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(Continued inside)

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Contents

(Continued on next page)

List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1971, and specifies how they are affected.

5 CFR

294 11901
550 11901

7 CFR

729 11901
910 11902
966 11902
980 11902

PROPOSED RULES:

982 11942

8 CFR

103 11903
204 11903
214 11903
292 11903

9 CFR

310 11903
311 11903
314 11903
317 11903
318 11903
319 11903
322 11903
327 11903
331 11904

12 CFR

PROPOSED RULES:

222 11944

14 CFR

71 (8 documents) 11904–11905
73 (3 documents) 11905–11906
75 (3 documents) 11905, 11907

PROPOSED RULES:

71 (2 documents) 11942

16 CFR

13 (12 documents) 11907–11916

17 CFR

211 11918
231 11918
240 11919
241 11918
270 11919
274 11919

18 CFR

PROPOSED RULES:

141 11943
260 11943

21 CFR

135c 11920
135e 11920
420 11920

22 CFR

201 11921

26 CFR

1 (2 documents) 11923–11924

PROPOSED RULES:

1 11940
53 (2 documents) 11940
143 11940
250 11940
251 11940

46 CFR

PROPOSED RULES:

512 11943

49 CFR

571 11921

PROPOSED RULES:

213 11974
1048 11945

50 CFR

258 11922
295 11923

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 294—AVAILABILITY OF OFFICIAL INFORMATION

Miscellaneous Amendments

Part 294 is amended in several respects, i.e., (1) § 294.105(b) is clarified to specify the procedure for handling a disclosure complaint relative to information controlled by the Commission in the custody of another agency, (2) § 294.601 (a) and (b) and § 294.801(a) are corrected to align them to revised Part 713 and clarify the disclosure procedures relative to an Official Personnel Folder, and (3) § 294.703(a) is amended to require the removal of certificates and lists of eligibles from an Official Personnel Folder before disclosing it to an employee.

Subpart A—General Provisions

§ 294.105 Places where information may be obtained.

* * * * *

(b) In the event of a difference concerning the availability of disclosure of information under this part between a member of the public and either an employee of the Commission or an employee of any other agency having custody of information controlled by the Commission, the matter shall be referred by the head of the bureau or staff office concerned, through the Director, Office of Public Affairs, to the Executive Director. The decision of the Executive Director shall be in writing and shall state the reasons for the decision. That decision is the only administrative appeal within the Commission and the obtaining of that decision constitutes the exhaustion of the administrative remedy within the Commission.

* * * * *

Subpart F—Investigations

§ 294.601 Investigative reports.

(a) The Commission or other Government agency will disclose to the parties concerned any report of investigation under its control, or an extract of the report, to the extent the report is involved in a proceeding under Parts 352, 353, 771, or 772 of this chapter and the report of investigation in a proceeding under Part 713 of this chapter, except when the disclosure would violate the proscription against the disclosure of medical information in § 294.401. For the purposes of this paragraph, the parties concerned means the Government employee or former Government employee involved in the proceeding, his representative designated in writing, and the representative of the agency involved in the proceeding.

* * * * *

Subpart G—Official Personnel Folder

§ 294.703 Access to folder.

(a) The Official Personnel Folder of a Government employee or former Government employee shall be disclosed to him, or to his representative designated in writing, or to any other person who has the written consent of the employee or former employee or the written consent of the person who has this right under § 294.109. However, the disclosure must be in the presence of a representative of the agency having physical custody of the folder, and before disclosure the following information shall be removed from the folder:

(1) Medical information the disclosure of which is proscribed by § 294.401;

(2) Test material and copies of certificates and other lists of eligibles the disclosure of which is proscribed by § 294.501; and

(3) Investigative reports the disclosure of which is proscribed by § 294.601.

(b) On official request, an Official Personnel Folder may be disclosed to a Member of Congress, a representative of a Congressional committee or subcommittee, or an official of the legislative or judicial branch or of the government of the District of Columbia. However, before disclosure all material that relates to loyalty or security under Executive Order 9835 or 10450 or any other authority, and all information covered under paragraph (a) (1) through (3) of this section, shall be removed from the folder. If a specific request for loyalty or security information is made by a Congressional committee or subcommittee, or any source outside the executive branch, the request shall be forwarded to the General Counsel, U.S. Civil Service Commission, Washington, D.C. 20415, for consultation with the Department of Justice pursuant to the President's Memorandum of March 24, 1969.

* * * * *

Subpart H—Appeals

§ 294.801 Agency administrative appeals.

(a) An appeal file established under § 771.208 of this chapter or a complaint file established under § 713.222 of this chapter shall be disclosed to the parties concerned, subject to the proscription against the disclosure of medical information in § 294.401. For the purpose of this section, "the parties concerned" means the Government employee or former Government employee involved in the proceeding, his representative designated in writing, and the representatives of the agency or the Commission involved in the proceeding.

* * * * *

(5 U.S.C. secs. 552, 1105)

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

[FR Doc.71-8881 Filed 6-22-71;8:53 am]

PART 550—PAY ADMINISTRATION (GENERAL)

Exception for Part-Time or Intermittent Employment at Naval Air Station, Bermuda

Section 550.505 of the regulations relative to pay from more than one position has been amended by adding a new paragraph (w) authorizing an exception to the dual pay prohibition for the additional part-time or intermittent employment of noncitizens at the Naval Air Station, Bermuda, who are already employed by the Station.

§ 550.505 Specific exceptions.

When appropriate authority in the department or agency concerned, or in the government of the District of Columbia determines that personal services otherwise cannot be readily obtained, section 5533(a) of title 5, United States Code, does not apply to:

* * * * *

(w) Pay for part-time or intermittent employment by the Naval Air Station, Bermuda, of persons who are not U.S. citizens and who are already employed by the Station.

(5 U.S.C. sec. 5533)

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

[FR Doc.71-8880 Filed 6-22-71;8:53 am]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 9]

PART 729—PEANUTS

Subpart—Regulations for Determination of Acreage Allotments and Marketing Quotas for 1969 and Subsequent Crops of Peanuts

AGREEMENT BY OPERATOR OF OVERPLANTED FARM

This amendment of the allotment and marketing quota regulations for peanuts

of the 1969 and subsequent crops is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.). The purpose of this amendment is to discontinue use of the "agreement by operator of overplanted peanut farm," (Form MQ-92 Peanuts) because certification of compliance with the peanut marketing quota program is now accomplished under Part 718 of this chapter.

Peanut producers are now making plans for marketing in 1971 crop year and it is essential that this amendment be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest and this amendment shall become effective upon filing of this document with the Director, Office of the Federal Register.

The regulations for determination of acreage allotments and marketing quotas for 1969 and subsequent crops of peanuts (33 F.R. 18351, 18981, 34 F.R. 14201, 19809, 35 F.R. 2860, 4391, 5031, 14299, 36 F.R. 1464, 8045) are amended as follows:

§ 729.2 [Amended]

1. Section 729.2(g) is revoked.

2. Section 729.33(c) is revised to read as follows:

§ 729.33 Issuance of marketing cards.

* * * * *

(c) *Within quota card.* A farm is eligible for a within quota card where the final acreage is not in excess of the effective farm allotment and, in the case of federally owned land, is not in excess of the smaller of the effective farm allotment or the acreage permitted by the lease or operating agreement.

§ 729.34 [Revoked]

3. Section 729.34 is revoked.

4. Section 729.47(b) is revised to read as follows:

§ 729.47 Payment of penalty.

* * * * *

(b) Two weeks before the date of written notice to the producer, or buyer, of the amount of any penalty owed, including but not limited to penalties, determined on the basis of normal yield.

5. Section 729.51(b) is revised to read as follows:

§ 729.51 Refund of penalties.

* * * * *

(b) The county executive director shall review each case where the minimum converted penalty rate (one-tenth of a cent) was used on an excess penalty card to determine those cases where the computed converted penalty rate was less than one-tenth of a cent but was rounded upward because of the rule of fractions. For such cases, the county executive director shall recompute the amount of penalty for the farm by multiplying the total pounds of peanuts marketed from the farm by the percent excess by the basic penalty rate. If the penalty for the farm has already been collected and such amount exceeds the revised amount of penalty computed for the farm, a refund may be made to the producer in accordance with this section.

§ 729.56 [Amended]

6. Section 729.56(a)(5) is revoked.

(Secs. 358, 358a, 359, 375, 55 Stat. 88, as amended, 81 Stat. 658, as amended, 55 Stat. 90, as amended, 52 Stat. 66, as amended, 7 U.S.C. 1358, 1358a, 1359, 1375)

Effective date: Date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on June 17, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-8835 Filed 6-22-71;8:53 am]

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

[Lemon Reg. 484, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

(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 amendment 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 amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* The provisions in paragraph (b)(1)(ii) of § 910.784 (Lemon Reg. 484, 36 F.R. 11421) during the period June 13, through June 19, 1971, are hereby amended to read as follows:

§ 910.784 Lemon Regulation 484.

* * * * *

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

(ii) District 2: 350,000 cartons.

* * * * *

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

Dated: June 17, 1971.

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

[FR Doc.71-8770 Filed 6-22-71;8:46 am]

PART 966—TOMATOES GROWN IN FLORIDA

Limitation of Shipments; Termination

Findings. (a) Pursuant to Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR Part 966), regulating the handling of tomatoes grown in the production area, 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 recommendation and information submitted by the Florida Tomato Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments regulation, § 966.308, should be terminated. Since the marketing season for Florida production area tomatoes is almost over, and supplies in competing States are increasing, continuation of this regulation beyond the date specified herein would no longer tend to effectuate the declared policy of the Act.

(b) It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rule making procedure, and that good cause exists for not postponing the effective date of this termination until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This termination relieves restrictions on the handling of tomatoes grown in the production area; (2) information regarding the committee's recommendation has been made available to producers and handlers in the production area; and (3) this termination will not require any special preparation by handlers which cannot be completed by the effective date.

Termination of regulation. The provisions of § 966.308 as amended (35 F.R. 16628; 36 F.R. 5285, 9290) are hereby terminated as of June 19, 1971.

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

Dated June 18, 1971, to become effective June 19, 1971.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-8836 Filed 6-22-71;8:53 am]

PART 980—VEGETABLES; IMPORT REGULATIONS

Tomato Import Regulation; Termination

Pursuant to the requirements of section 8e-1 of the Agricultural Marketing

Agreement Act of 1937, as amended (7 U.S.C. 608e–1), Tomato Import Regulation § 980.205 (36 F.R. 9291), is hereby terminated.

It is hereby found that good cause exists for not postponing the effective date of this termination beyond that herein specified (5 U.S.C. 553) in that (1) the requirements of section 8e–1 of the Act make such termination mandatory upon termination of the corresponding regulation applicable to shipments of domestic tomatoes; (2) this termination corresponds with the termination of regulations on shipments of domestic tomatoes under Marketing Order No. 966, as amended (7 CFR Part 966); and (3) this termination relieves restrictions on the importation of tomatoes.

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

Dated June 18, 1971, to become effective June 19, 1971.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–8837 Filed 6–22–71;8:53 am]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

§ 103.2 [Amended]

The fourth sentence of subparagraph (1) *Requirements* of paragraph (b) *Evidence* of § 103.2 *Applications, petitions, and other documents* is amended to read as follows: "Except as provided in §§ 204.2(f) and 214.2 (h)(5) and (l)(2) of this chapter, a copy unaccompanied by an original will be accepted only if the accuracy of the copy has been certified by an immigration or consular officer who has examined the original."

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A U.S. CITIZEN OR AS A PREFERENCE IMMIGRANT

Section 204.2 is amended by adding new paragraph (f) to read as follows:

§ 204.2 Documents.

* * * * *

(f) *Certification of documents by attorneys.* A copy of a document submitted in support of a visa petition filed pursuant to section 204 of the Act and this part may be accepted, though unaccompanied by the original, if the copy bears a certification by an attorney typed or rubber-stamped in the following language:

I certify that I have compared this copy with its original and it is a true and complete copy.
Signed: _____ Date: _____
Name: _____, Attorney at Law
Address: _____
Admitted to Practice in State of _____

However, the original document shall be submitted if submittal is requested by the Service.

PART 214—NONIMMIGRANT CLASSES

§ 214.2 [Amended]

1. Paragraph (h) of § 214.2 is amended by adding a new subparagraph (5) to read as follows:

(5) *Certification of documents by attorneys.* A copy of a document submitted in support of a visa petition filed pursuant to section 214(c) of the Act and this paragraph may be accepted, though unaccompanied by the original, if the copy bears a certification by an attorney, typed or rubber-stamped in the language set forth in § 204.2(f) of this chapter. However, the original document shall be submitted, if submittal is requested by the Service.

2. Subparagraph (2) *Supporting evidence* of paragraph (l) *Intracompany transferees* of § 214.2 *Special requirements for admission, extension, and maintenance of status* is amended by adding the following sentences at the end thereof to read as follows: "A copy of a document submitted in support of a visa petition filed pursuant to section 214(c) of the Act and this paragraph may be accepted, though unaccompanied by the original, if the copy bears a certification by an attorney, typed or rubber-stamped in the language set forth in § 204.2(f) of this chapter. However, the original document shall be submitted, if submittal is requested by the Service.

PART 292—REPRESENTATION AND APPEARANCES

§ 292.3 [Amended]

Paragraph (a) *Grounds* of § 292.3 *Suspension of disbarment* is amended in the following respects:

1. Subparagraph (12) is amended by the deletion of the word "or" at the end thereof.

2. Subparagraph (13) is amended by deleting the period and inserting a semicolon in lieu thereof and the word "or".

3. A new subparagraph (14) is added to read as follows:

(14) Who has falsely certified a copy of a document as being a true and complete copy of an original.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall be effective on the date of its publication in the FEDERAL REGISTER (6–23–71). Compliance with the provisions of section 553 of title 5 of the United States Code (80 Stat. 383), as to notice of proposed rule making and delayed effective date, is unnecessary in this instance and would serve no useful purpose because the amendments to §§ 103.2(b)(1), 204.2, 214.2 (h), (l)(2), and 292.3(a) relate to agency procedure.

Dated: June 17, 1971.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[FR Doc.71–8769 Filed 6–22–71;8:46 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter III—Consumer and Marketing Service (Meat Inspection), Department of Agriculture

SUBCHAPTER A—MEAT INSPECTION REGULATIONS

REVISION PURSUANT TO WHOLESOME MEAT ACT

Correction

In F.R. Doc 70–13052 appearing at page 15552 in the issue for Saturday, October 3, 1970, the following changes should be made:

1. On page 15552, second column, third paragraph, line 6, the sentence should read "Furthermore, the effect of this $10,000 limitation is that larger supermarkets with total meat product sales of a million dollars or more annually will be eligible for the exemption only if their sales of meat products to consumers other than household consumers are limited to 1 percent or less of their total meat product sales."

2. On page 15553, third column, fourth paragraph, line 8, the word "of" should be "or" after "interpretations".

3. In § 310.9(e)(1)(iii), line 4, "clear" should be "clean".

4. In § 311.26, line 3, "serious" should be "serous".

5. In § 314.11, line 10, "osinophilic" should be "eosinophilic".

6. In § 317.2(i)(3), line 3 should read "tion legend on cartons used as outer con-".

7. In § 318.2(d), line 36, "tax" should read "tag".

8. In § 318.5(b), line 1, "tenderlions" should read "tenderloins".

9. In § 318.7(c)(4), under "Synergists" in the "Amount" column the amount should be "0.02 percent" instead of "do" with respect to "monoisopropyl citrate".

10. In § 318.8(a), line 2, delete "are".

11. In § 319.100, line 4, "curling" should be "curing".

12. In § 319.311, line 2 "Vegetbales" should be "Vegetables".

13. In § 322.1(c), line 6, "rubber band" should be "rubber brand".

14. In § 327.6(b), line 6, "statoned" should be "stationed".

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

Notice of Termination of Designation of Kentucky

On May 18, 1971, there was published in the FEDERAL REGISTER (§ 331.2, 36 F.R. 9003) a Notice of Designation of the State of Kentucky under section 301(c)(1) of the Federal Meat Inspection Act (21 U.S.C. 661(c)(1)). This designation was based on information that the State of Kentucky had not developed and activated and was not enforcing State meat inspection requirements at least equal to those imposed under titles I and IV of the Federal Meat Inspection Act, with respect to establishments within the State at which cattle, sheep, swine, goats, or equines are slaughtered, or their carcasses, or parts or products thereof, are prepared for use as human food, solely for distribution within such State. However, the State of Kentucky requested the Secretary of Agriculture to resurvey the State program to determine if the State is now in a position to enforce such requirements. Upon a subsequent review by this Department of the meat inspection program of the State of Kentucky, it has been determined that the State has developed and will enforce State meat inspection requirements at least equal to those imposed under titles I and IV of the Act, with respect to operations and transactions within the State which would be regulated under section 301(c)(1) of the Act.

Accordingly, pursuant to the authority in section 301(c)(3) of the Act (21 U.S.C. 661(c)(3)), the designation of the State of Kentucky under section 301(c) of the Act is hereby terminated, effective upon issuance of this notice.

Done at Washington, D.C., on June 17, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc. 71-8838 Filed 6-22-71;8:50 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-CE-42]

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

Alteration of Federal Airway Segments

On April 9, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 6836) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulation that would alter VOR Federal airway No. 429.

Interested persons were afforded an opportunity to participate in the proposed 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.

Section 71.123 (36 F.R. 2010) is amended as follows: In V-429 "INT Naperville 340° and Milwaukee, Wis., 198° radials; Milwaukee." is deleted and "INT Naperville 340° and Oshkosh, Wis., 187° radials; Oshkosh." 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 Washington, D.C., on June 17, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-8759 Filed 6-22-71;8:45 am]

[Airspace Docket No. 71-EA-27]

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

Designation of Transition Area

On page 7072 of the FEDERAL REGISTER for April 14, 1971, the Federal Aviation Administration published a proposed rule which would designate a Celina, Ohio, transition area.

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 regulation is hereby adopted, effective 0901 G.m.t. August 19, 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 June 4, 1971.

R. M. BROWN,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Celina, Ohio, 700-foot floor transition area as follows:

CELINA, OHIO

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 40°29'00" N., 84°33'59" W., of Lakefield Airport, Celina, Ohio; within 3.5 miles each side of the 262° bearing from the Celina, RBN, 40°28'35" N., 84°38'06" W., extending from the 7-mile radius area to 11.5 miles west of the RBN; and within 3.5 miles each side of the 282° bearing from the Celina RBN, extending from the 7-mile radius area to 8.5 miles west of the RBN.

[FR Doc.71-8760 Filed 6-22-71;8:45 am]

[Airspace Docket No. 71-EA-32]

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

Alteration of Control Zone

The Federal Aviation Administration published the subject rule in the FEDERAL REGISTER on April 14, 1971, 36 F.R. 7049. Due to inadvertence, the coordinates in the description were not characterized as those of the North Philadelphia Airport. This amendment will insert the airport name.

Since the foregoing is editorial in nature, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective May 27, 1971, as follows:

Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to insert before "Philadelphia, Pa.," the words "North Philadelphia Airport."

(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 June 7, 1971.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.71-8761 Filed 6-22-71;8:45 am]

[Airspace Docket No. 71-EA-95]

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

Alteration of Control Zone

The Federal Aviation Administration is amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Blackstone, Va., control zone (36 F.R. 2063).

Commencing on or about July 1, 1971, the hours of operation of the Flight Service Station will be reduced from the present 0600 to 2200 hours to 0800 to 1600 hours, local time, daily.

The control zone is presently designated from 0600 to 2200 hours. Since the weather reporting services and communications required for control zone designation will be available only during the new hours of operation of the Blackstone Flight Service Station, a corresponding reduction will be required in the hours of the control zone designation.

Since the foregoing is less restrictive in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

In view of the foregoing, the Federal Aviation Administration having reviewed the airspace requirements in the terminal airspace of Blackstone, Va., the

amendment, as follows, will be effective upon publication in the FEDERAL REGISTER (6-23-71).

Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Blackstone, Va., control zone; "effective from 0600 to 2200 hours, local time", and insert the following in lieu thereof; "effective from 0800 to 1600 hours, local time, daily".

(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 Jamacia, N.Y., on June 4, 1971.

R. M. BROWN,
Acting Director, Eastern Region.

[FR Doc.71-8762 Filed 6-22-71;8:46 am]

[Airspace Docket No. 71-SO-26]

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

Alteration of Federal Airway

On April 14, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 7073) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter VOR Federal airway No. 296 by extending it from Fayetteville, N.C., to Wilmington, N.C.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

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.

Section 71.123 (36 F.R. 2010) is amended as follows: In V-296 all after "267° radials;" is deleted and "27 MSL Fayetteville; Wilmington, N.C. The airspace at and above 5,000 feet MSL is excluded from Fayetteville to Wilmington." 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 Washington, D.C., on June 17, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-8763 Filed 6-22-71;8:46 am]

[Airspace Docket No. 71-SO-34]

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

Designation of Federal Airway Segment

On April 27, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 7863) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a VOR Federal airway segment from Norcross, Ga., via Athens, Ga., to Columbia, S.C.

Interested persons were afforded an opportunity to participate in the proposed 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 § 71.123 (36 F.R. 2010) V-325 is amended by deleting "From Gadsden, Ala.," and substituting "From Columbia, S.C.; Athens, Ga.; Norcross, Ga. From Gadsden, Ala.;" 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 Washington, D.C., on June 17, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-8764 Filed 6-22-71;8:46 am]

[Airspace Docket No. 71-SW-22]

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

PART 73—SPECIAL USE AIRSPACE

Designation of Restricted Airspace

The purpose of these amendments to Parts 71 and 73 of the Federal Aviation Regulations is to redesignate portions of Restricted Areas R-5109A, R-5111A, and R-5111B, White Sands Proving Grounds, N. Mex., as Restricted Areas R-5107F and R-5107G, joint-use airspace.

The Department of the Air Force has concurred in the designation of these two restricted areas as joint-use airspace for a test period of 6 months. Consonant with the designation, jet routes through these areas will also be designated.

Since these amendments will relieve a burden on the public by making portions of existing sole use restricted airspace available on a joint-use basis, notice and public procedure thereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, Parts 71 and 73 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

1. In § 73.51 (36 F.R. 2349) the following restricted areas are added:

R-5107F WHITE SANDS PROVING GROUNDS, N. MEX.

Boundaries: Beginning at lat. 33°10'10" N., long. 107°10'55" W.; to lat. 33°20'30" N., long. 107°08'20" W.; to lat. 33°16'10" N., long. 106°51'40" W.; to lat. 33°05'30" N., long. 106°04'00" W.; to lat. 33°00'00" N., long. 105°27'00" W.; to lat. 32°45'00" N., long. 105°27'00" W.; to lat. 32°45'00" N., long. 105°49'00" W.; to lat. 32°50'30" N., long. 106°04'00" W.; to lat. 33°05'00" N., long. 106°50'20" W.; to point of beginning.

Designated altitude: From FL 240 to FL 450.

Time of designation: Continuous from August 19, 1971, to February 19, 1972.

Controlling agency: Federal Aviation Administration, Albuquerque ARTC Center.

