program placed into effect on November 1, 1970, for the period up to March 31, 1971, is in accordance therewith, as well as related issues. The proceeding also deals with United's summer curtailment program covering the period April 1 to October 31, 1971. Since United proposes that the tariff revision filed on May 17, 1971, take effect on November 1, 1971, and indicates that "curtailments will prove necessary in the 1971–72 heating season and for an indeterminate period thereafter", it appears appropriate to consolidate Docket No. RP71–120 covering the said filing with the pending proceeding in Docket No. RP71–29 for hearing and decision. Moreover, it becomes increasingly evident that it is essential that the ultimate submission of the consolidated proceedings for Commission decision be expedited. Accordingly, we are directing the Presiding Examiner to take all the necessary steps to expedite hearings and we urge all parties to cooperate full in this effort.

As United did not accompany its May 17, 1971, filing with a program showing how it plans to implement its projected curtailment program post November 1, 1971, we are requiring United to serve evidence on all parties which will contain the details of such program and the support for the same, as well as for the proposed tariff revision on or before June 14, 1971. The further scheduling covering answering and rebuttal evidence and cross-examination will be for the Presiding Examiner's determination subject to the overriding consideration of the need for the speedy disposition of the issues in these proceedings.

While we are hopeful that the expedited procedures will permit of a submission and determination of the issues in these consolidated proceedings before November 1, 1971, we consider it appropriate under the circumstances to suspend the effectiveness of the proposed revised tariff sheets for 1 day from November 1, 1971. We also consider it appropriate to grant the requested waiver of the requirements of § 154.22 of the Commission's regulations under the Natural Gas Act.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission consolidate the issues relating to the filing in Docket No. RP71–120 with the pending Docket No. RP71–29 proceedings for hearing and decision and that the proposed tariff sheets filed pursuant to Commission Order No. 431 by United be suspended and use thereof deferred as herein provided.

(2) It is appropriate to grant the requested waiver of the requirements of § 154.22 of the Commission's regulations under the Natural Gas Act.

(3) The proposed tariff sheets submitted by United On May 17, 1971, have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission orders:

(A) The issues relating to United's proposed revision of its tariff filed pursuant to the Commission's Order No. 431 in Docket No. RP71–120 are consolidated for hearing and decision with the pending Docket No. RP71–29 proceeding.

(B) Pending such hearing and decision on the issues in the consolidated proceedings, United's proposed First Revised Sheet No. 71, Third Revised Sheet No. 72 and Original Sheet No. 72–A are hereby suspended and the use thereof deferred until November 2, 1971, and such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) The requirements of § 154.22 of the Commission's regulations under the Natural Gas Act are waived with respect to the said filing.

(D) United is directed to serve evidence on all parties containing the details of the curtailment program it intends to institute on or after November 1, 1971, together with evidence supporting such program and the proposed tariff provisions on or before June 14, 1971.

(E) Any person desiring to be heard or make any protest with respect to said filing should on or before June 10, 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 a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. United's filing with the Commission is available for public inspection. Persons who are parties to the proceeding in Docket No. RP71–29 will be deemed to be parties to the instant consolidation and need not file to intervene in Docket No. RP71–120.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71–7874 Filed 6–4–71;8:48 am]

FEDERAL RESERVE SYSTEM

CENTRAL BANCORPORATION, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of The Central Bancorporation, Inc., Cincinnati, Ohio, for approval of acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The First Trust and Savings Bank, Zanesville, Ohio.

There has come before the Board of Governors, pursuant to section 3(a)(3)

of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by The Central Bancorporation, Inc., Cincinnati, Ohio (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The First Trust and Savings Bank, Zanesville, Ohio (Bank). The new bank has significance only as a means of acquiring all of the shares of the bank to be merged into it; the proposal is therefore treated herein as one to acquire shares of The First Trust and Savings Bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Superintendent of Banks of the State of Ohio and requested his views and recommendation. The Superintendent recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on April 15, 1971 (36 F.R. 7160), providing an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of Applicant and the banks concerned, and the convenience and needs of the communities to be served. Upon such consideration the Board finds that:

Applicant, the ninth largest banking organization in Ohio, controls two banks with deposits of approximately $501 million, representing less than 3 percent of total commercial bank deposits in the State. (All banking data are as of June 30, 1970, adjusted to reflect holding company formations and acquisitions approved by the Board through April 30, 1971.) The acquisition of Bank, with deposits of $24 million, would increase Applicant's control of deposits in the State by only 0.1 percent, and its present ranking among banking organizations in the State would not change.