Using agency: Commander, Air Force Special Weapons Center, Kirtland AFB, N. Mex.

R-5107G WHITE SANDS PROVING GROUNDS, N. MEX.

Boundaries: Beginning at lat. 33°11'40" N., long. 107°10'25" W.; to lat. 33°21'00" N., long. 107°08'00" W.; to lat. 33°22'55" N., long. 107°05'50" W.; to lat. 33°25'20" N., long. 105°27'00" W.; to lat. 33°14'00" N., long. 105°27'00" W.; to point of beginning.

Designated altitude: From FL 240 to FL 450.

Time of designation: Continuous from August 19, 1971, to February 19, 1972.

Controlling agency: Federal Aviation Administration, Albuquerque ARTC Center.

Using agency: Commander, Air Force Special Weapons Center, Kirtland AFB, N. Mex.

2. Section 71.151 (36 F.R. 2045) is amended by adding:

a. R-5107F White Sands Proving Grounds, N. Mex.

b. R-5107G White Sands Proving Grounds, N. Mex.

3. In § 73.51 (36 F.R. 2349) Restricted Areas R-5109A, R-5111A, and R-5111B are amended as follows:

a. In R-5109A after the phrase "to the point of beginning," add "excluding the airspace in Restricted Areas R-5107F and R-5107G."

b. In R-5111A after the phrase "to the point of beginning," add "excluding the airspace in Restricted Areas R-5107F and R-5107G."

c. In R-5111B after the phrase "to the point of beginning," add "excluding the airspace in Restricted Areas R-5107F and R-5107G."

(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 June 18, 1971.

LYLE H. DITZLER,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-8789 Filed 6-22-71;8:48 am]

[Airspace Docket No. 70-AL-5]

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

PART 73—SPECIAL USE AIRSPACE

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Restricted Area, Alteration of Federal Airway and Continental Control Area, and Establishment of Jet Route

On March 13, 1971, a notice of proposed rule making was published in the FEDERAL

REGISTER (36 F.R. 4881) stating that the Federal Aviation Administration was considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would designate a restricted area at Chatanika, Alaska; add a west alternate to V–438 between Fairbanks, Alaska, and Fort Yukon, Alaska; and alter the continental control area.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Two letters of objection were received in response to the notice. The objections are categorized generally as follows:

1. This comes at a time when flying activities are greatly increasing to the north.

2. The proposed restricted area covers airways V–438, V–438E, and B–26.

3. The proposed restricted area covers numerous flyways to villages north and northeast. It will affect hundreds of pilots in this area not counting mail runs to Fort Yukon, Birch Creek Village, Central and Circle City.

4. The scope of the proposed operation is so large that general aviation pilots are bound to have navigation problems, especially those who come in from the bush country with no radio and do not know of the operation.

5. This proposal is dangerous to the flying public.

6. There are adequate areas for this type of operation without cutting off major airways and normal VFR flyways.

7. Fairbanks is surrounded by restricted areas now which are a hazard and are not utilized to their fullest capacity.

8. Put the proposed operation in R–2205A, R–2205B, or down near Delta in R–2202A or R–2202B.

9. Flying out of Fairbanks to the north, east, or southeast is like flying through the eye of a needle.

10. This restricted area proposal is completely unnecessary at this time, is not in the public interest and will put an undue burden on all aircraft operators in this area.

As a result of our study and analysis of the aforementioned objections we offer the following comments:

Item 1. We have considered the potential increase in flying activity which will be generated, in part, by the recent oil finds on the north slope. Therefore, we have limited the proposed designation of the restricted area to a 2-year period.

Item 2. The designation of V–438W and an overlying jet route would bypass the restricted area. V–438W would actually improve the route structure between Fairbanks and Fort Yukon by providing a lower minimum en route altitude than is currently available.

Item 3. The boundaries of the proposed restricted area are aligned so as to clear the primary VFR flyways (overlying the Steese and Chena Hot Springs Highways except in the immediate vicinity of Chatanika. The restricted areas, joint-use designation and the short daily effective period provide reasonable alternatives for random flyways.

Item 4. The restricted area would be depicted on aeronautical charts showing the designated periods of use. Radio contact and approval is not necessary when transiting the area at times other than the designated periods of use.

Items 5 and 7. The provisions of a restricted area are designated to enhance aeronautical safety. We do not foresee any hazard to pilots operating in a prudent manner. Additionally, a safety control officer is required at the launch site to defer firings should an aircraft inadvertently stray into the launch area.

Item 6. The joint-use provision of the restricted area will minimize any adverse effect on aircraft traffic. We anticipate normal operation in the restricted area (without FAA coordination) on the airways and VFR flyways at least 95 percent of the time.

Item 8. We are considering other sites. Our efforts will be directed toward further reducing the occasional limitations affecting aircraft pilots while still meeting the joint requirements of the FAA and the proponent. As previously stated, the Chatanika Restricted Area is temporary.

Item 9. All the restricted areas near Fairbanks are designated as joint-use and, with coordination, can be transited when inactive. With the exception of this proposal (Chatanika) all are located off airways and major flyways.

Item 10. It is our analysis that the meteorological rocket soundings will provide increased benefits to the public through more reliable weather forecasts. The restricted area will be effective from 9:30 a.m. to 10:30 a.m., local time Monday through Friday. Rocket firings will take place a maximum of three times per week, scheduled on Mondays, Wednesdays, and Fridays. The alternate days, Tuesdays and Thursdays, are for unforeseen contingencies which could preclude firing on scheduled days. Additionally, since the 1-hour period per day is also designated as joint-use, pilots may request and be given authorization to transit the area, if rocket firings are completed or have been rescheduled. A rocket firing lasts 7 minutes from launch to impact. We feel that the benefits to be derived will more than compensate for the occasional minor change in pilot operating procedures.

Although not mentioned in the notice, a jet route would be established between the Fairbanks VORTAC and the Fort Yukon VOR to overlie the proposed V–438W.

In consideration of the foregoing, Parts 71, 73, and 75 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

1. Section 71.125 (36 F.R. 2042) is amended as follows: In V–438 all after "Fort Yukon, Alaska," is deleted and "including an east alternate from Fairbanks 54 miles, 34 miles, 65 MSL, to Fort Yukon and a west alternate." is substituted therefor.

2. Section 73.22 (36 F.R. 2323) is amended by adding the following restricted area:

R–2208 CHATANIKA, ALASKA

Boundaries: Within a 1½-mile-radius circle centered at lat 65°07'45" N., long. 147°29'30" W., and within a line drawn from the northerly tangent of the 1½-mile-radius circle to lat. 65°15'00" N., long. 146°19'00" W., thence to lat. 64°59'40" N., long. 146°19'00" W., thence to the southerly tangent of the 1½-mile- radius circle

Designated altitudes: Surface to unlimited.

Time of designation: From 9:30 a.m. to 10:30 a.m., local time, Monday through Friday for a period of 2 years beginning August 19, 1971.

Controlling agency: Federal Aviation Administration, Fairbanks ARTC Center.

Using agency: U.S. Army Electronics Command, Fort Huachuca, Ariz.

3. Section 75.100 (36 F.R. 2371) is amended by adding the following jet route:

JET ROUTE NO. 160 (FAIRBANKS, ALASKA, TO FORT YUKON, ALASKA)

From Fairbanks, Alaska, via INT Fairbanks 016° and Fort Yukon, Alaska, 229° radials to Fort Yukon.

(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 June 18, 1971.

LYLE H. DITZLER,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71–8787 Filed 6–22–71;8:48 am]

[Airspace Docket No. 71–SW–21]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Airspace

The purpose of these amendments to Part 73 of the Federal Aviation Regulations is to modify Restricted Areas R–5107B and R–5107D, White Sands Proving Grounds, N. Mex.

Through coordination between the Federal Aviation Administration and the U.S. Air Force, it has been determined that a portion of Restricted Area R–5107B is no longer needed by the using agency to fulfill its operational requirement on a full-time basis. There is a requirement for use of this airspace at certain times, however, and it will be absorbed as part of Restricted Area R–5107D.

Since these amendments restore airspace to the public use and relieve a restriction, notice and public procedure thereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 73.51 (36 F.R. 2349) the White Sands Proving Grounds, N. Mex., Restricted Areas R–5107B and R–5107D are amended as follows:

1. In R–5107B, after the phrase "excluding the airspace in R–5107D," add "R–5107F and R–5107G". All other data remains the same.

2. In R–5107D, delete the boundary description and substitute the following therefor:

Beginning at lat. 33°34'00" N., long. 106° 04'00" W.; to lat. 33°04'00" N., long. 106°21' 00" W.; to lat. 32°34'00" N., long. 106°15'00" W.; to lat. 32°34'00" N., long. 106°06'00" W.; to lat. 32°36'00" N., long. 106°06'00" W.; to lat. 32°50'00" N., long. 106°04'00" W.; to point of beginning.

All other data remains the same.

(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 June 18, 1971.

LYLE H. DITZLER,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71–8788 Filed 6–22–71;8:48 am]

[Airspace Docket No. 71–WA–11]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On April 9, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 6837) stating that the Federal Aviation Administration was considering an amendment to Part 75 of the Federal Aviation Regulations that would designate three area high routes in the south and southwestern United States.

Two of the three routes, J–949R and J–950R, have been successfully flight inspected and are being designated in this rule. Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received. The remaining route in Airspace Docket No. 71–WA–11 will be issued in a final rule as soon as a successful flight inspection is performed.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 75.400 (36 F.R. 2370) the following area high routes are added:

Waypoint name	Lat./Long.	Reference facility
J–950R HOUSTON, TEX., TO OKLAHOMA CITY, OKLA.		
Huffman, Tex.	30°03'21"/95°09'16"	Humble, Tex.
Scurry, Tex.	32°27'52"/96°20'14"	Greater Southwest, Tex.
Cole, Okla.	35°10'02"/97°31'55"	Oklahoma City, Okla.
J–949R OKLAHOMA CITY, OKLA., TO HOUSTON, TEX.		
Kay, Okla.	35°16'32"/97°46'21"	Oklahoma City, Okla.
Greater Southwest, Tex.	32°49'10"/97°02'28"	Greater Southwest, Tex. VORTAC.
Magnolia, Tex.	30°09'17"/95°46'07"	Humble, Tex.

(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 June 17, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71–8765 Filed 6–22–71;8:46 am]

[Airspace Docket No. 70–WA–43]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On February 3, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 1912) stating that the Federal Aviation Administration was considering an amendment to Part 75 of the Federal Aviation Regulations that would designate ten area high routes in the western United States as part of the overall program to establish an area navigation route structure.

Five of the proposed routes, J–851R, J–852R, J–855R, J–858R, and J–859R, have been successfully flight inspected and are being designated in this rule. Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. The Air Transport Association objected to the alignment between the Wichita Falls, Tex., 121.5° M/107.4 NM waypoint and the Texico, Tex., VORTAC stating that the route segment avoids the Sheppard Air Force Base Intensive Student Jet Training Areas and the overlying military special operating areas, therefore, offers no improvement to current traffic handling. Military aircraft operating within the training area use all altitudes to flight level 450 in afterburner climb configuration. These rapid altitude changes are not compatible with a transiting civil aircraft.

Subsequent to issuance of the notice it was determined the segment between the Greater Southwest, Tex., VORTAC and Wichita Falls, Tex., VORTAC suited neither the departures nor arrivals, and the segment if charted would only contribute to chart clutter. The determination was made in anticipation of implementation of new terminal procedures in the Dallas/Fort Worth, Tex., area effective April 29, 1971. As this change is minor in nature, and does not alter the alignment of the route nor change the operational procedures for the control of air traffic, notice and public procedure are deemed unnecessary and the change is incorporated in this rule.

Reference facilities and geographical coordinates in several routes have been changed to provide more precise route definition and guidance. These changes are minor in nature and are made herein without change to the route alignment as proposed in the notice. The remaining routes in Airspace Docket No. 70–WA–43 will be issued in a final rule as soon as certain objections are reconciled and flight inspection is performed.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 75.400 (36 F.R. 2370) the following area high routes are added:

(North latitude/West longitude in degrees, minutes, and seconds)

Waypoint name	Location N. lat./W. long.	Reference facility
J–851R SAN FRANCISCO, CALIF., TO LOS ANGELES, CALIF.		
Logan, Calif.	36°58'59"/121°43'26"	Fresno, Calif.
Virginia, Calif.	34°13'24"/118°49'11"	Los Angeles, Calif.
J–852R LAS VEGAS, NEV., TO SAN FRANCISCO, CALIF.		
Lucky, Nev.	36°02'22"/115°50'08"	Beatty, Nev.
Ceres, Calif.	37°37'39"/120°57'25"	Fresno, Calif.
J–855R DALLAS, TEX., TO SAN FRANCISCO, CALIF.		
Wichita Falls, Tex.	33°59'14"/ 98°35'35"	Wichita Falls, Tex. VORTAC.
Texico, N. Mex.	34°29'42"/102°50'21"	Texico, N. Mex. VORTAC.
Volcano, N. Mex.	35°06'22"/106°39'29"	Socorro, N. Mex.
Defiance, N. Mex.	35°24'51"/108°57'44"	St. Johns, Ariz.
Peak, Ariz.	35°41'03"/111°20'14"	Tuba City, Ariz.
Boulder City, Nev.	35°59'45"/114°51'46"	Boulder City, Nev. VORTAC.
Lucky, Nev.	36°02'22"/115°50'08"	Beatty, Nev.
Crestview, Calif.	37°37'39"/120°57'25"	Fresno, Calif.
J–858R DENVER, COLO., TO KANSAS CITY, MO.		
Bonny, Colo.	39°29'41"/102°12'42"	Hill City, Kans.
Lenora, Kans.	39°29'09"/100°13'37"	Do.
Potter, Kans.	39°18'03"/ 94°59'53"	Kansas City, Mo
J–859R KANSAS CITY, MO., TO DENVER, COLO.		
Walcott, Kans.	39°13'06"/ 94°59'28"	Salina, Kans.
Enterprise, Kans.	38°58'04"/ 96°59'46"	Do.
Bonny, Colo.	39°29'41"/102°12'42"	Hill City, Kans.

(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 June 17, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71–8766 Filed 6–22–71;8:46 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C–1922]

PART 13—PROHIBITED TRADE PRACTICES

City Stores Co.

Subpart—Misrepresenting oneself and goods—Business status, advantages or

connections: § 13.1425 *Government connection;* Misrepresenting oneself and goods—Goods: § 13.1675 *Law or Legal requirements.* Subpart—Simulating another or product thereof: § 13.2217 *Government insignia, stamps, questionnaires, etc.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)) [Cease and desist order, City Stores Co., New York, N.Y., Docket No. C–1922, May 18, 1971]

In the Matter of City Stores Co., a Corporation

Consent order requiring a New York City chainstore corporation to cease using collection documents which simulate official documents and falsely representing that an independent attorney will imminently file suit against the alleged debtor.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That the respondent City Stores Co., a corporation, and its officers, representatives, agents, and employees, directly or through any corporate device, in connection with the collection of delinquent accounts by its Franklin Simon division, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using any document, form or envelope which simulates an official document, form or envelope authorized, issued or approved by any governmental authority.

2. Falsely representing or causing to be falsely represented that respondent corporation intends to imminently file suit against the debtor unless the alleged debt is immediately paid in full.

3. Falsely representing or causing to be falsely represented that respondent has instructed an independent attorney to file suit against an alleged debtor unless the alleged debt is immediately paid in full.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Issued: May 18, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71–8819 Filed 6–22–71;8:51 am]

[Docket No. C–1925]

PART 13—PROHIBITED TRADE PRACTICES

Faberge, Inc., and Tone-O-Matic Products, Inc.

Subpart—Advertising falsely or misleadingly: § 13.170 *Qualities or properties of product or service:* 13.170–52 Medicinal, therapeutic, healthful, etc.; 13.170–74 Reducing, nonfattening, low calorie, etc.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Faberge, Inc., et al., New York, N.Y., Docket No. C–1925, May 18, 1971]

In the Matter of Faberge, Inc., a Corporation, and Tone-O-Matic Products, Inc., a Corporation

Consent order requiring a New York City seller and distributor of a device designated as a "Tone-O-Matic" belt to cease advertising that any such device can be an effective substitute for physical exercise and offering for sale its "Tone-O-Matic" belt without furnishing a warning that it may be physically injurious to some persons.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Faberge, Inc., a corporation, and its officers, and Tone-O-Matic Products, Inc., a corporation, and its officers, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of Tone-O-Matic belts, or any other device of similar composition or possessing substantially similar attributes, do forthwith cease and desist from directly or indirectly:

1. Disseminating, or causing the dissemination of any advertisements, by means of the U.S. mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represent directly or by implication that:

a. Any such device is or can be effective as a substitute for exercise.

b. Any such device is or can be effective in keeping physically fit.

c. Any such device is or can be effective in causing weight reduction or reduction of waistline.

d. Any such device is or can be effective in toning or firming abdominal muscles.

2. Advertising, offering for sale, selling or distributing the Tone-O-Matic or any other such device unless the following statement is disclosed clearly and conspicuously in all such advertisements and on the outside of all containers or packages in which the said product is sold:

WARNING: This product may be physically injurious to some individuals. Consult your physician before purchase and use.

3. Disseminating, or causing the dissemination of, any advertisement, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of respondents' devices, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains any of the representations prohibited in paragraph 1 hereof.

4. Disseminating, or causing the dissemination of, any advertisement, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of respondents' devices, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains statements which are inconsistent with, negate or contradict the affirmative disclosure required by paragraph 2 of this order, or which in any way obscures the meaning of such disclosure.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents submit to the Commission within sixty (60) days after the order becomes final all advertising for products covered by this order to show the manner of compliance therewith, and thereafter will submit samples of all such advertising each 6 months to show continued compliance.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

Issued: May 18, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71–8821 Filed 6–22–71;8:51 am]

[Docket No. C–1917]

PART 13—PROHIBITED TRADE PRACTICES

Green Brook Corp. et al.

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods:* 13.30–75 Textile Fiber Products Identification Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73–90 Textile Fiber Products Identification Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185–80 Textile Fiber Products Identification Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212–80 Textile Fiber Products Identification Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* 13.1845–70 Textile Fiber Products Identification Act; § 13.1852 *Formal regulatory and stautory requirements:* 13.1852–70 Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 72

Stat. 1717, 15 U.S.C. 45, 70) [Cease and desist order, Green Brook Corp. et al., Hialeah, Fla., Docket No. C-1917, May 10, 1971]

In the Matter of Green Brook Corp. and Jomar Realty, Inc., Corporations, and Robert Solovei and Edward Solovei, Individually and as Officers of Said Corporations, and Fontaine Modes, Inc., a Corporation, and Joseph Germano, Individually and as an Officer of Jomar Realty, Inc., and Fontaine Modes, Inc.

Consent order requiring a Hialeah, Fla., manufacturer and seller of ladies' dresses and sportswear to cease misbranding and deceptively advertising its textile fiber products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Green Brook Corp. and Jomar Realty, Inc., corporations, and their officers, and Robert Solovei and Edward Solovei, individually and as officers of said corporations, and Fontaine Modes, Inc., a corporation, and its officers, and Joseph Germano, individually and as an officer of Jomar Realty, Inc., and Fontaine Modes, Inc., and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products as to the name or amount of constituent fibers contained therein.

2. Failing to affix a stamp, tag, label, or other means of identification to each such product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

3. Failing to make a disclosure on the required label on or affixed to textile fiber products composed of two or more sections of different fiber composition, in such a manner as to show the fiber composition of each section in all instances where such disclosure is necessary to avoid deception.

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations by disclosure or by implication as to the fiber content of any textile fiber product in any written advertisement which is used to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of such textile fiber product, unless the same information required to be shown on the stamp, tag, label or other means of identification under section 4(b) (1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

2. Using a fiber trademark in advertising textile fiber products containing more than one fiber without such fiber trademark appearing in immediate proximity and conjunction with the generic name of the fiber in plainly legible type or lettering of equal size and conspicuousness.

It is further ordered, That respondents notify the Commission at least 30 days prior thereto of any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: May 10, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-8822 Filed 6-22-71;8:51 am]

[Docket No. C-1915]

PART 13—PROHIBITED TRADE PRACTICES

Johnson & Johnson et al.

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Johnson & Johnson et al., New Brunswick, N.J., Docket No. C-1915, May 10, 1971]

In the Matter of Johnson & Johnson, a Corporation, Doing Business as Chicopee Manufacturing Co. and Under Its Own Name or Any Other Name or Names, and Chicopee Mills, Inc., a corporation

Consent order requiring a New Brunswick, N.J., manufacturer of industrial and hospital items, including nurses' caps, to cease violating the Flammable Fabrics Act by importing and distributing any fabric which fails to conform to the standards of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That the respondents Johnson & Johnson, a corporation, doing business as Chicopee Manufacturing Co. and under its own name or any other name or names, and its officers, and Chicopee Mills, Inc., a corporation, and its officers, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any wearing apparel, or fabric or related material, which fabric or related material may reasonably be expected to be used in such wearing apparel; or manufacturing for sale, selling, or offering for sale any wearing apparel made of fabric or related material which has been shipped or received in commerce, as "commerce", "fabric", "related "material" and "wearing apparel" are defined in the Flammable Fabrics Act, as amended, which wearing apparel, fabric or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents, if they have not done so heretofore, notify all of their customers who have purchased or to whom have been delivered the fabrics or wearing apparel made from said fabrics, which gave rise to this complaint of the flammable nature of such fabrics or wearing apparel and effect recall of such fabrics or wearing apparel from said customers.

It is further ordered, That the respondents herein, if they have not done so heretofore, either process the fabrics which gave rise to this complaint and any wearing apparel made from said fabrics so as to bring them within the applicable flammability standards of the Flammable Fabrics Act, as amended, or destroy said fabrics or any wearing apparel made therefrom.

It is furthered ordered, That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission an interim special report in writing setting forth the respondents' intention as to compliance with this order. This interim special report shall also advise the Commission fully and specifically concerning the identity of the fabrics which gave rise to the complaint and any wearing apparel made from said fabrics, (1) the number of such fabrics or articles of wearing apparel in inventory, (2) any

action taken and any further actions proposed to be taken to notify customers of the flammability of such fabrics or articles of wearing apparel and of the results of such actions, (3) any disposition of such fabrics or articles of wearing apparel since December 1969 and (4) any action taken or proposed to be taken to flameproof or destroy such fabrics or articles of wearing apparel and the results of such action. Such report shall further inform the Commission whether respondents have in inventory any fabric, product or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or combinations thereof in a weight of 2 ounces or less per square yard, or having a raised fiber surface made of cotton or rayon or combinations thereof. Respondents will submit samples of any such fabric, product or related material with this report. Samples of the fabric, product or related material shall be of no less than 1 square yard of material.

It is further ordered, That respondents Johnson & Johnson, a corporation, doing business as Chicopee Manufacturing Co., and under its own name or any other name or names, and its officers, and Chicopee Mills Inc., a corporation, and its officers, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a guaranty under the Flammable Fabrics Act, as amended, with respect to any product, fabric or related material which guaranty is false and when respondents have reason to believe that such product, fabric or related material may be introduced, sold, or transported in commerce.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: May 10, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-8823 Filed 6-22-71;8:51 am]

[Docket No. C-1920]

PART 13—PROHIBITED TRADE PRACTICES

Everett Eugene Miller and Midwest Construction and Supply Co.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections:* 13.15-30 Connections or arrangements with others; § 13.70 *Fictitious or misleading guarantees;* § 13.71 *Financing:* 13.71-10 Truth in Lending Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73-92 Truth in Lending Act; § 13.105 *Individual's special selection or situation;* § 13.155 *Prices:* 13.155-33 Demonstration reduction; 13.155-95 Terms and conditions: 13.155-95(a) Truth in Lending Act; 13.155-100 Usual as reduced, special, etc.; § 13.260 *Terms and conditions.* Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1395 *Connections or arrangements with others;* Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623-95 Truth in Lending Act; § 13.1647 *Guarantees;* § 13.1663 *Individual's special selection or situation;* § 13.1760 *Terms and conditions:* 13.1760-50 Sales contract; Misrepresenting oneself and goods—Prices: § 13.1800 *Demonstration reductions;* § 13.1823 *Terms and conditions:* 13.1823-20 Truth in Lending Act; § 13.1825 *Usual as reduced or to be increased.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-75 Truth in Lending Act; § 13.1905 *Terms and conditions:* 13.1905-50 Sales contract; 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Everett Eugene Miller et al., Tulsa, Okla., Docket No. 1920, May 13, 1971]

In the Matter of Everett Eugene Miller, an Individual Trading as Midwestern Construction and Supply Co.

Consent order requiring a Tulsa, Okla., individual engaged in the sale and distribution of residential aluminum siding to cease misrepresenting that the price of his products is special or reduced, failing to disclose the details of his guarantees, misrepresenting certain of his customers' homes as model homes, failing to disclose to purchasers that their notes may be negotiated to third parties, and failing to make certain disclosures required by Regulation Z of the Truth in Lending Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That Everett Eugene Miller, an individual trading as Midwestern Construction and Supply Co., or under any other name or names, and respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, distribution or installation of residential aluminum siding or other home improvement products or services or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any price for respondent's products and/or installations is a special or reduced price, unless such price constitutes a significant reduction from an established selling price at which such products and/or installations have been sold in substantial quantities by respondent in the recent regular course of his business; or misrepresenting, in any manner, the savings available to purchasers.

2. Representing, directly or by implication, that any of respondent's products and/or installations are guaranteed, unless the nature and extent of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed; or making and direct or implied representations that any of respondent's products and/or installations are guaranteed unless in each instance a written guarantee is given to the purchaser containing provisions fully equivalent to those contained in such representations.

3. Representing, directly or by implication, that the home of any of respondent's customers or prospective customers has been selected to be used or will be used as a model home, or otherwise, for advertising purposes.

4. Representing, directly or by implication, that any reduced price, allowance, discount, commission or other compensation is granted by respondent to purchasers in return for permitting or agreeing to allow the premises on which respondent's products are installed to be used for model homes or demonstration purposes.

5. Representing, directly or by implication, that respondent's salesmen or sales representatives are connected or affiliated with the manufacturer of respondent's products, or misrepresenting the business connections or affiliations of respondent or his salesmen or sales representatives.

6. Failing to disclose prior to the time of sale in writing on any conditional sales contract or other similar instrument executed by a purchaser, and with such conspicuousness and clarity as is likely to be observed and read by such purchaser, that: "Any such instrument, at respondent's option and without notice to the purchaser, may be discounted, negotiated or assigned to a finance company or other

third party to whom the purchaser will thereafter be indebted and against whom the purchaser's claims or defenses will not be available."

II. *It is further ordered,* That respondent Everett Eugene Miller, an individual trading as Midwestern Construction and Supply Co., or trading or doing business under any other name or names, and respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the consumer credit sale of home improvement products or services, or any other products or services, as "credit sale" is defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90–321, 15 U.S.C. 1601 et seq.), forthwith cease and desist from:

1. Failing to disclose the annual percentage rate, where and when required by Regulation Z to be used, to the nearest quarter of one percent, in accordance with § 226.5(b)(1) of Regulation Z.

2. Failing to disclose the date on which the finance charge begins to accrue when that date is different from the date of the transaction, as required by § 226.8 (b)(1) of Regulation Z.

3. Failing to disclose to the customer the date by which the customer may give notice of cancellation of the transaction, that date being not earlier than the third business day following the date of the transaction, in accordance with § 226.9 (b) of Regulation Z.

4. Representing, directly or by implication, on retail installment contracts, promissory notes, or on any written document, or orally, that customers will or may be liable for damages, penalties or any other charges for exercising their right to rescind that is provided by § 226.9 of Regulation Z.

5. Supplying any additional information, contract clause or other statement about the customer's liability or obligations in the event that the customer exercises his right to rescind except that information furnished in accordance with § 226.9 of Regulation Z.

6. Supplying any additional information, in writing or orally, that is stated, utilized or placed so as to mislead or confuse the customer or that contradicts, obscures or detracts attention from the information that is required to be disclosed by Regulation Z.

7. Engaging in any consumer credit transaction within the meaning of Regulation Z of the Truth in Lending Act without making all disclosures that are required by §§ 226.8 and 226.9 of Regulation Z in the amount, manner, and form therein specified.

III. *It is further ordered,* That respondent shall forthwith deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondent's products or services, and shall secure from each such salesman or other person a signed statement acknowledging receipt of said order.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

Issued: May 13, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-8820 Filed 6-22-71;8:51 am]

[Docket No. C-1913]

PART 13—PROHIBITED TRADE PRACTICES

Murdock Acceptance Corp. and Dixiemart-Corondolet Credit Department

Subpart—Advertising falsely or misleadingly: § 13.71 *Financing:* 13.71–10 Truth in Lending Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73–92 Truth in Lending Act; § 13.155 *Prices:* 13.155–95 Terms and conditions: 13.155–95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623–95 Truth in Lending Act; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions:* 13.1823–20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure; § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–75 Truth in Lending Act; § 13.1905 *Terms and conditions:* 13.1905–60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1605) [Cease and desist order, Murdock Acceptance Corp. et al., Memphis, Tenn., Docket No. C-1913, May 10, 1971]

In the Matter of Murdock Acceptance Corp., a Corporation Doing Business as Dixiemart-Corondolet Credit Department

Consent order requiring a Memphis, Tenn., money-lending corporation to cease violating the Truth in Lending Act by failing to include in the "finance charge" any charges for credit life, accident, or health insurance, failing to disclose the annual percentage rate correctly, and failing in any consumer credit transaction or advertisement to make all disclosures required by Regulation Z of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Murdock Acceptance Corp., a corporation, doing business as Dixiemart-Corondolet Credit Department or under any other name, and its officers, and respondent's agents, representatives, and employees, directly or through any corporate or other device, in connection with any consumer credit extension as "consumer credit" is defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to include in the "finance charge" any charges or premiums for credit life, accident or health insurance written in connection with any credit transaction unless:

a. The insurance coverage is not required by the creditor and this fact is clearly and conspicuously disclosed in writing to the customer; and

b. Any customer desiring such insurance coverage gives specific dated and separately signed affirmative written indication of such desire after receiving written disclosure to him of the cost of such insurance, as required by § 226.4(a)(5) of Regulation Z.

2. Failing to disclose the annual percentage rate correctly, as determined in accordance with § 226.5 of Regulation Z, both on the disclosure statement made at the opening of a new account in accordance with § 226.7(a) of Regulation Z and on the periodic statement required by § 226.7(b) of Regulation Z.

3. Failing in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with § 226.4 and § 226.5 of Regulation Z, in the manner, form and amount required by §§ 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondent deliver a copy of this order to cease and desist to all present and future personnel of respondent, and other persons engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondent secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That the respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist contained herein.

Issued: May 10, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-8824 Filed 6-22-71;8:51 am]

[Docket No. C-1914]

PART 13—PROHIBITED TRADE PRACTICES

Operation Skip-Locate, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections:* 13.15–25 Concealed subsidiary, fictitious collection

agency, etc.; 13.15–225 Personnel or staff; § 13.85 *Government approval, action, connection or standards:* 13.85–35 Government endorsement; § 13.120 *Legality or legitimacy.* Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1390 *Concealed subsidiary, fictitious collection agency, etc.;* § 13.1520 *Personnel or staff;* Misrepresenting oneself and goods—Goods: § 13.1632 *Government endorsement or recommendation;* § 13.1675 *Law or legal requirements.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46 Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Operation Skip-Locate, Inc., et al., Blue Bell, Pa., Docket No. C–1914, May 10, 1971]

In the Matter of Operation Skip-Locate, Inc., a Corporation, Also Trading as Interstate Credit Corp., and City Credit Control, Inc., a Corporation, Also Trading as Financial Representatives, Inc., and First State Financial Corp., a Corporation, and John W. O'Hara, and Ronald D. Steinman, Individually and as Officers of Said Corporations

Consent order requiring three Blue Bell, Pa., collection agencies to cease misrepresenting that they have officers or affiliated agencies throughout the United States, that legal actions have been or will be taken against any debtor, failing to inform debtor that the decision to take action rests with the attorney, misrepresenting that any action is being taken through any government agency, and misrepresenting the significance or effect of any legal document affecting any debtor.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Operation Ship-Locate, Inc., City Credit Control, Inc., First State Financial Corp., corporations, and John W. O'Hara and Ronald D. Steinman, individually and as officers of said corporations, and respondents' agents and employees, directly or through any corporate or other device, in connection with the solicitation of accounts for collection, the collection of, or attempt to collect accounts, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that respondents have offices throughout the United States or that respondents are affiliated with or correspond with credit bureaus, collection agencies or attorneys, provided, however, that it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that they have offices throughout the United States and/or are affiliated with or correspond with credit bureaus, collection agencies or attorneys.

2. Representing, directly or by implication, that respondents' business has employees, agents or adjusters, engaged in making personal calls on debtors.

3. Representing, directly or by implication that:

(a) Legal action has been taken against the debtor; or

(b) Legal action will be taken against the debtor; or

(c) Reports which reflect unfavorably on the credit rating or credit worthiness of the debtor have been or will be made to medical reporting agencies or credit bureaus.

Provided, however, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that they have authority and in good faith intend to take any represented action.

4. Representing, directly or by implication, that suit or other action against a debtor may be taken unless the debtor is informed that the final decision to institute suit or other action rests with an attorney to whom the debtor's account will be referred.

5. Representing, directly or by implication, that any communication with respect to an alleged delinquent account is being made by, through, under the aegis of, or in connection with any government entity or agency, whether State, Federal, or local.

6. Representing, directly or by implication, to a debtor, that an affidavit or other legal document has been received or is being processed, unless a complaint has been filed or judgment entered against the debtor; or misrepresenting in any manner the significance or effect of any legal document.

7. Misrepresenting or inaccurately stating the post judgment right of a creditor to garnish wages of a debtor, or otherwise informing a debtor of a creditor's right after judgment without disclosing at the same time that no judgment may be entered against the debtor unless the debtor has first been given notice and an opportunity to appear and defend himself in a court of law.

8. Misrepresenting, directly or by implication, the size of respondents' business.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents deliver a copy of this order to all of its present and future personnel and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form of their compliance with this order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That respondents maintain for at least a two (2) year period last past, records which fully reflect the oral and written representations made to creditors and debtors.

Issued: May 10, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71–8825 Filed 6–22–71;8:51 am]

[Docket No. C–1918]

PART 13—PROHIBITED TRADE PRACTICES

Perfect Film & Chemical Corp. et al.

Subpart—Enforcing dealings or payments wrongfully: § 13.1045 *Enforcing dealings or payments wrongfully.* Subpart — Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1440 *Identity;* Misrepresenting oneself and goods—Goods: § 13.1625 *Free goods or services;* § 13.1663 *Individual's special selection or situation;* §13.1757 *Surveys;* § 13.1760 *Terms and conditions:* 13.1760–50 Sales contracts; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions;* § 13.1825 *Usual as reduced or to be increased.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1892 *Sales contract, right-to-cancel provision;* § 13.1905 *Terms and conditions:* 13.1905–50 Sales contract.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Perfect Film & Chemical Corp. et al., New York, N.Y., Docket No. C–1918, May 13, 1961]

In the Matter of Perfect Film & Chemical Corp., a Corporation, Perfect Subscription Co., a Corporation, and Keystone Readers' Service Inc., a Corporation

Consent order requiring New York City, Philadelphia, Pa., and Fort Worth, Tex., corporations engaged in using deceptive and unfair means to sell magazine subscriptions and collect accounts to cease misrepresenting that they are conducting surveys or contests, performing services for the Youth Opportunity Program, failing to reveal that their contacts are to sell magazines, harassing customers by phone and falsely threatening legal action, and failing to give all essential details on their subscription contract; the order also defers the effective date of the subscription contract for 72 hours and gives the customer the right of cancellation within this period; it also forbids respondents to use third party solicitors unless such third parties agree to be bound by the order.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That respondents Perfect Film & Chemical Corp., a corporation, Perfect Subscription Co., a

corporation, and Keystone Readers' Service, Inc., a corporation, and respondents' officers, representatives, employees, successor or assigns, franchisees, subfranchisees, salesmen, agents or solicitors, and the men, agents or solicitors engaged by or through respondents' franchisees or subfranchisees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of magazines or any other publications or merchandise, or subscriptions to purchase any such magazines or services, or in the collection or attempted collection of any delinquent or other subscription contract or other account, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, that respondents are primarily conducting or participating in any survey, quiz or contest, or are engaged in any activity other than soliciting business; or misrepresenting, in any manner, the purpose of the call or solicitation.

2. Representing, directly or indirectly that any offer to sell said products or services is being made only to specially selected persons; or misrepresenting, in any manner, the persons or class of persons afforded the opportunity of purchasing respondents' products or services.

3. Representing, or performing services for Youth Opportunity Program or any similar organization, or any individual or firm other than one engaged in soliciting business; or misrepresenting, in any manner, the identity of the solicitor or of his firm and of the business they are engaged in.

4. Representing, directly or indirectly, that any merchandise or service is free, or is provided as a gift to either the subscribed or a person designated by him, or without cost or that any merchandise or service can be obtained free or as a gift or without cost or charge, in connection with the purchase of, or agreement to purchase any merchandise, or combination or merchandise or service, unless the stated price of the merchandise or service or combination thereof required to be purchased in order to obtain such free merchandise or gift is the same or less than the customary and usual price at which such merchandise or service or combination thereof required to be purchased has been sold separately from such free or gift item, for a substantial period of time in the recent and regular course of business in the trade area in which the representation is made.

5. Representing that any price is a special or reduced price unless it constitutes a significant reduction from an established selling price at which such product or service has been sold in substantial quantities in the recent and regular course of trade; or misrepresenting, in any manner, the savings which will be accorded or made available to purchasers, or that any price for any product or service covers only the cost of mailing, handling, editing, printing, or any other element of cost, or is at or below cost.

6. Refusing or failing upon request to cancel a contract when the representation has been made, either directly or indirectly, that the contract will be cancellable.

7. Failing, clearly, and unqualifiedly to reveal initially at all contracts or solicitations of purchasers or prospective purchasers, whether directly or indirectly, or by telephone, written or printed communication, or person-to-person, that the purpose of such contact or solicitation is to sell publications, products or services, as the case may be, which purpose shall be identified with particularity at the time of each such contact or solicitation.

8. Making any reference or statement concerning "50¢ per week," "60 months," or any other statement as to a sum of money or duration or period of time in connection with a subscription contract or other purchase agreement which does not in fact provide, at the option of the purchaser, for the payment of the stated sum, at the stated interval, and over the stated duration or period of time; or misrepresenting, in any manner, the terms, conditions, method, rate or time of payment actually made available to purchasers or prospective purchasers.

9. Representing, directly or indirectly, that a subscription contract or other purchase agreement is a "preference list," "guarantee," "route slip," or any kind of document other than a contract or agreement; or misrepresenting, in any manner, the nature, kind or legal characteristics of any document.

10. Failing, clearly and unqualifiedly, to reveal orally to each purchaser or prospective purchaser before execution, and in writing on each document, the identity, and nature of any document, such as a "contract" they are requested or required to execute in connection with the purchase of any product or service; and orally that the terms of any such document are binding on the parties to the document.

11. Attempting, by the use of telephone calls or any other means, to harass or intimidate customers in order to effect payment of any account.

12. Misrepresenting, directly or indirectly, that in the event of nonpayment or delinquency of any account or alleged debt arising from any subscription contract or purchase agreement, the general or public credit rating or standing of any person may be adversely affected, unless respondents actually do refer information concerning delinquencies to a bona fide credit reporting agency.

13. Failing, clearly and unqualifiedly, to disclose to a debtor or an alleged debtor, on each contact, that the collection agency to which the delinquent account will be referred, or said collection agency which is contacting a debtor or an alleged debtor, is an operating division of the respondents', and is not an independent bona fide collection agency unless in fact said collection agency is an independent, bona fide collection agency.

14. Representing, either directly or indirectly, that legal action may be instituted unless respondents in good faith intend to institute legal action against each delinquent debtor or alleged debtor to whom such representation is made; or misrepresenting, in any manner, the action or results of any action which may be taken to effect payment of any such account or debt or alleged debt.

15. Contracting for any sale in the form of a subscription contract or other purchase agreement which shall become binding on the purchaser prior to a period of time not less than 72 hours after the date of signing by the purchaser.

16. Failing to disclose orally prior to the time of sale, and in writing on any subscription contract or other agreement with such conspicuousness and clarity as will be likely to be observed and read by such purchaser, that the purchaser may rescind or cancel the sale by directing or mailing a notice of cancellation to respondents' address prior to 72 hours after the date of signing by the purchaser.

17. Failing to provide either on the contract or on a separate sheet a clearly understandable form which the purchaser may use as a notice of cancellation.

18. If coupon books are used, failing to include with each coupon book furnished to a subscriber:

(a) A legend, on the cover, stating "check the number of coupons in this book and their amounts against your original subscription contract: (See Page 1)."

(b) A statement, on the first separate inside page, showing the total number of coupons in the book, the dollar amount of each such coupon and the total dollar amount of all such coupons;

(c) The address, on the first separate inside page, of Keystone Readers' Service, Inc., its successors or assigns.

19. Failing to furnish to each subscriber at the time of his signing of the subscription contract a duplicate original of the contract showing the exact number and name of the magazines or other publications to which the purchaser is subscribing, the number of issues for each, and the total price for each magazine and for all such magazines; provided, however, as an alternative, the price for each magazine may be furnished on a separate schedule attached to each of said contracts.

20. Failing to furnish with each coupon book initially provided to each subscriber, a copy of the original sales contract.

21. Substituting, requesting substitution or permitting substitution, except at the request of the customer, at any time during the collection period of the contract, of any magazine or publication for any magazine or publication covered by the contract without first providing the subscriber an option in writing, as stated in the subscription contract, to reduce his future payments by the pro rata portion of the remaining payments due on the canceled magazine or other publication: *Provided*, That respondents may offer to those subscribers with paid-in-full contracts an option to either lengthen already existing subscriptions or to select

from among all of respondents' than currently offered magazines or publications, a magazine or publication as a substitute for the remaining period of the subscription.

22. Failing or refusing to cancel, at the subscriber's request, all or any portion of a subscription contract whenever respondent in good faith finds that any misrepresentation prohibited by this order has been made.

23. Failing to clearly, conspicuously, and adequately designate and disclose both orally, and in writing on the subscription contract, on the same side of the page and above or adjacent to the place for the customer's signature:

(a) The total cash price,

(b) The downpayment,

(c) The unpaid balance of the cash price,

(d) The amount financed, if any,

(e) The rate of the finance charge, if any, expressed as the annual percentage rate, and

(f) The number, amount, and due dates or period of payments scheduled to satisfy the payment of the contract.

24. Furnishing or otherwise placing in the hands of others the means and instrumentalities by and through which the public may be misled or deceived in the manner or by the acts and practices prohibited by this order.

II. *It is further ordered:* (a) That respondents herein deliver, or have delivered, a copy of this decision and order, or the contents of this decision and order, to each of their present and future dealers or franchisees, licensees, employees, salesmen, agents, solicitors, independent contractors, or other representatives who sell, promote or distribute the products or services included in this order.

(b) That respondents herein deliver or have delivered to each person so described in paragraph (a) above a form clearly stating his intention to be bound by and to conform his business practices to the requirements of this order which shall be forwarded to the respondents.

(c) That respondents inform or have informed all such present and future dealers or franchisees, licensees, employees, salesmen, agents, solicitors, independent contractors, or other representatives who sell, promote or distribute the products or services included in this order that the respondents shall not use any third party, or the services of any third party for the solicitation of magazine subscriptions unless such third party agrees that it will be bound by the provisions contained in this order and the respondents are so informed.

(d) If such party will not so agree and the respondents and the Commission are not so informed then the respondents shall not use such third party or the services of such third party to solicit subscriptions.

(e) That respondents so inform or have informed the persons so engaged that the respondents are obligated by this order to discontinue dealing with those persons who continue on their own the deceptive acts or practices prohibited by this order.

(f) That respondents institute a program of continuing surveillance to reveal whether the business operations of each of said persons so engaged conform to the requirements of this order; and

(g) That respondents upon receiving information or knowledge from any source concerning two or more bona fide complaints prohibited by this order against any franchise, his employees or agents during any 1-month period will be responsible for either ending said practices or securing the termination of the franchisee or the employment of the offending employee or agent.

It is further ordered, That respondents herein shall notify the Commission at least 30 days prior to any proposed change in any of the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution which may affect compliance obligations arising out of the order.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: May 13, 1971.

By the Commission.[1]

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-8826 Filed 6-22-71;8:52 am]

[Docket No. C-1916]

PART 13—PROHIBITED TRADE PRACTICES

Siegel's Home Equipment Co., Inc., and Henry Shapiro

Subpart—Advertising falsely or misleadingly: § 13.71 *Financing:* 13.71-10 Truth in Lending Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73-92 Truth in Lending Act; § 13.155 *Prices:* 13.155-95 Terms and conditions: 13.155-95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623-95 Truth in Lending Act; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions:* 13.-1823-20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852—75 Truth in Lending Act; § 13.1905 *Terms and conditions:* 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Siegel's Home Equipment Co., Inc., et al., Richmond, Va., Docket No. 1916, May 10, 1971]

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[1] Chairman Kirkpatrick not participating, and Commissioner Jones dissenting.

In the Matter of Siegel's Home Equipment Co., Inc., a corporation, and Henry Shapiro, Individually and as an Officer of Said Corporation

Consent order requiring a Richmond, Va., distributor and seller of furniture, appliances, and other merchandise to cease violating the Truth in Lending Act by failing to disclose the amount of the downpayment in property, failing to disclose the difference between the "cash price" and the "total downpayment," failing to disclose accurately the "unpaid balance," the "amount financed," "the finance charge," "the deferred payment price," and failing to make other disclosures required by Regulation Z of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Siegel's Home Equipment Co., Inc., a corporation, and its officers, and Henry Shapiro, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with any extension of consumer credit or any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to make all disclosures required to be made by Regulation Z clearly, conspicuously and in a meaningful sequence, as required by § 226.8(a) of Regulation Z.