Bank has five offices and is the smallest of three banks located in Muskingum County, all of which are headquartered in Zanesville. The two larger banks control approximately 43 and 30 percent of county deposits, respectively, and Bank controls 27 percent of such deposits. Applicant's subsidiary nearest to Bank is located in Marietta, 60 miles southeast of Zanesville, and the nearest office of the two banks are separated by one county and five banking offices. It appears that there is no significant present competition between Applicant's subsidiaries and Bank; that consummation of the proposal could serve to stimulate additional competition in the Zanesville area by severing a present relationship between Bank and the largest bank in Zanesville. It further appears that the proposed acquisition would not foreclose significant potential competition because of Ohio's restrictive branching laws and of the distances involved; nor does it appear that any competing banks would be adversely affected by the proposed acquisition. Based upon the record, the Board concludes that consummation of the proposed acquisition would have no significant adverse effect on competition in any relevant area.

The banking factors and convenience and needs considerations involved in this proposal are consistent with and lend some weight in favor of approval of the application. Affiliation with Applicant would enhance Bank's prospects, and permit Bank to improve and enlarge present services in its trust department, and in its installment and mortgage lending. In addition, Applicant would assist Bank in researching the feasibility of establishing other branches in northern Muskingum County which is apparently in need of additional banking facilities. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, For the reasons set forth in the findings summarized above, that said application be and hereby is approved, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[1] June 1, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-7836 Filed 6-4-71;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 830 (Class B)]

KANSAS

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of May 1971, because of the effects of certain disasters damage resulted to residences and business property located in the State of Kansas;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Dickinson County, Kans., and adjacent areas, suffered damage or destruction resulting from floods occurring on May 22, 1971.

OFFICE

Small Business Administration District Office, 120 South Market Street, Wichita, KS 67202.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to November 30, 1971.

Dated: May 26, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-7847 Filed 6-4-71;8:46 am]

[Declaration of Disaster Loan Area 831 (Class B)]

KENTUCKY

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of May 1971, because of the effects of certain disasters damage resulted to residences and business property located in the State of Kentucky;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Simpson County, Ky., and adjacent areas, suffered damage or destruction resulting from a tornado occurring on May 24, 1971.

OFFICE

Small Business Administration District Office, Federal Office Building, 600 Federal Place, Louisville, KY 40202.

2. A temporary office will be established in Franklin Ky., address to be announced locally.

3. Applications for disaster loans under the authority of this Declaration will

[1] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Maisel, Brimmer, and Sherrill. Absent and not voting: Chairman Burns and Governor Daane.

not be accepted subsequent to November 30, 1971.

Dated: May 28, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-7848 Filed 6-4-71;8:46 am]

[Declaration of Disaster Loan Area 829 (Class B)]

TEXAS

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of May 1971, because of the effects of a certain disaster, damage resulted to residences and business property located in the State of Texas;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitutes a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Hill County, Tex., and adjacent areas, suffered damage or destruction resulting from a tornado occurring on May 23, 1971.

OFFICE

Small Business Administration Regional Office, 1100 Commerce Street, Dallas, TX 75202.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to November 30, 1971.

Dated: May 26, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-7849 Filed 6-4-71;8:46 am]

DEPARTMENT OF LABOR

Office of the Secretary

NATIONAL BALLET MAKERS, INC. AND STAGE DOOR, INC.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of February 8, 1971, the U.S. Tariff Commission made a report of the results of investigations (TEA-W-44 and TEA-W-47) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to petitions for determination of eligibility to apply for adjustment assistance submitted on behalf of workers formerly employed by the National Ballet Makers, Inc., Medford, Mass. and Stage Door, Inc., Raymond, N.H. In this report, the Commission being equally divided, made no finding with respect to whether articles like or directly competitive with the women's and misses' footwear produced by National Ballet Makers, Inc., and Stage Door, Inc., are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers at the plants concerned. The President subsequently decided, under the authority of section 330(d)(1) of the Tariff Act of 1930 as amended to consider the findings of those Commissioners who found in the affirmative as the finding of the Commission.