2. Failing to disclose the amount of any downpayment in property or to describe that amount as the "trade-in", or failing to disclose the sum of any "cash downpayment" and the "trade-in" and to describe that sum as the "total downpayment", as required by § 226.8(c)(2) of Regulation Z.

3. Failing to disclose accurately the difference between the "cash price" and the "total downpayment", and failing to describe that difference as the "unpaid balance of cash price", as required by § 226.8(c)(3) of Regulation Z.

4. Failing to disclose all other charges, individually itemized, which are part of the amount financed but are not part of the finance charge, as required by § 226.8(c)(4) of Regulation Z.

5. Failing to disclose the amount of the "unpaid balance" accurately as the sum of the "unpaid balance of cash price" and all other charges which are part of the "amount financed" but are not part of the "finance charge", as required by § 226.8(c)(5) of Regulation Z.

6. Failing to disclose accurately the "amount financed", and failing to describe that amount as the "amount financed", as required by § 226.8(c)(7) of Regulation Z.

7. Failing to disclose accurately and to describe individually the amount of each charge required by § 226.4 of Regulation Z to be included in the finance

charge, and failing to include each such amount in the amount of the finance charge, as required by § 226.8(c)(8)(i) of Regulation Z.

8. Failing to disclose the annual percentage rate, and failing to disclose that rate accurate to the nearest quarter of one percent, computed in accordance with § 226.5 of Regulation Z, as required by § 226.8(b)(2) of Regulation Z.

9. Failing to print the terms "finance charge" and "annual percentage rate", where required to be used, more conspicuously than the other required terminology, as required by § 226.6(a) of Regulation Z.

10. Failing to disclose the "deferred payment price" accurately as the sum of the cash price, all other charges which are part of the amount financed but are not part of the finance charge, and the finance charge, as required by § 226.8(c)(8)(ii) of Regulation Z.

11. Failing to disclose accurately the number, amount, and due dates or periods of payments scheduled to repay the indebtedness as required by § 226.8(b)(3) of Regulation Z.

12. Failing to make all the required disclosures in any one of the following three ways, as required by § 226.8(a) of Regulation Z:

(a) Together on the contract evidencing the obligation on the same side of the page and above or adjacent to the place for the customer's signature; or

(b) On one side of the separate statement which identifies the transaction; or

(c) On both sides of a single document containing on each side thereof the statement "NOTICE: See other side for important information", with the place for the customer's signature following the full content of the document.

13. Stating in any advertisement the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless they state all of the following items in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10(d)(2) of Regulation Z:

(a) The cash price;

(b) The amount of the downpayment required or that no downpayment is required, as applicable;

(c) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(d) The amount of the finance charge expressed as an annual percentage rate; and

(e) The deferred payment price.

14. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with § 226.4 and § 226.5 of Regulation Z, in the manner, form and amount required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the offering for sale, or sale of any products or in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: May 10, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-8827 Filed 6-22-71;8:52 am]

[Docket No. 8760 o]

PART 13—PROHIBITED TRADE PRACTICES

Stanley Works

Subpart—Acquiring corporate stock or assets: § 13.5 *Acquiring corporate stock or assets:* 13.5-20 Federal Trade Commission Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18) [Cease and desist order, The Stanley Works, New Britain, Conn., Docket No. 8760, May 17, 1971]

In the Matter of The Stanley Works, a Corporation

Order requiring a New Britain, Conn., manufacturer and seller of power tools and hardware products to divest itself of all assets of a Rockford, Ill., manufacturer of certain hardware products, and not to acquire for a period of ten (10) years any firm engaged in the manufacture and sale of cabinet hardware without prior approval of the Federal Trade Commission.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That respondent, The Stanley Works (hereinafter referred to as "Stanley"), through its officers, directors, agents, representatives, employees, successors, and assigns, within two (2) years from the date this order becomes final, shall divest absolutely and in good faith, all stock, assets, properties, rights and privileges, tangible or intangible, including but not limited to all properties, plants, machinery, equipment, trade names, contract rights, patents, trademarks, and good will, obtained by Stanley as a result of its merger with the Amerock Corp., together with all plants, machinery, buildings, land, improvements, equipment and other property of whatever description that has been added to or placed on the premises of the former Amerock Corp., so as to restore Amerock Corp. as a going concern and effective competitor in the manufacture and sale of cabinet hardware.

It is further ordered, That pending divestiture, respondent shall not make any changes in any of the plants, machinery, buildings, equipment or other property of whatever description of the former Amerock Corp. which shall impair its present capacity for the production, sale and distribution of cabinet hardware, or its market value.

It is further ordered, That by such divestiture, none of the assets, properties, rights or privileges described in the first paragraph of this order, shall be sold or transferred, directly or indirectly, to any person or persons who are not approved in advance by the Federal Trade Commission.

II. In effectuating paragraph I of this order, respondent Stanley shall complete divestiture in the following manner and subject to the following conditions:

A. Beginning promptly on the effective date of this order, and for a period of six (6) months thereafter, Stanley shall make diligent efforts in good faith to effectuate the divestiture required by paragraph I of this order.

B. If Stanley fails to effectuate such divestiture within that period, Stanley shall, within thirty (30) days thereafter, submit a plan in form and substance acceptable to the Commission, for the formation of a new and separate corporation (hereinafter "New Amerock"), to enable the restoration of Amerock Corp. as a viable competitive factor in the hardware and cabinet hardware industries in substantially the manner and form it would have attained had it not been merged with Stanley. Such plan shall contain provision for:

1. Transfer to New Amerock of all assets required to be divested by section I of this order;

2. Distribution of the capital stock of New Amerock to the public or to the stockholders of Stanley;

3. A provision that any direct or indirect holder of more than one (1) percent of the outstanding capital stock of Stanley shall divest all stock interest in New Amerock within six (6) months from the date of incorporation of New Amerock; and

4. Distribution of the capital stock of New Amerock within not more than two (2) years from the effective date of this order.

III. Within thirty (30) days from the effective date of this order, and every thirty (30) days thereafter until it has fully complied with this order, Stanley

shall submit in writing, to the Federal Trade Commission, a verified report setting forth in detail the manner and form in which it intends to comply, is complying, or has complied with this order. All compliance reports shall include without limitation a specification of the steps taken by Stanley to make public its desire to divest the assets or stock required to be divested pursuant to paragraphs I and II of this order, including, without limitations, a list of all persons, partnerships or corporations, and brokers, bankers and management consultants to whom this notice of sale has been given; a summary of all discussions and negotiations, together with the identity of all such potential purchasers or intermediaries, and copies of all recommendations, reports, offers and counteroffers and communications concerning divestiture.

IV. For ten (10) years from the date divestiture of Amerock is effectuated, Stanley shall cease and desist from acquiring, directly or indirectly, by any device or through subsidiaries or otherwise, the whole or any part of the stock, share capital or assets of any firm engaged in the manufacture or sale of cabinet hardware products without the prior approval of the Federal Trade Commission. Within thirty (30) days following the effective date of this order, and annually thereafter, Stanley shall furnish a verified written report setting forth the manner and form in which it intends to comply, is complying, or has complied with this paragraph.

It is further ordered, That the hearing examiner's initial decision and order to cease and desist, as above modified and as modified by the accompanying opinion, be and they hereby are, adopted as the decision and order of the Commission.

Issued: May 17, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-8828 Filed 6-22-71;8:52 am]

[Docket No. C-1912]

PART 13—PROHIBITED TRADE PRACTICES

Sun-Glo Products Corp. and George J. Kotler

Subpart—Importing, selling, or transporting flammable wear: §13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Sun-Glo Products Corp. et al., Miami, Fla., Docket No. C-1912, May 5, 1971]

In the Matter of Sun-Glo Products Corp., a Corporation, and George J. Kotler, Individually and as an Officer of Said Corporation

Consent order requiring a Miami, Fla., importer and seller of men's, women's, and children's wearing apparel, including vacation type shirts, to cease violating the Flammable Fabrics Act by importing and selling any fabric which fails to conform to the standards of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Sun-Glo Products Corp., a corporation, and its officers, and George J. Kotler, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling or offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported, in commerce, or selling or delivering after sale or shipment in commerce any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to any applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint of the flammable nature of said products, and effect recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (4) any disposition of said products since July 28, 1970, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: May 5, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-8829 Filed 6-22-71;8:52 am]

[Docket No. C-1919]

PART 13—PROHIBITED TRADE PRACTICES

Time, Inc., and Family Publications Service, Inc.

Subpart—Enforcing dealings or payments wrongfully: § 13.1045 *Enforcing dealings or payments wrongfully.* Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1440 *Identity;* Misrepresenting oneself and goods—Goods: § 13.1625 *Free goods or services;* § 13.1663 *Individual's special selection or situation;* § 13.1757 *Surveys;* § 13.1760 *Terms and conditions:* 13.1760–50 Sales contracts; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions;* § 13.1825 *Usual as reduced or to be increased.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1892 *Sales contract, right-to-cancel provision;* § 13.1905 *Terms and conditions:* 13.1905–50 Sales Contract.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Time, Inc., et al., New York, N.Y., Docket No. C-1919, May 13, 1971]

In the Matter of Time, Inc., a Corporation and Family Publications Service, Inc., a Corporation

Consent order requiring a major New York City magazine publisher and its

wholly owned subsidiary for soliciting magazine subscriptions to cease making various false representations in inducing customers to subscribe to magazines, refusing to cancel a contract on request, failing to reveal all significant details of the subscription contract, harassing customers by phone or otherwise to effect payment of accounts, making sales contracts which are binding before midnight of the third day, and failing to notify purchaser of his right to rescind contract within three days; the order also binds any third party which respondent may engage to solicit subscriptions.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents, Time, Inc., a corporation and its officers, Family Publications Service, Inc., a corporation and its officers, and their successors or assigns, and respondents' respective representatives, employees, salesmen, agents or solicitors, in connection with the advertising, offering for sale, sale or distribution of magazines or any other publications (hereinafter sometimes referred to as products or services) by subscriptions to purchase any such products or services through a "paid-during-service" plan, or through a "cash sale" plan (as "cash sale" is hereinafter defined) or in the collection or attempted collection of any delinquent paid-during-service or cash sale subscription account obtained through door-to-door, mail or telephone solicitation, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, that any employee or other person calling upon a customer or prospective customer for the purpose or with the result of inducing or securing a subscription to, order for, or the purchase or agreement to purchase any products or services:

(a) Is making such offer to specially selected persons; or misrepresenting, in any manner, the type or class of persons to whom such offers are being made.

(b) Represents, or is performing services for "Welcome Wagon" or any educational, charitable, social or other organization, or any individual or firm other than one engaged in soliciting business; or misrepresenting, in any manner, the identity of the solicitor or of his firm and of the business they are engaged in.

(c) Will give any product or service free or as a gift or without cost or charge, or that any product or service can be obtained free or as a gift or without cost or charge, in connection with the purchase of, or agreement to purchase any product or service, unless the stated price of the product or service required to be purchased in order to obtain such free product or gift is the same or less than the customary and usual price at which such product or service required to be purchased has been sold separately from such free or gift item, and in the same combination if more than one item is required to be purchased, for a substantial period of time in the recent and regular course of business in the trade area in which the representation is made.

2. Failing, clearly, emphatically and unqualifiedly to reveal, at the outset of the initial contact and all subsequent sales solicitations of purchasers or prospective purchasers, whether directly or indirectly, or by telephone, written or printed communication, or person-to-person that the purpose of such contact or solicitation is to sell products or services as the case may be, which shall be identified with particularity at the time of each such contact or solicitation.

3. Representing, directly or indirectly, that any price for any product or service covers only the cost of mailing, handling, editing, printing, or any other element of cost, or is at or below cost; or that any price is a special or reduced price unless it constitutes a significant reduction from an established selling price at which such product or service has been sold in substantial quantities by respondents in the same combination of items in the recent and regular course of their business; or misrepresenting, in any manner, the savings which will be accorded or made available to purchasers.

4. Representing, directly or indirectly that any subscription contract or other purchase agreement can be canceled at the purchaser's option, or that the right to cancel will be accorded to any purchasers, when there is no provision in such contract or agreement for cancellation on the terms and conditions represented, and unless cancellation is in fact granted on such terms and conditions.

5. Refusing or failing upon request to cancel a contract when the representation has been made directly or indirectly that the contract will be cancellable.

6. Making any reference to a sum of money or a period of time such as "45¢ a week" or "60 months" or any other similar references to the terms of a subscription contract which are not the actual terms and conditions of sale prior to notifying the customer or prospective customer clearly and precisely of the exact terms and conditions of sale, including but not limited to the actual total dollar amount of the contract involved, the dollar amount of the down payment, and of each subsequent payment and the interval and number of such payments or misrepresenting in any manner the terms, conditions, methods, rate or time of payment actually made available to purchasers or prospective purchasers.

7. Failing to clearly reveal orally prior to the time the subscription contract is signed by the customer:

(a) The name, the exact number of issues, and the exact number of months of service of each publication covered by the contract;

(b) The total price to the subscriber of all the publications covered by the contract; and

(c) The down payment required and the number, amount, and due dates of all subsequent payments.

8. Representing, directly or indirectly, that a subscription contract or other purchase agreement which is presented to the purchaser during the course of the solicitation is a "preference list", "guarantee", "route slip" or any kind of document other than a contract or agreement; or misrepresenting, in any manner, the nature, kind of characteristics of any document.

9. Failing, clearly, emphatically and unqualifiedly to disclose orally and in writing to each purchaser or prospective purchaser before execution, the identity, nature and import of any document he is requested or required to execute in connection with the purchase of any product or service.

10. Harassing customers in order to effect payment of any account by any means, including the following:

(a) Repeated telephone calls within the same day or week, abusive telephone calls, or telephone calls at unreasonable hours.

(b) The use of forms or any other items of printed or written matter purporting to be legal documents or process.

(c) Representations, direct or indirect, that in the event of nonpayment or delinquency of any account or alleged debt arising from any subscription contract or other purchase agreement, the general or public credit rating or standing of any person may be adversely affected, unless respondents refer the information concerning such delinquency to a bona fide credit reporting agency.

(d) Representing that legal action may be instituted unless it is intended in good faith that such legal action be instituted; or misrepresenting in any manner the action to be taken or results of any action which may be taken to effect payment of any such account or alleged debt.

11. Canceling a subscription contract for any reason other than a breach by the subscriber without either arranging for the delivery of publications already paid for or promptly refunding money on a pro rata basis for all undelivered issues of publications for which payment has been made in advance.

12. Contracting for any sale in the form of a subscription contract or other purchase agreement which shall become binding on the purchaser prior to midnight of the third day, excluding Sundays and legal holidays, after the date of notification of acceptance as provided in paragraph 15.

13. Failing to disclose to the purchaser in writing on any subscription contract or other purchase agreement signed by the purchaser with such conspicuousness and clarity as likely to be understood by such purchaser, that the purchaser may rescind or cancel the sale by mailing a notice of cancellation to the address specified by the agency or respondent subsidiary prior to midnight of the third day, excluding Sundays and legal holidays, after the date upon which the purchaser signed such subscription contract.

14. Failing to furnish to each subscriber at the time of his signing of the subscription contract a duplicate original of the contract showing date signed by the customer and name of salesman together with his agency's address and telephone number and showing on the same side of the page, above or adjacent to the place for the customer's signature, the exact number and name of the publications being subscribed for; the number of issues for each; the down payment required; the number, dollar amount and due dates of each subsequent payment; amount and rate of finance charge, if any; the charge, if any, for late payment and the conditions under which such charge shall be assessed and the total price to the subscriber for all such publications.

15. Failing to provide at the time the customer is notified of the acceptance of the contract a clearly understandable form showing the magazines or other publications covered by the contract, inviting specific attention to the variations therein, if any, from the purchase agreement signed by the purchaser; the price to the subscriber ascribed by the respondents for each publication for the term of the contract and the total price to the subscriber of all such publications covered by the contract, and the name and address of the agency or respondent subsidiary which the purchaser may use as a notice of cancellation at any time prior to midnight of the third day, excluding Sundays and legal holidays, after the date of receipt thereof; and such form shall advise such purchaser of his right so to cancel.

16. In the event of the discontinuance of publication, or other unavailability, of any magazines subcribed for, at any time during the life of the contract, failing to offer the subscriber the right to substitute one or more magazines or other publications, or the extension of subscription periods of magazines already selected.

17. Failing or refusing to cancel, at the subscriber's request, all or any remaining portion of a subscription contract whenever any misrepresentation prohibited by this order has been made to such subscriber.

18. Furnishing or otherwise placing in the hands of employees or other authorized representatives the means and instrumentalities, such as sales pitches, instruction sheets, collection or advertising materials by and through which the public may be misled or deceived in the manner or as to things prohibited by this order.

It is further ordered, That, Time, Inc., directly or indirectly through Family Publications Service, Inc., or any other present or future subsidiary or controlled affiliate of respondents:

(a) Deliver by registered mail or by hand a copy of this decision and order to each of their present and future dealers or franchisees, if any, representatives, licensees, employees, salesmen, agents, solicitors, independent contractors, or other authorized representatives who, as described in the main preamble to this order, are engaged in the promotion, offering for sale, sale or distribution of the products or services included in this order by means of paid-during service or cash sale plans employing door-to-door, mail or telephone solicitation of subscription contracts: *Provided, however,* That the provisions of this paragraph (a) shall not apply to those who are merely engaged in the physical distribution of magazines or other products included in this order;

(b) Provide each person so described in paragraph (a) above with a form to be signed by such person clearly stating his intention to conform his business practices to the requirements of this order;

(c) Inform each person so described in paragraph (a) above that the respondents shall not use any third party, or the services of any third party for the solicitation of magazine subscriptions unless such third party agrees to conform to the provisions contained in this order;

(d) If any such third party will not agree to conform to the provisions of the order, the respondents shall not use such third party, or the services of such third party to solicit subscriptions;

(e) So inform each person so described in paragraph (a) above that the respondents are obligated by this order to discontinue dealing with those persons who continue on their own the deceptive acts or practices prohibited by this order;

(f) Institute a program of continuing surveillance adequate to reveal whether the business operations of each person so described in paragraph (a) above conform to the requirements of this order; and

(g) Discontinue dealing with the persons revealed by the aforesaid program of surveillance to be continuing on their own deceptive acts or practices prohibited by this order.

It is further ordered, That respondents herein shall notify the Commission at least thirty (30) days prior to any proposed change in the structure of either of the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the respective corporations which may affect compliance obligations arising out of this order.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

As used in this order, the term "cash sale" shall mean the sale of products or services by a subscription contract by that category of sales personnel referred to in the trade as "field representatives" or "traveling crews" who sell subscriptions during the course of door-to-door solicitations to one or a few products in consideration of one immediate full payment or few payments as contrasted with the more numerous products and payments involved in paid-during-service plans.

As used in this order, the phrase "door to door, mail or telephone solicitation" of subscription contracts relates only to such solicitation used to initiate or effect sales or collections pursuant to a paid-during-service plan or a cash sale plan.

Issued: May 13, 1971.

By the Commission.[1]

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-8830 Filed 6-22-71;8:52 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Releases Nos. 33-5158, 34-9210, AS-119]

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS (ACCOUNTING SERIES RELEASES)

PART 231—INTERPRETATIVE RELEASES RELATING TO SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 241—INTERPRETATIVE RELEASES RELATING TO SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

Computation of Ratio of Earnings to Fixed Charges

Certain registration forms under the Securities Act of 1933 require, where debt securities are to be registered, a statement of the ratio of earnings to fixed charges. Certain registration and report forms under the Securities Exchange Act of 1934 permit the showing of such a ratio. There have recently been filed with the Commission a number of registration statements wherein the registrants, in computing the ratio of earnings to fixed charges, have deducted from fixed charges amounts comprising (1) interest income or investment income earned on funds in excess of the requirements for working capital and (2) gains on retirement of debt at less than its principal amount. In some cases registrants have, in computing the pro forma ratio, imputed interest or investment income on amounts of funds to be obtained from the registered offering which is in excess of the immediate requirements for debt retirement or capital expenditures

[1] Chairman Kirkpatrick not participating, and Commissioner Jones dissenting.

and have deducted such imputed income from the pro forma fixed charges in computing the pro forma ratio of earnings to fixed charges.

The propriety of reducing fixed charges by amounts representing interest or investment income or gains on retirement of debt has been considered in the light of the purposes for which ratios of earnings to fixed charges are used and the Commission has determined that the reduction of fixed charges by the amount of either actual or imputed interest or investment income or debt retirement gains for the purpose of computing fixed charge ratios results in incorrect ratios and is therefore inappropriate. Accordingly, such reductions will no longer be deemed acceptable in registration statements or reports filed with the Commission.

By the Commission, June 15, 1971.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8783 Filed 6-22-71; 8:47 am]

[Release No. 34-9048]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Registration and Reporting and Form for Annual Reports of Employee Stock Purchase Plans; Correction

In the February 3, 1971, issue of the FEDERAL REGISTER (36 F.R. 1889-1891), the Commission published its Release No. 34-9048 announcing the amendment of Form 11-K (17 CFR 249.311) and of certain rules under the Securities Exchange Act of 1934. Though the preamble of the release clearly indicated that Rules 13a-3 and 13a-4 (17 CFR 240.13a-3, 240.13a-4) were to be rescinded, the following statement was inadvertently omitted from the text of the Commission's action:

IX. Sections 240.13a-3 and 240.13a-4 are rescinded.

By the Commission, June 16, 1971.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8782 Filed 6-22-71;8:47 am]

[Release No. IC-6561]

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

Election by Open-End Investment Companies To Make Only Cash Redemptions

On March 24, 1971, the Securities and Exchange Commission published notice (Investment Company Act Release No. 6401 (36 F.R. 6595) that it had under consideration the adoption of Rule 18f-1 under the Investment Company Act of 1940 (Act) (17 CFR 270.18f-1) and Form N-18F-1 (17 CFR 274.51) and invited all interested persons to submit their views and comments upon the proposals. The Commission has considered all the comments and suggestions received and has determined to adopt Rule 18f-1 and Form N-18F-1 in the form set forth below.

Section 6(c) of the Act (15 U.S.C. 80a-6(c)) provides that the Commission by rule, regulation, or order may exempt any person or transaction or any class of persons or transactions from any provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 38(a) (15 U.S.C. 80a-37(a)) of the Act authorizes the Commission to issue such rules as are necessary or appropriate to the exercise of the powers conferred upon the Commission in the Act.

Section 22(e) of the Act (15 U.S.C. 80a-22(e)) provides in pertinent part that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than 7 days after the tender of such security to the company or its agent designated for that purpose for redemption, with certain exceptions not here relevant. Section 2(a)(32) of the Act (15 U.S.C. 80a-2(a)(32)) (formerly section 2(a)(31) as renumbered by Public Law 91-547, December 14, 1970) defines "redeemable security" as "any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer or to a person designated by the issuer, is entitled (whether absolutely or only out of surplus) to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof." This provision has traditionally been interpreted as giving the issuer the option of redeeming its securities in cash or in kind.