Upon receipt of the President's authorization, the Department, through the Acting Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted investigations. Following this, the Director made recommendations to me relating to the matter of certifications (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 36 F.R. 7625; 29 CFR Part 90). In those recommendations he noted that significant lay-offs caused by imports began to occur on January 2, 1970, at the National Ballet Makers, Inc., and on January 4, 1969, at the Stage Door, Inc. After due consideration, I make the following certifications:

All workers (hourly, piecework, and salaried), of the National Ballet Makers, Inc., plant located at Medford, Mass., who became unemployed or underemployed after January 2, 1970, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

All workers (hourly, salaried, and piecework) of the Stage Door, Inc., plant located at Raymond, N.H., who became unemployed or underemployed after January 4, 1969, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 25th day of May 1971.

HERBERT N. BLACKMAN,
Deputy Assistant Secretary for Trade and Adjustment Policy.

[FR Doc.71-7846 Filed 6-4-71;8:46 am]

PPG INDUSTRIES

Worker Request for Certification of Eligibility To Apply for Adjustment Assistance; Notice of Investigation

A petition requesting certification of eligibility to apply for adjustment assistance has been filed, on May 24, 1970, with the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, by Local 2 of the United Glass and Ceramic Workers of North America, AFL-CIO, on behalf of workers of the Works No. 12, Glass Division plant of PPG Industries located at Clarksburg, W. Va. The request for certification is made under Proclamation 3967 ("Adjustment of duties on certain Sheet Glass") of February 27, 1970. In that proclamation, the President, among other things, acted to provide under sec. 302(a)(3) with respect to the sheet glass industry that its workers may request the Secretary of Labor for certifications of eligibility to apply for adjust assistance under Chapter 3, Title III of the Trade Expansion Act of 1962.

The Trade Expansion Act, sec. 302(b)(2), provides that the Secretary of Labor shall certify as eligible to apply for adjustment assistance under chapter 3 any group of workers in an industry with respect to which the President has acted under sec. 302(a)(3), upon a showing by such group of workers to the satisfaction of the Secretary of Labor that the increased imports (which the Tariff Commission has determined to result from concessions granted under trade agreements) have caused or threatened to cause unemployment or underemployment of a significant number or proportion of workers of such workers' firm or subdivision thereof.

In view of the petition and the responsibilities of the Secretary of Labor, the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.11. The investigation relates, as above indicated, to the determination of whether any of the group of workers covered by the request should be certified as eligible to apply for adjustment assistance, including the determinations of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and the subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart C of 29 CFR Part 90.

Interested persons should submit written data, views, or arguments relating to the subjects of investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C. on or before June 14, 1971.

Signed at Washington, D.C., this 26th day of May 1971.

EDGAR I. EATON,
Director, Office of Foreign Economic Policy.

[FR Doc.71-7845 Filed 6-4-71;8:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice 307]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 2, 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 Part 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 11685 (Sub-No. 1 TA), filed May 25, 1971. Applicant: CREST HAULAGE, INC., 116 Hassari Street, New York, NY 10011. Applicant's representative: William D. Traub, 10 East 40th Street, New York, NY 10016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Handbags*, from New York, N.Y., to the plant of Felsway Corp., Totowa, N.J., for 150 days. NOTE: Applicant proposes to haul handbags independently and in conjunction with shoes it is now transporting for its supporting shipper. Applicant hauls shoes under authority contained in its certificate MC 11685. Shipper is the Felsway Corporation. Supporting shipper: The Felsway Corp., 994 Riverview Drive, Totowa, NJ 07512. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

No. MC 83217 (Sub-No. 53 TA) (Clarification), filed May 12, 1971, published FEDERAL REGISTER issue of May 27, 1971 and republished in part, as corrected, this issue. Applicant: DAKOTA EXPRESS, INC., 1217 West Cherokee, 57104, Post Office Box 1252, Sioux Falls, SD 57101. Applicant's representative: Henry J. Schuette (same address as above). NOTE: The purpose of this partial republication is to reflect that the origin point is the plantsite or storage facilities of Illini Beef Packers, Inc., at or near Joplin, Ill. The rest of the application remains as previously published.