Section 18(f)(1) of the Act (15 U.S.C. 80a-18(f)(1)) provides that it shall be unlawful for any registered open-end company to issue any class of senior security or to sell any senior security of which it is the issuer. Section 18(g) (15 U.S.C. 80a-18(g)) of the Act provides, as here relevant, that "senior security" means any stock of a class having priority over any other class as to distribution of assets.

The securities administrators of several States of the United States, as well as those of certain foreign countries are requiring, or considering requiring, as a condition to doing business in their respective jurisdictions, that open-end investment companies which have the right to redeem in kind file an undertaking that, as to residents within their respective jurisdictions, redemptions will be effected in cash only, or that redemptions in kind will not be effected unless specific approval therefor is first obtained from the securities administrator. Such requirements would involve priorities as to distribution of assets and thus give rise to prohibited senior securities within the meaning of section 18 of the Act.

The Commission believes that under certain circumstances it is desirable for open-end investment companies to have available the flexibility afforded by the ability to redeem in kind. However, redemptions in kind are extremely rare. In order to avoid needless conflicts with State and foreign regulatory authorities, and to enable registered open-end investment companies to continue to make securities available to citizens and residents of foreign jurisdictions, the Commission has determined to adopt a rule which will allow any registered open-end fund to waive the right to redeem in kind, subject to certain limitations. Thus, under the rule, any registered open-end investment company which has the right to redeem in kind could file with the Commission, on Form N-18F-1, a notification of election committing itself to pay in cash all requests for redemptions by any shareholder of record, limited in amount during any 90-day period to the letter of $250,000 or 1 percent of the net asset value of such fund at the beginning of such period. Once the fund files the notification, no change in its practice may occur while the rule is in effect without the prior approval of the Commission. Should redemptions by a shareholder of record during any 90-day period exceed the limit described above, then the fund would have the option of redeeming the excess in cash or in kind.

After consideration of the comments and suggestions received from interested persons, the Commission has determined to adopt Rule 18f-1 and Form N-18F-1 as originally proposed, effective forthwith.

Commission action. I. Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding a new § 270.18f-1 reading as follows:

§ 270.18f-1 Exemption from certain requirements of section 18(f)(1) (of the Act) for registered open-end investment companies which have the right to redeem in kind.

(a) A registered open-end investment company which has the right to redeem securities of which it is the issuer in assets other than cash may file with the Commission at any time a notification of election on Form N-18F-1 (§ 274.51 of this chapter) committing itself to pay in cash all requests for redemption by any shareholder or record, limited in amount with respect to each shareholder during any 90-day period to the lesser of

(1) $250,000 or

(2) 1 percent of the net asset value of such company at the beginning of such period.

(b) An election pursuant to paragraph (a) of this section:

(1) Shall be described in the prospectus, and

(2) Shall be irrevocable while this § 270.18f–1 is in effect unless the Commission by order upon application permits the withdrawal of such notification of election as being appropriate in the public interest and consistent with the protection of investors.

(c) Upon making the election described in paragraph (a) of this section, an investment company shall be exempt from the requirements of section 18(f)(1) (of the Act) to the extent necessary for such company to effectuate redemptions in the manner set forth in such paragraph.

II. Part 274 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding a new § 274.51 as follows:

§ 274.51 Form N–18F–1, for notification of election pursuant to § 270.18f–1 of this chapter.

(a) This form shall be filed with the Commission in triplicate as the notification of election pursuant to § 270.18f–1 of this chapter by a registered open-end investment company to commit itself to pay in cash all redemptions requested by a shareholder of record as provided in said section.

NOTE: Copies of Form N–18F–1 have been filed with the Office of the Federal Register as part of Release No. IC–6561 and copies of such release may be obtained on request from the Securities and Exchange Commission, Washington, D.C. 20549.

The Commission finds that the foregoing action grants exemptions from certain provisions of the Act and that notice and procedures specified in 5 U.S.C. 553 are not necessary. Accordingly, the foregoing rule is declared to become effective on June 14, 1971.

(Secs. 6(c), 18(f), 38(a); 54 Stat. 800, 817, 841, 15 U.S.C. 80a–6(c), 80a–18(f), 80a–37(a); sec. 10, 84 Stat. 1421, 15 U.S.C. 80a–18(f))

By the Commission, June 14, 1971.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71–8784 Filed 6–22–71;8:48 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Tylosin

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (13–076V) filed by Elanco Products Co., a division of Eli Lilly & Co., Indianapolis, Ind. 46206, proposing the safe and effective use of tylosin as an aid in the control of chronic respiratory disease (CRD) caused by *Mycoplasma synoviae* in broiler chickens. 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), Part 135c is amended in the table in § 135c.4(e) by revising the text of item 1 in the "Indications for use" column, as follows:

§ 135c.4 Tylosin.

* * * * * * *

(e) * * *

IN DRINKING WATER

	Grams per gallon	Limitations	Indications for use
1. Tylosin	* * *	* * *	Aid in the treatment of chronic respiratory disease (CRD) caused by *Mycoplasma gallisepticum* sensitive to tylosin in broiler and replacement chickens. For the control of chronic respiratory disease (CRD) caused by *Mycoplasma gallisepticum* sensitive to tylosin at time of vaccination or other stress in chickens. For the control of chronic respiratory disease (CRD) caused by *Mycoplasma synoviae* sensitive to tylosin in broiler chickens.
* * *	* * *	* * *	* * *

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (6–23–71).

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

Dated: June 15, 1971.

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

[FR Doc.71–8753 Filed 6–22–71;8:45 am]

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Sulfadimethoxine and Ormetoprim

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (40–209V) filed by Hoffmann-La Roche, Inc., proposing revised labeling regarding the safe and effective use of a drug containing sulfadimethoxine and ormetoprim in chicken and turkey feed. 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), Part 135e is amended in § 135e.55(e) by revising the entire text in the "Limitations" column of the table to read as follows:

§ 135e.55 Sulfadimethoxine, ormetoprim.

* * * * * * *

(e) * * *

Principal ingredients	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
1. * * *	* * *	* * *	* * *	For broiler chickens only; withdraw 2 days before slaughter.	* * *
2. * * *	* * *	* * *	* * *	For broiler chickens only; withdraw 5 days before slaughter; as sole source of organic arsenic.	* * *
3. * * *	* * *	* * *	* * *	For growing turkeys only; withdraw 2 days before slaughter.	* * *

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (6–23–71).

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

Dated: June 15, 1971.

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

[FR Doc.71–8752 Filed 6–22–71;8:45 am]

Chapter III—Environmental Protection Agency

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

S-Propyl Dipropylthiocarbamate

A petition (PP 1F1042) was filed by the Stauffer Chemical Co., 1200 South 47th Street, Richmond, CA 94804, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing the establishment of a tolerance for negligible residues of the herbicide *S*-propyl dipropylthiocarbamate in or on the raw agricultural commodity potatoes at 0.1 part per million.

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

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

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

1. The proposed usage is not reasonably expected to result in residues of the herbicide in meat, milk, poultry, and eggs and is classified within the category specified in § 420.6(a)(3) for these commodities.

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

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority delegated to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038), § 420.240 is revised to read as follows:

§ 420.240 *S*-Propyl dipropylthiocarbamate; tolerances for residues.

Tolerances are established for negligible residues of the herbicide *S*-propyl dipropylthiocarbamate in or on the raw agricultural commodities peanuts, peanut forage, peanut hay, potatoes, soybeans, soybean forage, soybean hay, and sweetpotatoes at 0.1 part per million.

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

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (6-23-71).

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

Dated: June 15, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-8806 Filed 6-22-71;8:49 am]

Title 22—FOREIGN RELATIONS

Chapter II—Agency for International Development, Department of State

[A.I.D. Reg. 1]

PART 201—RULES AND PROCEDURES APPLICABLE TO COMMODITY TRANSACTIONS FINANCED BY A.I.D.

Notice to Suppliers and Marking Requirements

Part 201 of Chapter II, Title 22 (A.I.D. Reg. 1), is amended as follows:

a. Section 201.21 is revised to read as follows:

§ 201.21 Notice to supplier.

The importer is responsible for providing the supplier with the following information (either through the invitation for bids or otherwise):

(a) Notice that the transaction is to be financed by A.I.D. under this Part 201;

(b) The identification number of the implementing document;

(c) All additional information prerequisite to A.I.D. financing and contained in the instructions from the borrower/grantee to the importer (for example, eligible source of commodity, periods during which deliveries must be made, shipping provisions, and documentation requirements); and, where appropriate,

(d) Notice relative to the marking requirements of § 201.31(d) that the importer is the government of the cooperating country or any of its subdivisions or instrumentalities.

b. Section 201.31 is amended as follows: The heading of paragraph (d) is revised to read "Marking of shipping containers and commodities" and paragraph (d)(1) is revised to read as follows:

§ 201.31 Suppliers of commodities.

* * * * *

(d) *Marking of shipping containers and commodities*—(1) *Affixing emblems and identification numbers.* The supplier shall be responsible for assuring that all export shipping containers, whether shipped from the United States or from any other source country, carry the official A.I.D. (clasped hands) emblem and, in addition, in the case of shipments to countries participating in the Alliance for Progress, the Alliance for Progress (flaming torch) emblem. Additionally, except as A.I.D. may otherwise prescribe, when the supplier is given notice by the importer that the importer is the government of a cooperating country or any of its subdivisions or instrumentalities, the supplier shall also be responsible for assuring that all commodities carry the aforesaid emblems. Upon each export shipping container the last set of digits of the identification number of the pertinent implementing document shall be marked in characters at least equal in height to the shipper's marks.

(i) *Durability of emblems.* Emblems shall be affixed by metal plate, decalcomania, stencil, label, tag, or other means, depending upon the type of commodity or export shipping container and the nature of the surface to be marked. The emblem placed on commodities shall be as durable as the trademark, company or brand name affixed by the producer; the emblem on each export shipping container shall be affixed in a manner which assures that the emblem will remain legible until the container reaches the consignee.

(ii) *Size of emblems.* The size of an emblem may vary depending upon the size of the commodity and the size of the package or export shipping container. The emblem shall in every case be large enough to be clearly visible at a reasonable distance.

(iii) *Design and color of emblems.* Emblems shall conform in design and color to samples available from AID/W (Office of Small Business) and from the US AID.

* * * * *

Effective date. This amendment shall become effective on the date of its publication in the FEDERAL REGISTER (6-23-71).

Dated: June 15, 1971.

MAURICE J. WILLIAMS,
Acting Administrator.

[FR Doc.71-8842 Filed 6-22-71;8:50 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 71-12; Notice No. 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires and Tire Selection and Rims for Passenger Cars

Correction

In F.R. Doc. 71-7465 appearing at page 10733 in the issue of Wednesday, June 2, 1971, the following changes should be made in § 571.21:

1. In Table I-B of Table I on page 10735, the sixth entry now reading "C70-15 ------ 7-JJ, 7½-K, 8-JJ" should read "C70-15---------5½-JJ".

2. In Table I–M of Table I on page 10736, the 14th entry now reading "FR 78–15 ---------- 4½–JJ" should read "FR78–15 ---------- 5½–JJ" and should be transposed to follow the next entry in the table (ER78–15).

Title 50—WILDLIFE AND FISHERIES

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

SUBCHAPTER F—AID TO FISHERIES

PART 258—FISHERMEN'S PROTECTIVE ACT PROCEDURES

JUNE 18, 1971.

On pages 9074 and 9075 of the FEDERAL REGISTER of May 19, 1971, there was published a notice to amend the Fishermen's Protective Act Procedures, 50 CFR Part 258, to reflect the provisions of Reorganization Plan No. 4 of 1970 and to provide for new fee schedules and procedures in connection therewith.

Section 7 of the Fishermen's Protective Act of 1967 and Reorganization Plan No. 4 of 1970, among other things, authorized the Secretary of Commerce to set fees to be charged for the furnishing of a guarantee agreement. The Fishermen's Protective Act Procedures, which became effective February 9, 1969, established fees, based on anticipated losses, to provide for payment of the administrative costs and at least one-third of the estimated claims to be paid from the Fishermen's Protective Fund. Experience to date in the payment of claims under this program indicates that a change in the existing fee schedule is not warranted at this time. However, to allow for (i) adjustment of fees for guarantee agreements executed on or after July 1, 1971, and (ii) credits for fees paid on guarantee agreements executed after January 1, 1971, certain revisions in the regulations are required.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed procedures. Inasmuch as no written comments, suggestions, or objections were received, the proposed procedures are hereby adopted without change and are set forth below.

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER (6–23–71).

PHILIP M. ROEDEL,
Director.

Sec.

AUTHORITY: The provisions of this Part 258 issued under sec. 7 of the Fishermen's Protective Act of 1967 (Public Law 90–482; 22 U.S.C. 1977) and Reorganization Plan No. 4 of 1970.

§ 258.1 Definition of terms.

For the purpose of this part, the following terms shall be construed, respectively, to mean and to include:

(a) *Secretary.* The Secretary of Commerce or his authorized representative.

(b) *Owner.* The registered owner or owners of a commercial fishing vessel, or a bareboat charterer of a commercial fishing vessel.

(c) *Act.* The Fishermen's Protective Act of 1967 (22 U.S.C. 1971–1977, as amended).

(d) *Fishermen's Protective Fund.* The account established in the Treasury of the United States under the provisions of section 7(c) of the Act.

(e) *Commercial fishing vessel.* A vessel licensed or enrolled and licensed as a fishing vessel of the United States engaged in catching, or catching and processing, fish and/or shellfish.

(f) *Seized.* Placed under arrest and detained by a foreign country for alleged illegal fishing.

§ 258.2 Purposes of Fishermen's Protective Fund.

The broad objective of the Fishermen's Protective Fund is to provide for reimbursement of losses and costs (other than fines, license fees, registration fees, and other direct costs which are reimbursable through the Secretary of State) incurred as a result of the seizure of a U.S. commercial fishing vessel by a foreign country on the basis of rights or claims in territorial waters or on the high seas which are not recognized by the United States.

§ 258.3 Eligibility.

Any owner of a commercial fishing vessel documented or certified in the United States is eligible to apply for an agreement with the Secretary providing for a guarantee in accordance with section 7(a) of the Act.

§ 258.4 Applications.

Any owner desiring to enter into an agreement with the Secretary under the authority of section 7(a) of the Act shall make application to the National Marine Fisheries Service, Attention: Chief, Division of Financial Assistance (F224), 1801 North Moore Street, Arlington, VA 22209, upon application form furnished by that Service. The application shall be accompanied by a fee in the amount prescribed in the paragraph immediately below.

§ 258.5 Fees.

(a) The fees are established to provide for payment of the administrative costs and at least one-third of the estimated claims to be paid from the fund. They are set on the basis of anticipated losses and prior experience. The fees may be adjusted from time to time by amendment to this part at any time, after appropriate notice, in order to meet the requirements of the Act.

(b) Fees to be paid by an applicant for guarantee agreements terminating on June 30, 1972, shall be as follows: For each vessel $60 plus $1.80 per gross ton as listed on the vessel's documents. Fractions of a ton are not included.

(c) Any applicant covered by a guarantee agreement executed between January 1 and March 31, 1971, desiring to execute a new guarantee agreement, shall be entitled to a credit of $15 for each vessel plus $0.45 per gross ton as listed on the vessel's documents. Fractions of a ton are not included. To obtain such credit the application and balance of fee must be received as herein prescribed prior to September 1, 1971.

(d) Any applicant covered by a guarantee agreement executed between April 1 and June 30, 1971, desiring to execute a new guarantee agreement, shall be entitled to a credit of $45 for each vessel plus $1.35 per gross ton as listed on the vessel's documents. Fractions of a ton are not included. To obtain such credit the application and balance of fee must be received as herein prescribed prior to September 1, 1971.

(e) No return of a fee or portion of a fee will be made after a guarantee agreement is executed by the Secretary. Failure to pay increased fees within 30 days of adjustment shall constitute a basis for termination of the guarantee agreement.

(f) A guarantee agreement may, with the consent of the Secretary, be assigned to a new owner of a vessel if the ownership of the vessel is transferred during the period in which the agreement is in force.

§ 258.6 Insurance required.

In order to qualify for an agreement executed under this part, the vessel must be insured during the period of the agreement with hull and machinery insurance and protection and indemnity insurance in an amount and form satisfactory to the Secretary.

§ 258.7 Approval of application.

The approval of an application shall be evidenced by the execution of the agreement by the Secretary and the agreement shall be in effect from the time of its effective date.

§ 258.8 Payment of claims.

(a) In case of a cost or loss resulting in a claim under an agreement, the claim shall be filed in duplicate with the Director, National Marine Fisheries Service, Attention: Chief, Division of Financial Assistance (F224), 1801 North Moore Street, Arlington, VA 22209. The Director will obtain verification of certain essential facts regarding the seizure from the Department of State. Payments shall be made as promptly as practicable but may at times be delayed pending appropriation of necessary funds.

(b) The burden of proving all damages shall be upon the guaranteed party.

(c) No payment shall be made on a claim caused by negligence of the Owner, captain or crew.

(d) No payment shall be made on a claim unless all fees due have been paid in full.

(e) Each claim filed shall contain an authorization to all International, Federal, State, or local government agencies to furnish the National Marine Fisheries Service with any data or information relating to the operation of the vessel involved in the claim which the Secretary deems necessary for adjudication of the claim.

(f) No claim shall be paid unless the vessel involved and covered by a guarantee agreement is properly documented as a vessel of the United States at the time of the seizure.

(g) No claim of any crew member who is not a citizen or an alien legally domiciled in the United States will be considered.

(h) In case of the loss or confiscation of a vessel or gear resulting in a claim, the value of the vessel or gear for the purpose of settling the claim shall be the market value as determined by the Secretary.

(i) The value used in determining claims involving the catch of the vessel will be that paid in the port and on the date of the first arrival of the vessel in the United States as determined by the Secretary. If the vessel does not return to a port of the United States, the value used will be determined by the Secretary after consideration of the circumstances involved.

(j) Original documents or certified copies of receipts and other documents required as verification of losses must be provided.

(k) All assureds shall pursue any claim under commercial insurance covering identical loss or losses as the Secretary may determine to be necessary prior to application for payment under this part.

§ 258.9 **Records.**

The Secretary shall have the right to inspect such books and records of the owner as the Secretary may deem necessary in processing a claim under this part.

[FR Doc.71-8871 Filed 6-22-71;8:53 am]

SUBCHAPTER J—CONTINENTAL SHELF

PART 295—LIVING ORGANISMS OF THE CONTINENTAL SHELF

The Act of May 20, 1964 (78 Stat. 194; 16 U.S.C. 1081 et seq.), prohibits foreign-flag vessels from engaging "in the fisheries within the territorial waters of the United States, its territories and possessions and the Commonwealth of Puerto Rico, or within any waters in which the United States has the same rights in respect to fisheries as it has in its territorial waters or to engage in the taking of any Continental Shelf fishery resource which appertains to the United States." Section 5(b) of the aforementioned Act (16 U.S.C. 1085(b)) further authorizes the Secretary of Commerce, in consultation with the Secretary of State, to publish in the FEDERAL REGISTER a list of the species of living organisms which constitute "Continental Shelf fishery resource," which "includes the living organisms belonging to sedentary species; that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil of the Continental Shelf."

Recommendations have been made to include additional species in the existing list of "living organisms of the Continental Shelf" as published in the FEDERAL REGISTER at 33 F.R. 16114. A finding has been made by the Secretary of Commerce in consultation with the Secretary of State that the species in § 295.2 below meet the criteria specified above.

To avoid confusion with two separate lists, the entire regulations have been redrafted to provide interested persons with one complete list.

Effective date. These regulations shall be effective on the date of publication in the FEDERAL REGISTER (6-23-71).

Issued at Washington, D.C., and dated June 18, 1971.

PHILIP M. ROEDEL,
Director.

Sec.
295.1 Purpose.
295.2 List of species.

AUTHORITY: The provisions of this Part 295 issued under 78 Stat. 196, 16 U.S.C. 1085, as modified by Reorganization Plan No. 4, effective Oct. 3, 1970 (35 F.R. 15627).

§ 295.1 **Purpose.**

The purpose of the regulations in this part is to list those species determined by the Secretary of Commerce, in consultation with the Secretary of State, to constitute a Continental Shelf fishery resource, i.e., living organisms belonging to sedentary species, which at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil of the Continental Shelf.

§ 295.2 **List of species.**

COELENTERATA

Precious Red Corals—*Corallium* spp.
Black Coral—*Antipathes grandis.*

CRUSTACEA

Dungeness Crab—*Cancer magister.*
Tanner Crab—*Chionoecetes tanneri.*
Tanner Crab—*Chionoecetes opilio.*
Tanner Crab—*Chionoecetes angulatus.*
Tanner Crab—*Chionoectes bairdi.*
King Crab—*Paralithodes camtschatica.*
King Crab—*Paralithodes platypus.*
King Crab—*Paralithodes brevipes.*
California King Crab—*Paralithodes rathbuni.*
California King Crab—*Paralithodes californiensis.*
Golden King Crab—*Lithodes aequispinus.*
Northern Stone Crab—*Lithodes maia.*
Stone Crab—*Menippe mercenaria.*
Deep-sea Red Crab—*Geryon quinquedens.*

MOLLUSKS

Red Abalone—*Haliotis refescens.*
Pink Abalone—*Haliotis corrugata.*
Japanese Abalone—*Haliotis kamtschatkana.*
Queen Conch—*Strombus gigas.*
Surf Clam—*Spisula solidissima.*
Ocean Quahog—*Arctica islandica.*

SPONGES

Glove Sponge—*Hippiospongia canaliculata.*
Sheepswool Sponge—*Hippiospongia lachne.*
Grass Sponge—*Spongia graminea.*
Yellow Sponge—*Spongia barbera.*

[FR Doc.71-8779 Filed 6-22-71;8:47 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7120]

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

Special Rules for Determining Tax Credit for Foreign Income Taxes Paid by Controlled Foreign Corporations; Correction

On Friday, June 4, 1971, Treasury Decision 7120 was published in the FEDERAL REGISTER (36 F.R. 10851). The following corrections are made to the Income Tax Regulations (26 CFR Part 1), as prescribed by T.D. 7120:

1. Immediately preceding § 1.960-1 there should be added the following section:

§ 1.960 **Statutory provisions; special rules for foreign tax credit.**

SEC. 960. *Special rules for foreign tax credit*—(a). *Taxes paid by a foreign corporation*—(1) *General rule.* For purposes of subpart A of this part, if there is included, under section 951(a), in the gross income of a domestic corporation any amount attributable to earnings and profits—

(A) Of a foreign corporation at least 10 percent of the voting stock of which is owned by such domestic corporation, or

(B) Of a foreign corporation at least 50 percent of the voting stock of which is owned by a foreign corporation at least 10 percent of the voting stock of which is in turn owned by such domestic corporation,

then, under regulations prescribed by the Secretary or his delegate, such domestic corporation shall be deemed to have paid the same proportion of the total income, war profits, and excess profits taxes paid (or deemed paid) by such foreign corporation to a foreign country or possession of the United States for the taxable year on or with respect to the earnings and profits of such foreign corporation which the amount of earnings and profits of such foreign corporation so included in gross income of the domestic corporation bears to—

(C) If the foreign corporation at least 10 percent of the voting stock of which is owned by such domestic corporation referred to in subparagraph (A) or (B) is not a less developed country corporation (as defined in section 902(d)) for such taxable year, the entire amount of the earnings and profits of such foreign corporation for such taxable year, or

(D) If the foreign corporation at least 10 percent of the voting stock of which is owned by such domestic corporation referred to in subparagraph (A) or (B) is a less developed country corporation (as defined in section 902(d)) for such taxable year, the sum of

the entire amount of the earnings and profits of such foreign corporation for such taxable year and the total income, war profits, and excess profits taxes paid by such foreign corporation to foreign countries or possessions of the United States for such taxable year.