No. MC 88161 (Sub-No. 80 TA), filed May 21, 1971. Applicant: INLAND TRANSPORTATION CO., INC., 6737 Corson Avenue South, Seattle, WA 98108. Applicant's representative: Stephen A. Cole (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, from points in Spokane County, Wash., to points in Wallowa, Union, Baker, Umatilla, Morrow, Grant, Gilliam, Wheeler, Sherman, Wasco, Hood River, Jefferson, Deschutes, and Crook Counties, Oreg., in that part of Idaho on and north of the southern boundary of Idaho County; in that part of Montana west of the eastern boundary of Phillips, Petroleum, Musselshell, Stillwater, and Carbon Counties, from points in Kootenai County, Idaho, to points in Washington, for 150 days. Supporting shippers: Cominco American Inc., 818 West Riverside Avenue, Spokane, WA 99201; Plant Food Center, Route 2, Box 288, Post Falls, ID 83854. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, WA 98101.

No. MC 111401 (Sub-No. 337 TA), filed May 26, 1971. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Post Office Box 632, Enid, OK 73701. Applicant's representative: Victor R. Comstock (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, from the plantsite and/or storage facilities of Georgia-Pacific Corp., at or near Plaquemine, La., to points in Alabama, Arkansas, Florida, Louisiana, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, and Texas. Restricted to shipment originating at the plantsite of Georgia-Pacific Corp., for 180 days. Supporting shipper: Roger M. Feig, Traffic Supervisor, Georgia-Pacific Corp., Box 629, Plaquemine, LA 70764. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 114533 (Sub-No. 228 TA), filed May 26, 1971. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* (except coins, currency and negotiable securities) as are used in the conduct and operations of banks and banking institutions, between Joplin, Mo., on the one hand, and, on the other, (1) points in Benton, Wash., and Carroll Counties, Ark., (2) points in Labette, Crawford, Montgomery, Cherokee, Neosho, and Bourbon Counties, Kans., and (3) points in Ottawa, Delaware, and Tulsa Counties, Okla., for 180 days. Supporting shipper: First National Bank & Trust Co. of Joplin, Joplin, Mo. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn St., Room 1086, Chicago, IL 60604.

No. MC 116073 (Sub-No. 169 TA), filed May 26, 1971. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, 1825 Main Avenue, Moorhead, MN 56560. Applicant's representative: Robert G. Tessar (same address as above). 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, from points in Maricopa County, Ariz., to points in California, Nevada, Utah, Wyoming, Colorado, New Mexico, and Texas, for 180 days. Supporting shippers: Western Heritage Mobile Homes of Arizona, Post Office Box 459, Chandler, AZ 85224; United Mobile Homes, Inc., Post Office Box 279, Chandler, AZ 85224; Kaufman and Broad Home Systems, Inc., 5530 West Bethany Home Road, Glendale, AZ 85301; American Mobilehome Corp., 2650 West Union Hills Drive, Phoenix, AZ 85027; Elkhart Manufactures, Inc., Post Office Box 13116, Phoenix, AZ 85002; Century Manufactures, Inc., 5925 West Monroe, Phoenix, AZ 85009. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

No. MC 118570 (Sub-No. 3 TA), filed May 26, 1971. Applicant: DE FAZIO EXPRESS, INC., 1028 Springbrook Avenue, Moosic, PA 18507. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coconut oil, coconut oil products, lard substitutes or compounds, cooking oils, glycerine, stearing, toilet preparations, soap, soap powder, premiums and advertising matter*, pertaining to these products, *groceries*, from East Brunswick, N.J., to points in Susquehanna, Pike, Monroe, Northumberland, Northampton, Wayne, Lackawanna, Columbia, Schuylkill, Lehigh, Wyoming, Luzerne, Montour, Carbon, Union, Snyder, and Berks Counties, Pa., and those in Sussex, Warren and Hunterdon Counties, N.J., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized under the commodity description immediately above are limited to a transportation service to be performed under a continuing contract or contracts with the Procter & Gamble Distributing Co., for 180 days. Supporting shipper: the Procter & Gamble Co., Post Office Box 599, Cincinnati, OH 45201. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Building, Scranton, PA 18503.