(2) *Taxes previously deemed paid by domestic corporation.* If a domestic corporation receives a distribution from a foreign corporation, any portion of which is excluded from gross income under section 959, the income, war profits, and excess profits taxes paid or deemed paid by such foreign corporation to any foreign country or to any possession of the United States in connection with the earnings and profits of such foreign corporation from which such distribution is made shall not be taken into account for purposes of section 902, to the extent such taxes were deemed paid by a domestic corporation under paragraph (1) for any prior taxable year.

(3) *Taxes paid by foreign corporation and not previously deemed paid by domestic corporation.* Any portion of a distribution from a foreign corporation received by a domestic corporation which is excluded from gross income under section 959(a) shall be treated by the domestic corporation as a dividend, solely for purposes of taking into account under section 902 any income, war profits, or excess profits taxes paid to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such foreign corporation from which such distribution is made, which were not deemed paid by the domestic corporation under paragraph (1) for any prior taxable year.

(b) *Special rules for foreign tax credit in year of receipt of previously taxed earnings and profits*—(1) *Increase in section 904 limitation.* In the case of any taxpayer who—

(A) Either (i) chose to have the benefits of subpart A of this part for a taxable year in which he was required under section 951 (a) to include in his gross income an amount in respect of a controlled foreign corporation, or (ii) did not pay or accrue for such taxable year any income, war profits, or excess profits taxes to any foreign country or to any possession of the United States, and

(B) Chooses to have the benefits of subpart A of this part for the taxable year in which he receives a distribution or amount which is excluded from gross income under section 959(a) and which is attributable to earnings and profits of the controlled foreign corporation which was included in his gross income for the taxable year referred to in subparagraph (A), and

(C) For the taxable year in which such distribution or amount is received, pays, or is deemed to have paid, or accrues income, war profits, or excess profits taxes to a foreign country or to any possession of the United States with respect to such distribution or amount,

the applicable limitation under section 904 for the taxable year in which such distribution or amount is received shall be increased as provided in paragraph (2), but such increase shall not exceed the amount of such taxes paid, or deemed paid, or accrued with respect to such distribution or amount.

(2) *Amount of increase.* The amount of increase of the applicable limitation under section 904(a) for the taxable year in which the distribution or amount referred to in paragraph (1)(B) is received shall be an amount equal to—

(A) The amount by which the applicable limitation under section 904(a) for the taxable year referred to in paragraph (1)(A) was increased by reason of the inclusion in gross income under section 951(a) of the amount in respect of the controlled foreign corporation, reduced by

(B) The amount of any income, war profits, and excess profits taxes paid, or deemed paid, or accrued to any foreign country or possession of the United States which were allowable as a credit under section 901 for the taxable year referred to in paragraph (1)(A) and which would not have been allowable but for the inclusion in gross income of the amount described in subparagraph (A).

(3) *Cases in which taxes not to be allowed as deduction.* In the case of any taxpayer who—

(A) Chose to have the benefits of subpart A of this part for a taxable year in which he was required under section 951(a) to include in his gross income an amount in respect of a controlled foreign corporation, and

(B) Does not choose to have the benefits of subpart A of this part for the taxable year in which he receives a distribution or amount which is excluded from gross income under section 959(a) and which is attributable to earnings and profits of the controlled foreign corporation which was included in his gross income for the taxable year referred to in subparagraph (A),

no deduction shall be allowed under section 164 for the taxable year in which such distribution or amount is received for any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States on or with respect to such distribution or amount.

(4) *Insufficient taxable income.* If an increase in the limitation under this subsection exceeds the tax imposed by this chapter for such year, the amount of such excess shall be deemed an overpayment of tax for such year.

[Sec. 960 as added by sec. 12(a), Rev. Act 1962 (76 Stat. 1006)]

2. In example (5) of § 1.960–1(c)(4) the citation "sec. 690(a)(1)(C)" appearing in the last line of the example should read "sec. 960(a)(1)(C)".

3. In the example under § 1.960–1(h)(3) the word "for" in line 25 should be deleted.

4. In example (3) of § 1.960–2(e) the line "Dividends paid to A Corporation ----------150.00" should be transposed so that it immediately precedes the line "Foreign income taxes paid on or with respect".

5. In example (4) of § 1.960–2(e) the last three lines of the fact situation which read "960(a)(1)(C), after applying section 902 for such year, are determined as follows upon the basis of the facts assumed:" should be deleted and replaced by "960(a)(1)(C) and section 902(a)(1) are determined as follows upon the basis of the facts assumed:".

6. In example (6) of § 1.960–2(e) the following sentence should be inserted after the word "profits." in line 19: "For 1965, A Corporation distributes $225, consisting of $135 from its earnings and profits attributable to the amount required under section 951 to be included in N Corporation's gross income with respect to B Corporation, $22.50 from its earnings and profits attributable to the amount required under section 951 to be included in N Corporation's gross income with respect to A Corporation, and $67.50 from its other earnings and profits."

7. Also in example (6) of § 1.960–2(e), in line 9 of the calculations, the citation "sec. 902(b)(1)" should read "sec. 902(b)", and in line 54 of the calculations the total dividends paid to N Corporation should be "225.00" and not "202.50".

8. In § 1.78–1(b) the words "of the domestic corporation" should be inserted after the word "income" in line 12.

9. In § 1.963–3(b)(1) the word "account" in line 26 should be deleted and replaced by the word "amount".

JAMES F. DRING,
Director, Legislation and Regulations Division.

[FR Doc.71–8919 Filed 6–22–71;8:53 am]

[T.D. 7128]

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

Depreciation Allowances Using Asset Depreciation Range System

On March 13, 1971, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under section 167 of the Internal Revenue Code of 1954, relating to depreciation allowances using asset depreciation range system, was published in the FEDERAL REGISTER (36 F.R. 4885). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the following amendment is hereby adopted.

PARAGRAPH 1. The following new section is added immediately after § 1.167(a)–10 to read as follows:

§ 1.167(a)–11 Depreciation based on asset depreciation ranges for property placed in service after December 31, 1970.

(a) *In general*—(1) *Summary.* This section provides an asset depreciation range system for determining the reasonable allowance for depreciation of designated classes of assets placed in service after December 31, 1970. The system is designed to minimize disputes between taxpayers and the Internal Revenue Service as to the useful life of property, and as to salvage value, repairs, and other matters. The system is optional with the taxpayer. The taxpayer has an annual election. Generally, an election for a taxable year will apply to all additions of eligible property during the taxable year of election, but does not apply to additions of eligible property in any other taxable year. The taxpayer's election, made with the return for the taxable year, may not be revoked or modified for any property included in the election. Generally, the taxpayer must establish vintage accounts for all eligible property included in the election, must determine the allowance for depreciation of such property in the taxable year of election, and in subsequent taxable years, on the basis of the asset depreciation period (within the asset depreciation range) specified in the election, and must apply the first-year convention specified in the election to determine the allowance for depreciation of such property. This section also contains special provisions for

the treatment of salvage value, retirements, and the costs of the repair, maintenance, rehabilitation or improvement of property. In general, a taxpayer may not apply any provision of this section unless he makes an election and thereby consents to, and agrees to apply, all the provisions of this section. A taxpayer who elects to apply this section does, however, have certain options as to the application of specified provisions of this section. A taxpayer may elect to apply this section for a taxable year only if for such taxable year he complies with the reporting requirements of paragraph (f)(4) of this section.

(2) *Definitions.* For the meaning of certain terms used in this section, see paragraphs (b)(2) ("eligible property"), (b)(3) ("vintage account" and "vintage"), (b)(4) ("asset depreciation range", "asset guideline class", "asset guideline period" and "asset depreciation period"), (b)(5)(iii)(*a*) ("used property"), (b)(6)(i) ("public utility property"), (c)(1)(iv) ("original use"), (c)(1)(v) ("unadjusted basis" and "adjusted basis"), (c)(2)(ii) ("modified half-year convention"), (c)(2)(iii) ("half-year convention"), (d)(1)(i) ("gross salvage value"), (d)(1)(ii) ("salvage value"), (d)(2)(iii) ("repair allowance", "repair allowance percentage", and "repair allowance property"), (d)(2)(vi) ("excluded addition"), (d)(2)(vii) ("property improvement"), (d)(3)(ii) ("ordinary retirement" and "extraordinary retirement"), (d)(3)(vi) ("special basis vintage account"), and (e)(1) ("first placed in service") of this section.

(b) *Reasonable allowance using asset depreciation ranges*—(1) *In general.* The allowance for depreciation of eligible property (as defined in subparagraph (2) of this paragraph) to which the taxpayer elects to apply this section shall be determined as provided in paragraph (c) of this section and shall constitute the reasonable allowance for depreciation of such property under section 167(a).

(2) *Definition of eligible property.* For purposes of this section, the term "eligible property" means property which is subject to the allowance for depreciation provided by section 167(a) but only if—

(i) An asset guideline class and period are in effect for such property for the taxable year of election (see subparagraph (4) of this paragraph);

(ii) The property is tangible personal property, or is other tangible property (not including a building or its structural components) which (*a*) is used as an integral part of manufacturing, production, or extraction or of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services, or (*b*) constitutes research or storage facilities used in connection with any of the activities described in (*a*) of this subdivision (but see subparagraph (6) of this paragraph for special rule for certain public utility property as defined in section 167(l)(3)(A)); and

(iii) The property is first placed in service (as described in paragraph (e)(1) of this section) by the taxpayer after December 31, 1970 (but see subparagraph (7) of this paragraph for special rule where there is a mere change in the form of conducting a trade or business); and

(iv) During the taxable year of election, the property is predominantly used (within the meaning of paragraph (g)(1)(i) and (iii) of § 1.48–1) within the United States (as defined in section 7701(a)(9)), or meets the requirements of paragraph (g)(2) of § 1.48–1 (relating to exceptions to the requirement of predominant use). See subparagraph (5)(vi) of this paragraph for special rule in the case of change in predominant use.

The language used in subdivision (ii) of this subparagraph shall have the same meaning as when used in section 1245(a)(3)(A) and (B). The term "eligible property" includes any property which meets the requirements of this subparagraph, whether such property is new property, "used property" (as described in subparagraph (5)(iii)(*a*) of this paragraph), a "property improvement" (as described in paragraph (d)(2)(vii) of this section), or an "excluded addition" (as described in paragraph (d)(2)(vi) of this section). For the treatment of expenditures for the repair, maintenance, rehabilitation or improvement of certain property, see paragraph (d)(2) of this section.

(3) *Requirement of vintage accounts*—(i) *In general.* For purposes of this section, a "vintage account" is a closed-end depreciation account containing eligible property to which the taxpayer elects to apply this section, first placed in service by the taxpayer during the taxable year of election. The "vintage" of an account refers to the taxable year during which the eligible property in the account is first placed in service by the taxpayer. Such an account will consist of an asset, or a group of assets, within a single asset guideline class established pursuant to subparagraph (4) of this paragraph and may contain only eligible property. Each item of eligible property to which the taxpayer elects to apply this section, first placed in service by the taxpayer during the taxable year of election, shall be placed in a vintage account of the taxable year of election. For rule regarding "special basis vintage accounts" for certain property improvements, see paragraphs (d)(2)(viii) and (3)(vi) of this section. Any number of vintage accounts of a taxable year may be established. More than one account of the same vintage may be established for different assets of the same asset guideline class.

(ii) *Special rule.* Property the original use of which does not commence with the taxpayer may not be placed in a vintage account with property the original use of which commences with the taxpayer. Property described in section 167(f)(2) may not be placed in a vintage account with property not described in section 167(f)(2). Property described in section 179(d)(1) for which the taxpayer elects the allowance for the first taxable year in accordance with section 179(c) may not be placed in a vintage account with property not described in section 179(d)(1) or for which the taxpayer does not elect such allowance for the first taxable year. For special rule for property acquired in a transaction to which section 381(a) applies, see paragraph (e)(3)(i) of this section. For additional rules with respect to accounting for eligible property, see paragraph (e) of this section.

(4) *Asset depreciation ranges*—(i) *Selection of asset depreciation period.* An election shall specify for each vintage account of the taxable year of election the asset depreciation period selected by the taxpayer from the asset depreciation range for the assets in such account. For purposes of this section the term "asset guideline class" means a category of assets for which a separate asset guideline period and asset depreciation range is in effect as provided in subdivision (ii) of this subparagraph. Any period within the asset depreciation range for the assets in a vintage account which is a whole number of years, or a whole number of years plus a half year, may be selected. The lower limit of the asset depreciation range for a vintage account is 80 percent of the asset guideline period established for the assets in the account, and the upper limit of such range is 120 percent of such asset guideline period, determined in each case by rounding any fractional part of a year to the nearer of the nearest whole year or the nearest half year.

(ii) *Establishment of asset guideline classes and periods.* The asset guideline classes and periods, and the asset depreciation ranges determined from such periods in effect for taxable years ending before the effective date of the first supplemental asset guideline classes and periods, and asset depreciation ranges, established pursuant to this section are set forth in Revenue Procedure 71–25. Asset guideline classes and periods, and asset depreciation ranges, will from time to time be established, supplemented and revised with express reference to this section, and will be published in the Internal Revenue Bulletin. The asset guideline classes, the asset guideline periods, and the asset depreciation ranges determined from such periods in effect on the last day of a taxable year of election year shall apply to all vintage accounts of such taxable year; except that the lower limit of the asset depreciation range for any such account shall not be longer than the lower limit of the asset depreciation range for such account in effect on the first day of such taxable year. The reasonable allowance for depreciation of property for any taxable year in a vintage account shall not be changed to reflect any supplement or revision of the asset guideline classes or periods, and asset depreciation ranges, after the end of the taxable year in which the account was established.

(iii) *Applicable guideline classes and periods in special situations.* (*a*) An electric or gas utility which would in accordance with Revenue Procedure 64–21

be entitled to use a composite guideline class basis for applying Revenue Procedure 62–21 may elect to apply this section on the basis of a composite asset guideline class and asset guideline period determined as provided in Revenue Procedure 64–21. The asset depreciation range for such a composite asset guideline class shall be determined by reference to the composite asset guideline period for the first taxable year to which the taxpayer elects to apply this section and shall not be changed until such time as major variations in the asset mix or the asset guideline classes or periods justify some other composite asset guideline period. For the purposes of this section, all property in the composite asset guideline class shall be treated as included in a single asset guideline class. If the taxpayer elects to apply this subdivision, the election shall be made on the tax return filed for the first taxable year for which the taxpayer elects to apply this section. An election to apply this subdivision for any taxable year shall apply to all succeeding taxable years to which the taxpayer elects to apply this section, except to the extent the election to apply this subdivision is with the consent of the Commissioner terminated with respect to a succeeding taxable year and all taxable years thereafter.

(*b*) For purposes of this section, property shall be included in the asset guideline class for the activity in which the property is primarily used. See paragraph (e)(3)(iii) of this section for rule for leased property. Property shall be classified according to primary use even though the activity in which such property is primarily used is insubstantial in relation to all the taxpayer's activities. No change in the classification of property shall be made because of a change in primary use after the end of the taxable year in which property is first placed in service.

(*c*) An incorrect classification by the taxpayer of property for the purposes of this section (such as under (*b*) of this subdivision or under subparagraph (2) of this paragraph) shall not cause or permit a revocation of the election to apply this section for the taxable year in which such property was first placed in service. The classification of such property shall be corrected. All adjustments necessary to the correction shall be made, including adjustments of unadjusted basis, adjusted basis, salvage value, the reserve for depreciation of all vintage accounts affected, and the amount of depreciation allowable for all taxable years involved. If because of incorrect classification, property included in an election to apply this section was not placed in a vintage account and no asset depreciation period was selected for the property or the property was placed in a vintage account but an asset depreciation period was selected from an incorrect asset depreciation range, the taxpayer shall place the property in a vintage account and select an asset depreciation period for the account from the correct asset depreciation range. The asset depreciation period selected shall be specified on the tax return filed for the taxable year during which the classification of the property is determined to be incorrect.

(*d*) If for a taxable year for which the taxpayer elects to apply this section, the taxpayer computes depreciation for eligible property first placed in service during the taxable year under a method of depreciation described in subparagraph (5)(v)(*a*) of this paragraph, then all eligible property in the same asset guideline class as such property shall be excluded from the election. However, if the taxpayer establishes to the satisfaction of the Commissioner that a method of depreciation described in subparagraph (5)(v)(*a*) of this paragraph was adopted for property in the asset guideline class on the basis of a good faith mistake as to the proper asset guideline class for the property, then the taxpayer may terminate (as of the beginning of the taxable year) such method of depreciation with respect to all eligible property in the asset guideline class which was first placed in service during the taxable year. In such event, the taxpayer's election to apply this section shall include eligible property in the asset guideline class without regard to subparagraph (5)(v)(*a*) of this paragraph. The provisions of (*c*) of this subdivision shall apply to the correction in the classification of the property.

(iv) *Examples.* The principles of this subparagraph may be illustrated by the following examples:

Example (*1*). Corporation X purchases a bulldozer for use in its construction business. The bulldozer is first placed in service in 1972. Since the bulldozer is tangible personal property, predominantly used within the United States, for which an asset guideline class and period have been established, the bulldozer is eligible property. The bulldozer is in asset guideline class 15.1 of Revenue Procedure 71–25, and the asset depreciation range is 4–6 years.

Example (*2*). In 1972 corporation Y first places in service a factory building. It is not eligible property, since it does not meet the requirements of subparagraph (2)(ii) of this paragraph.

Example (*3*). In January of 1971, corporation Y, a calendar year taxpayer, pays or incurs $2,000 for the rehabilitation and improvement of machine A which was first placed in service in 1969. On January 1, 1971, corporation Y first placed in service machines B and C, each with an unadjusted basis of $10,000. Machines B and C are eligible property. Machine A would be eligible property but for the fact it was first placed in service prior to January 1, 1971 (that is, machine A is eligible property determined without regard to subparagraph (2)(iii) of this paragraph). Corporation Y elects to apply this section for the taxable year, and adopts the modified half-year convention described in paragraph (c)(2)(ii) of this section, but does not elect to apply the asset guidelines class repair allowance described in paragraph (d)(2)(iii) of this section. Machines A, B, and C are in asset guideline class 24.4 under Revenue Procedure 71–25 for which the asset depreciation range is 8 to 12 years. The $2,000 expended on machine A substantially increases its capacity and is a capital expenditure under sections 162 and 263. The $2,000 is a property improvement (as defined in paragraph (d)(2)(vii)(*b*) of this section) which is eligible property. However, corporation Y by good faith mistakes treats the property improvement of $2,000 as a deductible repair and includes machine B in asset guideline class 24.3 under Revenue Procedure 71–25 for which the asset depreciation range is 5 to 7 years. Corporation Y establishes vintage accounts for 1971, and computes depreciation for 1971 and 1972 as follows:

	Dec. 31, 1972 reserve for depreciation	Dec. 31, 1972 adjusted basis
Vintage account for machine B, with an asset depreciation period of 5 years and an unadjusted basis of $10,000 for which corporation Y adopts the straight line method	$4,000	$6,000
Vintage account for machine C, with an asset depreciation period of 8 years and an unadjusted basis of $10,000 for which corporation Y adopts the straight line method	2,500	7,500

After audit in 1973 of corporation Y's taxable years 1971 and 1972, it is determined that the $2,000 paid in 1971 for the rehabilitation and improvement of machine A is a capital expenditure and that machine B is in asset guideline class 24.4. The incorrect classification is corrected. Corporation Y places machine B and the property improvement in a vintage account of 1971 and on its tax return filed for 1973 selects an asset depreciation period of 8 years for that account. Giving effect to the correction in classification of the property in accordance with subdivision (iii)(*c*) of this subparagraph, at the end of 1972 the unadjusted basis, reserve for depreciation, and adjusted basis of the vintage account for machine B and the property improvement with respect to machine A are $12,000, $3,000, and $9,000, respectively. Corporation Y's deduction of the $2,000 property improvement in 1971 as a repair expense under section 162 is disallowed. For 1971 and 1972 depreciation deductions are disallowed in the amount of $500 each year (that is, $750 excess annual depreciation on machine B minus $250 annual depreciation on the property improvement).

Example (*4*). In 1971, corporation X, a calendar year taxpayer, first places in service machines A through M, all of which are eligible property. All the machines except machine A are in asset guideline class 24.3 under Revenue Procedure 71–25. Machine A is in asset guideline class 24.4 under Revenue Procedure 71–25. By good faith mistake as to proper classification, corporation X includes both machine A and machine B in asset guideline class 24.4. Corporation X consistently uses the machine hour method of depreciation on property in asset guideline class 24.4 and for 1971 computes depreciation for machines A and B under that method. Corporation X elects to apply this section for 1971 on the assumption that the election includes machines C through M which are in asset guideline class 24.3. In 1973, upon audit of corporation X's taxable years 1971 and 1972, it is determined that machine B is included in asset guideline class 24.3 and that since for 1971 corporation X computed depreciation on machine B under the machine hour method, in accordance with subparagraph (5)(v)(*a*) of this paragraph all property in asset guideline class 24.3 (machines B through M) is excluded from corporation X's election to apply this section

for 1971. Although corporation X has consistently used the machine hour method for asset guideline class 24.4, corporation X has not in the past used the machine hour method for machines of the type and function of machines C through M which are in asset guideline class 24.3. Both machine A and machine B are used in connection with the manufacture of wood products. There is reasonable basis for corporation X having assumed that machine B is in asset guideline class 24.4 along with machine A to which it is similar. Corporation X establishes to the satisfaction of the Commissioner that it used the machine hour method for machine B on the basis of a good faith mistake as to the proper classification of the machine. Corporation X can terminate the machine hour method of depreciation for machine B as of the beginning of 1971, and in that event corporation X's election to apply this section for 1971 will apply to machines B through M without regard to subparagraph (5)(v)(*a*) of this paragraph. The adjustments provided in subdivision (iii)(*c*) of this subparagraph will be made as a result of the correction in classification of property.

(5) *Requirements of election.*—(i) *In general.* Except as otherwise provided in paragraph (d)(2) of this section dealing with expenditures for the repair, maintenance, rehabilitation or improvement of certain property, no provision of this section shall apply to any property other than eligible property to which the taxpayer elects, in accordance with this section, to apply this section. For the time and manner of election, see paragraph (f) of this section. Except as otherwise provided in subdivisions (v) and (vi) of this subparagraph and in subparagraph (6)(iii) of this paragraph, a taxpayer's election to apply this section may not be revoked or modified after the last day prescribed for filing the election. Thus, for example, after such day, a taxpayer may not cease to apply this section to property included in the election, establish different vintage accounts for the taxable year of election, select a different period from the asset depreciation range for any such account, or adopt a different first-year convention for any such account.