No. MC 133265 (Sub-No. 2 TA), filed May 25, 1971. Applicant: CONSOLIDATED CARRIERS CORP., 141 West 35th Street, New York, NY 10001. Applicant's representative: Arthur Liberstein, 30 Church Street, New York, NY 10007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*

and materials, supplies and machinery used in the manufacture thereof, and *accessories* between New York, N.Y., on the one hand, and, on the other, points in Nassau, and Suffolk Counties, N.Y., for 150 days. Supporting shippers: There are approximately 14 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

No. MC 135509 (Sub-No. 1 TA), filed May 13, 1971. Applicant: WILLIAM R. WADE, doing business as WADE'S MOBILE HOME MOVERS, 8015 East 58th Street, Kansas City, MO 64129. Applicant's representative: William R. Wade (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, transporting *House trailers, mobile homes and modular homes*, from, to and between points in Missouri to points in Illinois and Kansas, on the one hand, and from, to, and between points in Kansas and Illinois to points in Missouri, on the other, for 150 days. Supporting shipper: Elwood Long and Co., Fayette, Mo. Send protests to: Vernon V. Coble, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-7887 Filed 6-4-71;8:49 am]

[Notice 698]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 2, 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-72774. By order of May 28, 1971, the Motor Carrier Board approved the transfer to ARK, Inc., doing business as Ark Van Service, Phoenix, Ariz., of the operating rights in Certificates No. MC-125243 (Sub-No. 2) and MC-125243 (Sub-No. 4) issued January 15, 1965 and July 1, 1968 respectively, to Jinx Graham, doing business as J & L Van Lines, Hollywood, N. Mex., authorizing the transportation of race horses to and from New Mexico, and points in Arizona, Arkansas, California, Colorado, Louisiana, Nebraska, Oklahoma, and Texas. Jerry R. Murphy, 708 La Veta Drive NE., Albuquerque, NM 87108, attorney for applicants.

No. MC-FC-72793. By order of May 28, 1971, the Motor Carrier Board approved the transfer to Brooks Terminal & Drayage Co., a corporation, Hayward, Calif., of certificate of public convenience and necessity No. MC-127434, issued April 15, 1970, and certificate of registration No. MC-127434 (Sub-No. 1), issued April 15, 1970 to Brooks Terminal Co., Oakland, Calif., authorizing the transportation of: General commodities, and general merchandise, and certain specified commodities, between designated points and areas in California. Raymond A. Greene, Jr., attorney, 405 Montgomery Street, San Francisco, CA 94104.

No. MC-FC-72865. By order of May 28, 1971, the Motor Carrier Board approved the transfer to Strothman Express, Inc., Cincinnati, Ohio, of certificate of registration No. MC-120736 (Sub-No. 1), issued June 28, 1965, to Henke's Express, Inc., St. Bernard, Ohio, evidencing a right of the holder thereof to engage in interstate or foreign commerce within the State of Ohio. Keith F. Henley, 88 East Broad Street, Columbus, OH 43215, attorney.

No. MC-FC-72876. By order of May 28, 1971, the Motor Carrier Board approved the transfer to Sterling-Goetz, Inc., Brooklyn, N.Y., of the operating rights in certificate No. MC-13833, issued March 4, 1969, to Thomas L. Powell, East Elmhurst, N.Y., authorizing the transportation of household goods, over irregular routes, between New York, N.Y., on the one hand, and, on the other, points in Connecticut, New Jersey, and New York. John R. Remis, Jr., attorney for applicant, 611 Newbridge Road, East Meadow, NY 11554.