(ii) *Property required to be included in election.* Except as otherwise provided in subdivision (iii) of this subparagraph dealing with certain "used property", in subdivision (iv) of this subparagraph dealing with "section 38 property" in subdivision (v) of this subparagraph dealing with property subject to special depreciation or amortization, and in paragraph (e)(3)(i) of this section dealing with transactions to which section 381(a) applies, if the taxpayer elects to apply this section to any eligible property first placed in service by the taxpayer during the taxable year of election, the election shall apply to all such eligible property, whether placed in service in a trade or business or held for production of income.

(iii) *Special 10 percent used property rule.* (*a*) If the unadjusted basis of eligible "used property" first placed in service by the taxpayer during the taxable year of election exceeds 10 percent of the unadjusted basis of all eligible property first placed in service during the taxable year of election, the taxpayer may exclude all (but not less than all) the eligible used property from the election to apply this section. For the purposes of this section, the term "used property" means property the original use of which does not commence with the taxpayer.

(*b*) Solely for the purpose of determining whether the 10 percent rule of this subdivision is satisfied, (*1*) used property first placed in service during the taxable year and subject to special depreciation or amortization provisions described in subdivision (v) of this subparagraph and (*2*) property acquired during the taxable year in a transaction to which section 381(a) applies, shall all be treated as used property regardless of whether such property would be treated as new property under section 167(c) and the regulations thereunder.

(iv) *Property subject to investment tax credit.* The taxpayer may exclude from an election to apply this section all, or less than all, units of eligible property first placed in service during the taxable year which is—

(*a*) "Section 38 property" as defined in section 48(a) which meets the requirements of section 49, or

(*b*) Property described in section 47(a)(5)(B) placed in service to replace section 38 property disposed of.

(v) *Property subject to special method of depreciation or amortization.* (*a*) If for the taxable year of election, the taxpayer computes depreciation under the unit of production, retirement or machine hour method or any other method not described in section 167(b)(1), (2), or (3) for any eligible property first placed in service during the taxable year, an election to apply this section for the taxable year shall not include such property or any other eligible property in the same asset guideline class as such property.

(*b*) An election to apply this section shall not include eligible property for which, for the taxable year of election, the taxpayer computes depreciation under section 167(k), or computes amortization under section 169, 184, 185, 187, or paragraph (b) of § 1.162–11. If the taxpayer has elected to apply this section to eligible property described in section 167(k), 169, 184, 185, or 187 and the taxpayer thereafter computes depreciation or amortization for such property for any taxable year in accordance with section 167(k), 169, 184, 185, or 187, then the election to apply this section to such property shall terminate as of the beginning of the taxable year for which depreciation or amortization is computed under such section. Application of this section to the property for any period prior to the termination date will not be affected by the termination. The unadjusted basis of the property shall be removed as of the termination date from the unadjusted basis of the vintage account. The depreciation reserve established for the account shall be reduced by the depreciation allowable for the property, computed in the manner prescribed in paragraph (c)(1)(v)(*b*) of this section for determination of the adjusted basis of the property. See paragraph (d)(3)(vii)(*d*) of this section for treatment of salvage value when property is removed from a vintage account.

(vi) *Change in predominant use of eligible property.* If eligible property in a vintage account ceases to meet the requirements of paragraph (g)(1)(i) and (iii) or (g)(2) of § 1.48–1 (relating to requirement of predominant use within the United States) for a taxable year, the election to apply this section to such property shall terminate as of the beginning of such taxable year. The application of this section to such property for a period prior to the termination date will not be affected. The unadjusted basis of the property shall be removed as of the termination date from the unadjusted basis of the vintage account. The depreciation reserve established for the account shall be reduced by the depreciation allowable for the property, computed in the manner prescribed in paragraph (c)(1)(v)(*b*) of this section for determination of the adjusted basis of the property. See paragraph (d)(3)(vii)(*d*) of this section for treatment of salvage value when property is removed from a vintage account.

(6) *Special rule for certain public utility property*—(i) *Requirement of normalization in certain cases.* Under section 167(l), in the case of public utility property (as defined in section 167(l)(3)(A)), if the taxpayer—

(*a*) Is entitled to use a method of depreciation other than a "subsection (l) method" of depreciation (as defined in section 167(l)(3)(F)) only if it uses the "normalization method of accounting" (as defined in section 167(l)(3)(G)) with respect to such property, or

(*b*) Is entitled to use only a "subsection (l) method" of depreciation,

such property shall be eligible property (as defined in subparagraph (2) of this paragraph) only if the taxpayer normalizes the tax deferral resulting from the election to apply this section.

(ii) *Normalization.* The taxpayer will be considered to normalize the tax deferral resulting from the election to apply this section only if it computes its tax expense for purposes of establishing its cost of service for rate making purposes and for reflecting operating results in its regulated books of account using—

(*a*) Either (*1*) the half-year convention described in paragraph (c)(2)(iii) of this section, or (*2*) the convention used in computing its depreciation expense for rate making purposes and for reflecting operating results in its regulated books of account, and

(*b*) A period for depreciation no less than the lesser of 100 percent of the asset guideline period in effect in accordance with subparagraph (4)(ii) of this paragraph for the first taxable year to which this section applies, or the period for computing its depreciation expense for rate making purposes and for reflecting operating results in its regulated books of account,

and makes adjustments to a reserve to reflect the deferral of taxes resulting

from the election to apply this section. A determination whether the taxpayer is considered to normalize (within the meaning of the preceding sentence) the tax deferral resulting from the election to apply this section shall be made in a manner consistent with the principles for determining whether a taxpayer is using the "normalization method of accounting" (within the meaning of section 167(l)(3)(G)). See § 13.13 of the temporary regulations prescribed by T.D. 7049 approved June 25, 1970.

(iii) *Failure to normalize.* If the taxpayer has elected to apply this section to any eligible public utility property as described in subdivision (i) of this subparagraph and the taxpayer thereafter fails to normalize the tax deferral resulting from the election to apply this section, the election to apply this section to such property shall terminate as of the beginning of the taxable year for which the taxpayer fails to normalize the tax deferral resulting from the election to apply this section. Application of this section to such property for any period prior to the termination date will not be affected by the termination. The unadjusted basis of the property shall be removed as of the termination date from the unadjusted basis of the vintage account. The depreciation reserve established for the account shall be reduced by the depreciation allowable for the property, computed in the manner prescribed in paragraph (c)(1)(v)(*b*) of this section for determination of the adjusted basis of the property. See paragraph (d)(3)(vii)(*d*) of this section for treatment of salvage value when property is removed from a vintage account.

(iv) *Examples.* The principles of this subparagraph may be illustrated by the following examples:

Example (1). Corporation A is a gas pipeline company, subject to the jurisdiction of the Federal Power Commission, which is entitled under section 167(l) to use a method of depreciation other than a "subsection (l) method" of depreciation (as defined in section 167(l)(3)(F)) only if it uses the "normalization method of accounting" (as defined in section 167(l)(3)(G)). Corporation A elects to apply this section for 1972 with respect to all eligible property. In 1972, corporation A places in service eligible property with an unadjusted basis of $2 million. One hundred percent of the asset guideline period for such property is 22 years and the asset depreciation range is from 17.5 years to 26.5 years. The taxpayer uses the double declining balance method of depreciation, selects an asset depreciation period of 17.5 years and applies the modified half-year convention (described in paragraph (c)(2)(ii) of this section) by treating all such property as placed in service on the first day of the second quarter of the taxable year. The depreciation allowable under this section with respect to such property in 1972 is $171,428. The taxpayer will be considered to normalize the tax deferral resulting from the election to apply this section and to use the "normalization method of accounting" (within the meaning of section 167(l)(3)(G)) if it computes its tax expense for purposes of determining its cost of service for rate making purposes and for reflecting operating results in its regulated books of account using a "subsection (l) method" of depreciation, such as the straight line method, determined by using a depreciation period of 22 years (that is, 100 percent of the asset guideline period) and applying the half-year convention (described in paragraph (c)(2)(iii) of this section). A depreciation allowance computed in this manner is $45,454. The difference in the amount determined under this section ($171,428) and the amount used in computing its tax expense for purposes of estimating its cost of service for rate making purposes and for reflecting operating results in its regulated books of account ($45,454) is $125,974. Assuming a tax rate of 48 percent, the deferral of taxes resulting from an election to apply this section and using a different method of depreciation for tax purposes from that used for establishing its cost of service for rate making purposes and for reflecting operating results in its regulated books of account is 48 percent of $125,974, or $60,467, which amount should be added to a reserve to reflect the deferral of taxes resulting from the election to apply this section and from the use of a different method of depreciation in computing the allowance for depreciation under section 167 from that used in computing its depreciation expense for purposes of establishing its cost of service for rate making purposes and for reflecting operating results in its regulated books of account.

Example (2). Assume the same facts as in Example (1) except that Corporation A applies the half-year convention (described in paragraph (c)(2)(iii) of this section). In 1972, the depreciation allowance under this section with respect to property placed in service in 1972 is $114,285. A depreciation allowance computed as in Example (1) for purposes of determining its cost of service for rate making purposes and for reflecting operating results in its regulated books of account is $45,454. The difference in the amount determined under this section ($114,285) and the amount used in computing its tax expense for purposes of establishing its cost of service for rate making purposes and for reflecting operating results in its regulated books of account ($45,454) is $68,831. Assuming a tax rate of 48 percent, the deferral of taxes resulting from an election to apply this section and using a different method of depreciation for tax purposes from that used for establishing its cost of service for rate making purposes and for reflecting operating results in its regulated books of account is 48 percent of $68,831, or $33,039, which amount should be added to a reserve to reflect the deferral of taxes resulting from the election to apply this section and from the use of a different method of depreciation in computing the allowance for depreciation under section 167 from that used in computing its depreciation expense for purposes of estimating its cost of services for rate making purposes and for reflecting operating results in its regulated books of account.

Example (3). Corporation B, a telephone company subject to the jurisdiction of the Federal Communications Commission used a "flow-through method of accounting" (as defined in section 167(l)(3)(H) for its "July 1969 accounting period" (as defined in section 167(l)(3)(I)) with respect to all of its pre-1970 public utility property and did not make an election under section 167(l)(4)(A). Thus, Corporation B is entitled under section 167(l) to use a method of depreciation other than a "subsection (l) method" with respect to certain property without using the "normalization method of accounting." In 1972, Corporation B makes an election to apply this section with respect to all eligible property. Corporation B is not required to normalize the tax deferral resulting from the election to apply this section in the case of property for which it is not required to use the "normalization method of accounting" under section 167(l).

Example (4). Assume the same facts as in Example (3) except that Corporation B made a timely election under section 167(l)(4)(A) that section 167(l)(2)(C) not apply with respect to property which increases the productive or operational capacity of the taxpayer. Corporation B must normalize the tax deferral resulting from the election to apply this section with respect to such property.

(7) *Mere change in form of conducting a trade or business.* Property which was first placed in service by the transferor before January 1, 1971, shall not be eligible property if such property is first placed in service by the transferee after December 31, 1970, by reason of a mere change in the form of conducting a trade or business in which such property is used. A mere change in the form of conducting a trade or business in which such property is used will be considered to have occurred if—

(i) The transferor (or in a case where the transferor is a partnership, estate, trust, or corporation, the partners, beneficiaries, or shareholders) of such property retains a substantial interest in such trade or business, or

(ii) The basis of such property in the hands of the transferee is determined in whole or in part by reference to the basis of such property in the hands of the transferor.

This subparagraph shall not apply to a transfer of property to which paragraph (e)(3)(i) (relating to transfers to which section 381(a) applies) applies. For purposes of this subparagraph, a transferor (or in a case where the transferor is a partnership, estate, trust, or corporation, the partners, beneficiaries, or shareholders) shall be considered as having retained a substantial interest in the trade or business only if, after the change in form, his (or their) interest in such trade or business is substantial in relation to the total interest of all persons in such trade or business. This subparagraph shall apply to property first placed in service prior to January 1, 1971, held for the production of income (within the meaning of section 167(a)(2)) as well as to property held in a trade or business. The principles of this subdivision may be illustrated by the following examples.

Example (1). Corporation X and corporation Y are includible corporations in an affiliated group as defined in section 1504. In 1971 corporation X sells to corporation Y for cash property which would meet the requirements of subparagraph (2) of this paragraph for eligible property except that the property was first placed in service by corporation X in 1970. After the transfer, the property is first placed in service by corporation Y in 1971. The property is not eligible property because of the mere change in the form of conducting a trade or business.

Example (2). In 1971, in a transaction to which section 351 applies, taxpayer B transfers to corporation W property which would meet the requirements of subparagraph (2) of this paragraph for eligible property except that the property was first placed in service by B in 1969. Corporation W first places the property in service in 1971. The

property is not eligible property because of the mere change in the form of conducting a trade or business.

(c) *Manner of determining allowance*—(1) *In general*—(i) *Computation of allowance.* (*a*) The allowance for depreciation of property in a vintage account shall be determined in the manner specified in this paragraph by using the method of depreciation adopted by the taxpayer for the account and a rate based upon the asset depreciation period for the account selected by the taxpayer from the asset depreciation range. (For limitations on methods of depreciation permitted with respect to property, see section 167(c) and subdivision (iv) of this subparagraph.) In applying the method of depreciation adopted by the taxpayer, the annual allowance for depreciation of a vintage account shall be determined without adjustment for the salvage value of the property in such account except that no account may be depreciated below the reasonable salvage value of the account. (For rules regarding estimation and treatment of salvage value, see paragraph (d) (1) and (3) (vii) and (viii) of this section.) Regardless of the method of depreciation adopted by the taxpayer, the depreciation allowable for a taxable year with respect to a vintage account may not exceed the amount by which (as of the beginning of the taxable year) the unadjusted basis of the account exceeds (*1*) the reserve for depreciation established for the account plus (*2*) the salvage value of the account. The unadjusted basis of a vintage account is defined in subdivision (v) of this subparagraph. The adjustments to the depreciation reserve are described in subdivision (ii) of this subparagraph.

(*b*) The annual allowance for depreciation of a vintage account using the straight line method of depreciation shall be determined by dividing the unadjusted basis of the vintage account (without reduction for salvage value) by the number of years in the asset depreciation period selected for the account. See subdivision (iii) of this subparagraph for the manner of computing the depreciation allowance following a change from the declining balance method or the sum of the years-digits method to the straight line method.

(*c*) In the case of the sum of the years-digits method, the annual allowance for depreciation of a vintage account shall be computed by multiplying the unadjusted basis of the vintage account (without reduction for salvage value) by a fraction, the numerator of which changes each year to a number which corresponds to the years remaining in the asset depreciation period selected for the account (including the year for which the allowance is being computed) and the denominator of which is the sum of all the year's digits corresponding to the asset depreciation period selected for the account.

(*d*) The annual allowance for depreciation of a vintage account using a declining balance method is determined by applying a uniform rate to the excess of the unadjusted basis of the vintage account over the depreciation reserve established for that account. The rate under the declining balance method may not exceed twice the straight line rate based upon the asset depreciation period for the vintage account.

(*e*) The allowance for depreciation under this paragraph (including any depreciation allowed under section 179) shall constitute the amount of depreciation allowable for all purposes of this section.

(ii) *Establishment of depreciation reserve.* The taxpayer must establish a depreciation reserve for each vintage account. The amount of the depreciation reserve for a vintage account must be stated on each income tax return on which depreciation with respect to such account is determined under this section. The depreciation reserve for a vintage account consists of the accumulated depreciation allowable with respect to the vintage account, increased by the adjustments for ordinary retirements prescribed by paragraph (d) (3) (iii), by the adjustments for reduction of the salvage value of a vintage account prescribed by paragraph (d) (3) (vii) (*c*) of this section, and by the adjustments for transfers to supplies or scrap prescribed by paragraph (d) (3) (viii) (*b*) of this section, and decreased by the adjustments for extraordinary retirements and certain special retirements as prescribed by (d) (3) (iv) and (v) of this section, by the adjustments for the amount of the reserve in excess of the unadjusted basis of a vintage account prescribed by paragraph (d) (3) (ix) (*a*) of this section, and by the adjustments for property removed from a vintage account prescribed by paragraph (b) (5) (v) (*b*) and (vi) and paragraph (b) (6) (iii) of this section. The adjustments to the depreciation reserve for ordinary retirements during the taxable year shall be made as of the beginning of the taxable year. The adjustments to the depreciation reserve for extraordinary retirements shall be made as of the date the retirement is treated as having occurred in accordance with the first-year convention (described in subparagraph (2) of this paragraph) adopted by the taxpayer for the vintage account. The adjustment to the depreciation reserve for reduction of salvage value and for transfers to supplies or scrap shall, in the case of an ordinary retirement, be made as of the beginning of the taxable year, and in the case of an extraordinary retirement the adjustment for reduction of salvage value shall be made as of the date the retirement is treated as having occurred in accordance with the first-year convention (described in subparagraph (2) of this paragraph) adopted by the taxpayer for the vintage account. The adjustment to the depreciation reserve for property removed from a vintage account in accordance with paragraph (b) (5) (v) (*b*) and (vi) and paragraph (b) (6) (iii) of this section shall be made as of the beginning of the taxable year. The depreciation reserve of a vintage account may not be decreased below zero.

(iii) *Consent to change in method of depreciation.* During the asset depreciation period for a vintage account, the taxpayer is permitted to change under this section from a declining balance method of depreciation to the sum of the years-digits method of depreciation and from a declining balance method of depreciation or the sum of the years-digits method of depreciation to the straight line method of depreciation with respect to such account. The provisions of § 1.167 (e)–1 shall not apply to such change. The change in method applies to all property in the vintage account and must be adhered to for the entire taxable year of the change. When a change is made to the straight line method of depreciation, the annual allowance for depreciation of the vintage account shall be determined by dividing the adjusting basis of the vintage account (without reduction for salvage value) by the number of years remaining (at the time as of which the change is made) in the asset depreciation period selected for the account. However, the depreciation allowable for any taxable year following a change to the straight line method may not exceed an amount determined by dividing the unadjusted basis of the vintage account (without reduction for salvage value) by the number of years in the asset depreciation period selected for the account. The taxpayer shall furnish a statement setting forth the vintage accounts for which the change is made with the income tax return filed for the taxable year of the change.

(iv) *Limitations on methods.* The same method of depreciation must be adopted for all property in a single vintage account. Generally, the method of depreciation which may be adopted is subject to the limitations contained in section 167(c). In the case of a vintage account for which the taxpayer has selected an asset depreciation period of 3 years or more and which contains property the original use of which commences with the taxpayer, any method of depreciation described in section 167(b) (1), (2) or (3) may be adopted. If the vintage account contains property the original use of which does not commence with the taxpayer, or if the asset depreciation period for the account selected by the taxpayer is less than 3 years, a method of depreciation described in section 167(b), (2) or (3) may not be adopted for the account. However, the declining balance method using a rate not in excess of 150 percent of the straight line rate based upon the asset depreciation period for the vintage account may be adopted for the account even if the original use of the property does not commence with the taxpayer provided the asset depreciation period for the account selected by the taxpayer is at least 3 years. The term "original use" means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer. (See § 1.167(c)–1.)

(v) *Unadjusted and adjusted basis.* (*a*) For purposes of this section, the

unadjusted basis of an asset (including an "excluded addition" and a "property improvement" as described, respectively, in paragraph (d)(2)(vi) and (vii) of this section) is its cost or other basis without any adjustment for depreciation or amortization but with other adjustments required under section 1016 or other applicable provisions of law. The unadjusted basis of a vintage account is the total of the unadjusted basis of all the assets in the account. The unadjusted basis of a "special basis vintage account" as described in paragraph (d)(3)(vi) of this section is the amount of the property improvement determined in paragraph (d)(2)(vii)(*a*) of this section.

(*b*) The adjusted basis of a vintage account is the amount by which the unadjusted basis of the account exceeds the reserve for depreciation for the account. The adjusted basis of an asset in a vintage account is the amount by which the unadjusted basis of the asset exceeds the amount of depreciation allowable for the asset computed by using the method of depreciation and the rate (including any depreciation allowed under section 179 for the asset) applicable to the account. For purposes of this subdivision, the depreciation allowable for an asset shall include, to the extent identifiable, the amount of proceeds previously added to the depreciation reserve in accordance with paragraph (d)(3)(iii) of this section upon the retirement of any portion of such asset. (See paragraph (d)(3)(vi) of this section for election under certain circumstances to allocate adjusted basis of an amount of property improvement determined under paragraph (d)(2)(vii)(*a*) of this section.)

(2) *Conventions applied to additions and retirements*—(i) *In general.* The allowance for depreciation of a vintage account (whether an item account or a multiple asset account) shall be determined by applying one of the conventions described in subdivision (ii) and (iii) of this subparagraph. (For the manner of applying a convention in the case of taxable years beginning before and ending after December 31, 1970, see subparagraph (3) of this paragraph.) The same convention must be adopted for all vintage accounts of a taxable year, but the same convention need not be adopted for the vintage accounts of another taxable year. An election to apply this section must specify the convention adopted. (See paragraph (f) of this section for information required in making the election.) The convention adopted by the taxpayer is a method of accounting for purposes of section 446, but the consent of the Commissioner will be deemed granted to make an annual adoption of either of the conventions described in subdivision (ii) and (iii) of this subparagraph.

(ii) *Modified half-year convention.* The depreciation allowance for a vintage account for which the taxpayer adopts the "modified half-year convention" shall be determined by treating: (*a*) All property in such account which is placed in service during the first half of the taxable year as placed in service on the first day of the taxable year; and (*b*) all property in such account which is placed in service during the second half of the taxable year as placed in service on the first day of the second half of the taxable year. The depreciation allowance for a vintage account for a taxable year in which there is an extraordinary retirement (as defined in paragraph (d)(3)(ii) of this section) is determined by treating all extraordinary retirements from such account during the first half of the taxable year as occurring on the first day of the taxable year and all extraordinary retirements from such account during the second half of the taxable year as occurring on the first day of the last half of the taxable year. This convention may also be applied by assuming, with respect to all vintage accounts of a taxable year, that all additions occur on the first day of the second quarter of the taxable year and that all extraordinary retirements occur on the first day of the second quarter of the taxable year.

(iii) *Half-year convention.* The depreciation allowance for a vintage account for which the taxpayer adopts the "half-year convention" shall be determined by treating all property in the account as placed in service on the first day of the second half of the taxable year and by treating all extraordinary retirements (as defined in paragraph (d)(3)(ii) of this section) from the account as occurring on the first day of the second half of the taxable year.