No. MC-FC-72880. By order of May 28, 1971, the Motor Carrier Board approved the transfer to Jack-Leonard Transportation Co., Inc., Middle Village, N.Y., of the operating rights in certificates Nos. MC-133746 and MC-133746 (Sub-No. 1) issued December 8, 1969, and January 21, 1970, respectively, to Speed Freight Lines, Inc., Newark, N.J., authorizing the transportation of general commodities, with exceptions, between Newark, N.J., on the one hand, and, on the other, North Bergen, West New York, and Union City, N.J., subject to restrictions; and between New York, N.Y., on the one hand, and, on the other, points in Bergen County, N.J. Robert B. Pepper, registered practitioner, 174 Brower Avenue, Edison, NJ 08817, representative for applicants.

No. MC-FC-72883. By order of May 28, 1971, the Motor Carrier Board approved the transfer to Akens Moving and Storage, Inc., a corporation, Moosic, Pa., of the operating rights in certificate No. MC-101954, issued November 15, 1956, to Morrill Akens, an individual, doing business as Akens Moving and Storage, Inc., Moosic, Pa., authorizing the transportation over irregular routes of (1) household goods as defined by the Commission, between Moosic, Pa., on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Ohio, and Pennsylvania; (2) meats, dressed poultry, and eggs, from Moosic, Pa., to Camden and Newark, N.J., and New York, N.Y.; and (3) rejected shipments and empty returned containers, from Camden, and Newark, N.J., and New York, N.Y., to Moosic, Pa. Walter W. Kohler, and James K. Peck, and James K. Peck, Jr., 912 Northeastern National Bank Building, Scranton, Pa. 18503, attorneys for applicant.

No. MC-FC-72890. By order of May 28, 1971, the Motor Carrier Board approved the transfer to Maxam Tour and Travel, Inc., a corporation, Milwaukee, Wis., of license No. 130086, issued May 7, 1970, to Wallace D. Maxam, Gerald B. Hauser, Mrs. Aileen Sweida, and Mrs. Sylvia Koralewski, a partnership, doing business as Maxam Tour and Travel, Milwaukee, Wis., authorizing operations as a broker in connection with the transportation of passengers and their baggage, in special and charter operations in round-trip tours, beginning, and ending at points in Milwaukee County, Wis., and extending to points in the United States, including Alaska but excluding Hawaii. Joseph C. Niebler, 2100 Marine Plaza, Milwaukee, Wis. 53202, attorney for applicants.

No. MC-FC-72893. By order of May 28, 1971, the Motor Carrier Board approved the transfer to Polar Transport, Inc., 929 Wilco Boulevard, Wilson, NC 27893, of certificate of registration No. MC-120530 (Sub-No. 2) issued July 24, 1968, to N. C. Food Express, Inc., Post Office Box 8730, Charlotte, NC 28208, evidencing a right to engage in transportation in interstate commerce as described in certificate No. C-784 dated May 26, 1959, transferred and reissued September 14, 1967, by the North Carolina Utilities Commission. William R. Rand, First Union National Bank Building, Wilson, N.C. 27893, attorney for applicants.

No. MC-FC-72896. By order of May 28, 1971, the Motor Carrier Board approved the transfer to Transportation Services, Inc., Phoenix, Ariz., of the certificate of registration in No. MC-57329 (Sub-No. 2), issued May 12, 1970, to Action Enterprises, Inc., Phoenix, Ariz., evidencing a right to engage in interstate commerce corresponding to authority granted in specified motor carrier's permanent certificate No. 2566, Docket 4205-S-2226, dated November 10, 1970, and certificate No. 2589, Docket No. 1404-A-513, of the same date, issued by the Arizona Corporation Commission, and transferred and reissued December 1, 1969, by the same

Commission. Richard Minne, 609 Luhrs Building, Phoenix, Ariz. 85003, attorney.

No. MC-FC-72901. By order of May 28, 1971, the Motor Carrier Board approved the transfer to Bishop Mail Service, Inc., Chicago, Ill., of certificate of registration No. MC-120925 (Sub-No. 1), issued March 17, 1964, to Earl J. Bishop, doing business as Earl J. Bishop & Co., Chicago, Ill., evidencing the right of the holder thereof to engage in interstate or foreign commerce solely within the State of Illinois. Ronald E. Blair, 30 West Washington Street, Chicago, IL 60602, attorney.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-7886 Filed 6-4-71;8:49 am]

CUMULATIVE LIST OF PARTS AFFECTED—JUNE

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