(iv) *Rules of application.* The first-year convention adopted for a vintage account must be consistently applied to all additions to and all extraordinary retirements from such account. See paragraph (d)(3)(ii) and (iii) for definition and treatment of ordinary retirements. For purposes of this subparagraph, the second half of a taxable year shall be deemed to commence on the beginning of the first day of a calendar month which is the closest such first day to the middle of the taxable year. The first half of the taxable year shall be deemed to expire at the close of the last day of a calendar month which is the closest such last day to the middle of the taxable year. Rules consistent with the preceding two sentences shall apply for purposes of determining the commencement of the second quarter of the taxable year and the expiration of the first quarter of the taxable year. If a taxable year consists of a period which includes only one calendar month, the first half of the taxable year shall be deemed to expire on the first day which is nearest to the midpoint of the month, and the second half of the taxable year shall begin the day after the expiration of the first half of the month.

(3) *Taxable years beginning before and ending after December 31, 1970.* In the case of a taxable year which begins before January 1, 1971, and ends after December 31, 1970, property first placed in service after December 31, 1970, but treated as first placed in service before January 1, 1971, by application of a convention described in subparagraph (2) of this paragraph shall be treated as provided in this subparagraph. The depreciation allowed (or allowable) for the taxable year shall consist of the depreciation allowed (or allowable) for the period before January 1, 1971, determined without regard to this section plus the amount allowable for the period after December 31, 1970, determined under this section. However, neither the modified half-year convention described in subparagraph (2)(ii) of this paragraph, nor the half-year convention described in subparagraph (2)(iii) of this paragraph may be applied with respect to property placed in service after December 31, 1970, to allow depreciation for any period prior to January 1, 1971, unless such application is consistent with the convention applied by the taxpayer with respect to property placed in service in such taxable year prior to January 1, 1971.

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

Example (1). Taxpayer A, a calendar year taxpayer, places new property in service in a trade or business as follows:

Asset	Placed in service	Unadjusted basis
W	Apr. 1, 1971	$5,000
X	June 30, 1971	8,000
Y	July 15, 1971	12,000
Z	Dec. 20, 1971	60,000

(i) Taxpayer A adopts the modified half-year convention described in subparagraph (2)(ii) of this paragraph. Assets W, X, and Y are placed in a multiple asset account for which the asset depreciation range is 8 to 12 years. A selects 8 years, the minimum asset depreciation period with respect to such assets, and adopts the declining balance method of depreciation using a rate twice the straight line rate (computed without reduction for salvage). The annual rate under this method using a period of 8 years is 25 percent. The depreciation allowance for assets W and X for 1971 is $3,250, a full year's depreciation under the modified half-year convention (that is, basis of $13,000 (unreduced by salvage) multiplied by 25 percent). The depreciation allowance for asset Y is $1,500, a half year's depreciation under the modified half-year convention (that is, basis of $12,000 (unreduced by salvage) multiplied by 25 percent, then multiplied by one-half, since the property is entitled to only a half year's depreciation).

(ii) The taxpayer places asset Z in an item account and adopts the sum of the years-digits method. The asset depreciation range for such asset is 4 to 6 years and the taxpayer selects an asset depreciation period of 5 years. The depreciation allowance for asset Z in 1971 is $10,000 (that is, basis of $60,000 (unreduced by salvage) multiplied by five-fifteenths, the appropriate fraction using the sum of the years-digit method, then multiplied by one-half, since only one-half year's depreciation is allowable under the convention).

Example (2). The facts are the same as in example (1), except that the taxpayer adopts the half-year convention described in subparagraph (2)(iii) of this paragraph. The

depreciation allowances in example (1) with respect to assets Y and Z are not affected. However, assets W and X are entitled to a depreciation allowance for only a half year. Thus, the depreciation allowance for assets W and X for 1971 is $1,625 (that is, one-half of the $3,250 allowance computed in example (1)).

Example (3). The taxpayer during his taxable year which begins April 1, 1970, and ends March 31, 1971, places new property in service in a trade or business as follows:

Assets	Placed in service
A	Apr. 30, 1970
B	Dec. 15, 1970
C	Jan. 1, 1971

The taxpayer had used a convention with respect to assets placed in service in prior taxable years whereby assets placed in service during the first half of the year are treated as placed in service on the first day of such year and assets placed in service in the second half of the year are treated as placed in service on the first day of the following year. If the taxpayer selects the modified half-year convention, 1 year's depreciation is allowable on asset A determined without regard to this section. No depreciation is allowable for asset B. No depreciation is allowable for asset C for the period prior to January 1, 1971, but one-fourth year's depreciation is allowable on asset C determined under this section.

Example (4). Assume the same facts as in example (3) except that the taxpayer had used a convention with respect to assets placed in service in prior taxable years whereby such assets are treated as placed in service at the mid-point of the year. If the taxpayer selects the modified half-year convention, one-half year's depreciation is allowable for asset A determined without regard to this section. One-half year's depreciation is allowable for asset B determined without regard to this section. One-fourth year's depreciation is allowable for asset C determined without regard to this section and one-fourth year's depreciation is allowable for asset C determined under this section.

Example (5). The taxpayer during his taxable year which begins August 1, 1970 and ends July 31, 1971, places new property in service in a trade or business as follows:

Asset	Placed in service
A	Aug. 1, 1970
B	Jan. 15, 1971
C	June 30, 1971

The taxpayer had used a convention with respect to assets placed in service in prior taxable years whereby assets placed in service during the first half of the year are treated as placed in service on the first day of such year and assets placed in service in the second half of the year are treated as placed in service on the first day of the following year. If the taxpayer selects the modified half-year convention, 1 full year's depreciation is allowable for asset A determined without regard to this section. Five months depreciation is allowable for asset B determined without regard to this section and 7 months depreciation is allowable for asset B determined under this section. One-half year's depreciation is allowable for asset C determined under this section. The taxpayer may not apply the modified half-year convention by assuming all additions occurring the first day of the second quarter of the taxable year since such application is not consistent with the convention applied with respect to assets placed in service in prior taxable years.

Example (6). Assume the same facts as in example (5) except that the taxpayer applies a convention with respect to assets placed in service prior to January 1, 1971, whereby such assets are treated as placed in service at the mid-point of the year. If the taxpayer selects the modified half-year convention and applies such convention by treating all additions as occurring on the first day of the second quarter of the taxable year, one-half year's depreciation is allowable for asset A determined without regard to this section, 7 months depreciation is allowable for asset B determined under this section, and 7 months depreciation is allowable for asset C determined under this section.

Example (7). (i) Taxpayer B reports income on the basis of a taxable year ending March 31. B adopts the declining balance method of depreciation using a rate twice the straight line rate (computed without reduction for salvage) with respect to new property, which is first placed in service by B in the taxable year ending March 31, 1971, as follows:

Asset	Placed in service	Unadjusted basis
W	May 15, 1970	$8,000
X	Nov. 1, 1970	3,000
Y	Jan. 20, 1971	4,000
Z	Mar. 10, 1971	16,000

(ii) B's depreciation deduction with respect to assets W and X for the taxable year ending March 31, 1971, will be determined without regard to this section, since assets W and X are not eligible property. Assume that B adopts for assets W and X a convention under § 1.167(a)-10 which treats assets placed in service during the first half of the year as placed in service on the first day of such year, and which treats assets placed in service during the second half of the year as placed in service on the first day of the following year. Using this convention, B computes a full year's depreciation for asset W and no depreciation for asset X. Assets W and X have a guideline life of 10 years and no salvage value. The depreciation allowance for asset W is $1,600 (that is, 20 percent multiplied by basis of $8,000). No depreciation is allowed for asset X in the taxable year ending March 31, 1971.

(iii) Assets Y and Z are eligible property and B makes an election under this section. B selects an asset depreciation period of 8 years from an asset depreciation range of 8 to 12 years. B adopts the modified half-year convention described in subparagraph (2)(ii) of this paragraph. Thus, assets Y and Z would be treated as placed in service on October 1, 1970 (that is, the first day of the second half of the taxable year), but for the special limitation in subparagraph (3) of this paragraph. The selection of an 8-year asset depreciation period only applies for the portion of the taxable year after December 31, 1970. Further, no depreciation is allowable for assets Y and Z for the period prior to January 1, 1971, since B selected a convention for assets W and X which treats assets placed in service during the second half of the year as placed in service on the first day of the following year. The depreciation allowance for the period from January 1, 1971, through March 31, 1971, is computed using a rate based upon the asset depreciation period of 8 years selected by the taxpayer, and the depreciation allowance for assets Y and Z for such period is $1,250 (that is, basis of $20,000, multiplied by 25 percent then multiplied by one-fourth, the portion of the taxable year to which the election under this section applies).

(d) *Special rules for salvage, repairs and retirements*—(1) *Salvage value*—(i) *Definition of gross salvage value.* "Gross salvage" value is the amount which is estimated will be realized upon a sale or other disposition of the property in the vintage account when it is no longer useful in the taxpayer's trade or business or in the production of his income and is to be retired from service, without reduction for the cost of removal, dismantling, demolition, or similar operations. If a taxpayer customarily sells or otherwise disposes of property at a time when such property is still in good operating condition, the gross salvage value of such property is the amount expected to be realized upon such sale or disposition, and under certain circumstances, as where such property is customarily sold at a time when it is still relatively new, the gross salvage value may constitute a relatively large proportion of the unadjusted basis of such property.

(ii) *Definition of salvage value.* "Salvage value" means gross salvage value less the amount, if any, by which the gross salvage value is reduced by application of section 167(f). Generally, as provided in section 167(f), a taxpayer may reduce the amount of gross salvage value of a vintage account by an amount which does not exceed 10 percent of the unadjusted basis of the personal property (as defined in section 167(f)(2)) in the account. See paragraph (b)(3)(ii) of this section for requirement of separate vintage accounts for personal property described in section 167(f)(2).

(iii) *Estimation of salvage value.* The salvage value of each vintage account of the taxable year shall be estimated by the taxpayer at the time the election to apply this section is made, upon the basis of all the facts and circumstances existing at the close of the taxable year in which the account is established. The taxpayer shall specify the amount, if any, by which gross salvage value taken into account is reduced by application of section 167(f). See paragraph (f)(2) of this section for requirement that the election specify the estimated salvage value for each vintage account of the taxable year of election. The salvage value estimated by the taxpayer will not be redetermined merely as a result of fluctuations in price levels or as a result of other facts and circumstances occurring after the close of the taxable year of election. Salvage value for a vintage account need not be established or increased as a result of a property improvement as described in subparagraph (2)(vii) of this paragraph. The taxpayer shall maintain records reasonably sufficient to determine facts and circumstances taken into account in estimating salvage value.

(iv) *Salvage as limitation on depreciation.* In no case may a vintage account be depreciated below a reasonable salvage value after taking into account any reduction in gross salvage value permitted by section 167(f).

(v) *Limitation on adjustment of reasonable salvage value.* The salvage value

established by the taxpayer for a vintage account will not be redetermined if it is reasonable. Since the determination of salvage value is a matter of estimation, minimal adjustments will not be made. The salvage value established by the taxpayer will be deemed to be reasonable unless there is sufficient basis in the facts and circumstances existing at the close of the taxable year in which the account is established for a determination of an amount of salvage value for the account which exceeds the salvage value established by the taxpayer for the account by an amount greater than 10 percent of the unadjusted basis of the account at the close of the taxable year in which the account is established. If the salvage value established by the taxpayer for the account is not within the 10 percent range, or if the taxpayer follows the practice of understating his estimates of gross salvage value to take advantage of this subdivision, and if there is a determination of an amount of salvage value for the account which exceeds the salvage value established by the taxpayer for the account, an adjustment will be made by increasing the salvage value established by the taxpayer for the account by an amount equal to the difference between the salvage value as determined and the salvage value established by the taxpayer for the account. For the purposes of this subdivision, a determination of salvage value shall include all determinations at all levels of audit and appellate proceedings, and as well as all final determinations within the meaning of section 1313(a)(1). This subdivision shall apply to each such determination. (See Example (3) of subdivision (vi) of this subparagraph.)

(vi) *Examples.* The principles of this subparagraph may be illustrated by the following examples in which it is assumed that the taxpayer has not followed a practice of understating his estimates of gross salvage value:

Example (1). Taxpayer B elects to apply this section to assets Y and Z, which are placed in a multiple asset vintage account of 1971 for which the taxpayer selects an asset depreciation period of 8 years. The unadjusted basis of asset Y is $50,000 and the unadjusted basis of asset Z is $30,000. B estimates a gross salvage value of $55,000. The property qualifies under section 167(f)(2) and B reduces the amount of salvage taken into account by $8,000 (that is, 10 percent of $80,000 under section 167(f)). Thus, B establishes a salvage value of $47,000 for the account. Assume that there is not sufficient basis for determining a salvage value for the account greater than $52,000 (that is, $60,000 minus the $8,000 reduction under section 167(f)). Since the salvage value of $47,000 established by B for the account is within the 10 percent range, it is reasonable. Salvage value for the account will not be redetermined.

Example (2). The facts are the same as in Example (1) except that B estimates a gross salvage value of $50,000 and establishes a salvage value of $42,000 for the account (that is, $50,000 minus the $8,000 reduction under section 167(f)). There is sufficient basis for determining an amount of salvage value greater than $50,000 (that is, $58,000 minus the $8,000 reduction under section 167(f)). The salvage value of $42,000 established by B for the account can be redetermined without regard to the limitation in subdivision (v) of this subparagraph, since it is not within the 10 percent range. Upon audit of B's tax return for a taxable year for which the redetermination would affect the amount of depreciation allowable for the account, salvage value is determined to be $52,000 after taking into account the reduction under section 167(f). Salvage value for the account will be adjusted to $52,000.

Example (3). The facts are the same as in Example (1) except that upon audit of B's tax return for a taxable year the examining officer determines the salvage value to be $58,000 (that is, $66,000 minus the $8,000 reduction under section 167(f)), and proposes to adjust salvage value for the vintage account to $58,000 which will result in disallowing an amount of depreciation for the taxable year. B does not agree with the finding of the examining officer. After receipt of a "30-day letter", B waives a district conference and initiates proceeding before the Appellate Division. In consideration of the case by the Appellate Division it is concluded that there is not sufficient basis for determining an amount of salvage value for the account in excess of $55,000 (that is $63,000 minus the $8,000 reduction under section 167(f)). Since the salvage of $47,000 established by B for the account is within the 10 percent range, it is reasonable. Salvage value for the account will not be redetermined.

(2) *Treatment of repairs*—(i) *In general.* Sections 162, 212, and 263 provide general rules for the treatment of certain expenditures for the repair, maintenance, rehabilitation or improvement of property. In general, under those sections, expenditures which substantially prolong the life of an asset, or are made to increase its value or adapt it to a different use are capital expenditures. If an expenditure is treated as a capital expenditure under sections 162, 212 or 263, it is subject to the allowance for depreciation. On the other hand, in general, expenditures which do not substantially prolong the life of an asset or materially increase its value or adapt it for a substantially different use may be deducted as an expense in the taxable year in which paid or incurred. Expenditures, or a series of expenditures, may have characteristics both of deductible expenses and capital expenditures. Other expenditures may have the characteristics of capital expenditures, as in the case of an "excluded addition" (as defined in subdivision (vi) of this subparagraph). This subparagraph provides a simplified procedure for determining whether expenditures with respect to certain property are to be treated as deductible expenses or capital expenditures.

(ii) *Election of repair allowance.* Subject to the provisions of subdivision (v) of this subparagraph, the taxpayer may elect to apply the asset guideline class repair allowance described in subdivision (iii) of this subparagraph for any taxable year ending after December 31, 1970, for which the taxpayer elects to apply this section.

(iii) *Repair allowance for an asset guideline class.* For a taxable year for which the taxpayer elects to apply this section, the "repair allowance" for an asset guideline class is an amount equal to—

(*a*) The average of (*1*) the unadjusted basis of all "repair allowance property" (as described in this subdivision) in the asset guideline class at the beginning of the taxable year, less in the case of such property in a vintage account the unadjusted basis of all such property retired in an ordinary retirement (as described in subparagraph (3)(ii) of this paragraph) in prior taxable years, and (2) the unadjusted basis of all "repair allowance property" in the asset guideline class at the end of the taxable year, less in the case of such property in a vintage account the unadjusted basis of all such property retired in an ordinary retirement during the taxable year, multiplied by—

(*b*) The repair allowance percentage in effect for the asset guideline class for the taxable year.

The "repair allowance percentages" in effect for taxable years ending before the effective date of the first supplemental repair allowance percentages established pursuant to this section are set forth in Revenue Procedure 71-25. Repair allowance percentages will from time to time be established, supplemented and revised with express reference to this section. These repair allowance percentages will be published in the Internal Revenue Bulletin. The repair allowance percentages in effect on the last day of the taxable year shall apply for the taxable year; except that the repair allowance percentage for a particular taxable year shall not be less than the repair allowance percentage in effect on the first day of such taxable year. The repair allowance percentages for a taxable year shall not be changed to reflect any supplement or revision of the repair allowance percentages after the end of such taxable year. For the purposes of this section, "repair allowance property" means eligible property determined without regard to paragraph (b)(2)(iii) of this section (that is, without regard to whether such property was first placed in service by the taxpayer before or after December 31, 1970).

(iv) *Application of asset guideline class repair allowance.* In accordance with the principles of sections 162, 212, and 263, the taxpayer pays or incurs any expenditures during the taxable year for the repair, maintenance, rehabilitation or improvement of repair allowance property, the taxpayer must either—

(*a*) If the taxpayer elects to apply the repair allowance for the asset guideline class, treat an amount of all such expendtiures in such taxable year with respect to all such property in the asset guideline class which does not exceed in total the repair allowance for that asset guideline class as deductible repairs, and treat the excess of all such expenditures with respect to all such property in the asset guideline class in the manner described for a property improvement in subdivision (viii) of this subparagraph, or

(b) If the taxpayer does not elect to apply the repair allowance for the asset guideline class, treat each of such expenditures in such taxable year with respect to all such property in the asset guideline class as either a capital expenditure or as a deductible repair in accordance with the principles of sections 162, 212, and 263 (without regard to (a) of this subdivision), and treat the expenditures which are required to be capitalized under sections 162, 212, and 263 (without regard to (a) of this subdivision) in the manner described for a property improvement in subdivision (viii) of this subparagraph.

For the purposes of (a) and (b) of this subdivision, expenditures for the repair, maintenance, rehabilitation or improvement of property do not include expenditures for an excluded addition. (See subdivision (viii) of this subparagraph for treatment of an excluded addition.) The taxpayer shall elect each taxable year whether to apply the repair allowance and treat expenditures under (a) of this subdivision, or to treat expenditures under (b) of this subdivision. The treatment of expenditures under this subdivision for a taxable year for all asset guideline classes shall be specified in the tax return filed for the taxable year. The taxpayer may treat expenditures under (a) of this subdivision with respect to property in one asset guideline class and treat expenditures under (b) of this subdivision with respect to property in some other asset guideline class. In addition, the taxpayer may treat expenditures with respect to property in an asset guideline class under (a) of this subdivision in one taxable year, and treat expenditures with respect to property in that asset guideline class under (b) of this subdivision in another taxable year.

(v) *Limitations on use of repair allowance.* (a) The asset guideline class repair allowance described in subdivision (iii) of this subparagraph shall apply only to expenditures with respect to repair allowance property (as described in subdivision (iii) of this subparagraph) in the asset guideline class. The taxpayer may apply the asset guideline class repair allowance for the taxable year only if the taxpayer maintains books and records sufficient to determine the information reasonably required for its application, including—

(1) the amount and general description of expenditures paid or incurred during the taxable year for the repair, maintenance, rehabilitation or improvement of repair allowance property in the asset guideline class, and

(2) a determination of which expenditures (and the amount of each) with respect to such property are for excluded additions (such as whether the expenditure is for an additional identifiable unit of property, or substantially increases the productivity or capacity of an existing identifiable unit of property or adapts it for a substantially different use).

In general, such books and records shall be sufficient to identify the amount and nature of expenditures with respect to specific items of repair allowance property or groups of similar properties in the same asset guideline class. However, in the case of expenditures for labor costs and supplies for general maintenance of plant and equipment part of which is repair allowance property and part is not, or part of which is in one asset guideline class and part in another, to the extent books and records are not maintained identifying such expenditures with respect to specific items of property or groups of properties and it is not practicable to do so, the total amount of such expenditures may be allocated by any reasonable method consistently applied.

(b) If for the taxable year the taxpayer claims or is allowed a deduction in accordance with section 263(e) for expenditures with respect to repair allowance property in a particular asset guideline class, the taxpayer may not use the asset guideline class repair allowance described in subdivision (iii) of this subparagraph for such asset guideline class for such taxable year.

(c) (1) If the taxpayer repairs, rehabilitates or improves property for sale or resale to customers, the asset guideline class repair allowance described in subdivision (iii) of this subparagraph shall not apply to expenditures for the repair, maintenance, rehabilitation or improvement of such property, or (2) if a taxpayer follows the practice of acquiring for his own use used property (in need of repair, rehabilitation or improvement to be suitable for the use intended by the taxpayer) and of making expenditures to repair, rehabilitate or improve such property in order to take advantage of this subparagraph, the asset guideline class repair allowance described in subdivision (iii) of this subparagraph shall not apply to such expenditures. In either event, such expenditures shall not be treated as expenditures for the repair, maintenance, rehabilitation or improvement of property for the purposes of this subparagraph and such property shall not be "repair allowance property" as described in subdivision (iii) of this subparagraph.

(vi) *Definition of excluded addition.* The term "excluded addition" generally means—

(a) an expenditure which substantially increases the productivity or capacity of an existing identifiable unit of property over its productivity or capacity when first acquired by the taxpayer,

(b) an expenditure which modifies an existing identifiable unit of property for a substantially different use, or

(c) an expenditure for an additional identifiable unit of property (as distinguished from an expenditure for replacement of a part in an existing identifiable unit of property which is paid or incurred in connection with the repair, maintenance, rehabilitation or improvement of such property, whether or not such part is also an identifiable unit of property).

For the purposes of (a) of this subdivision, an increase in productivity or capacity is substantial only if the increase is more than 25 percent. Under (c) of this subdivision, in the case of a vintage account of five automobiles, each automobile constitutes an identifiable unit of property. An automobile transmission is also an identifiable unit of property. The replacement of an existing transmission in the automobile in connection with the repair, maintenance or rehabilitation of the automobile is not an excluded addition. The addition of an air conditioner to an automobile is an excluded addition. The replacement of one of the automobiles in the vintage account is an excluded addition since the automobile is not a part in an existing identifiable unit of property. The principles of this subdivision may be further illustrated by the following example:

Example. For the taxable year, B pays or incurs the following expenditures: (a) $5,000 for general maintenance of repair allowance property (as described in subdivision (iii) of this subparagraph) such as inspection, oiling, machine adjustments, cleaning, and painting; (b) $175 for replacement of bearings and gears in an existing lathe; (c) $125 for replacement of an electric starter and certain electrical wiring in an automatic drill press; (d) $300 for modification of a metal fabricating machine (including replacement of certain parts) which substantially increases its capacity; and (e) $800 for the replacement of an existing lathe with a new lathe. Expenditures (a) through (c) are expenditures for the repair, maintenance, rehabilitation or improvement of property to which B can elect to apply the asset guideline class repair allowance described in subdivision (iii) of this subparagraph. Expenditures (d) and (e) are excluded additions.

(vii) *Definition of property improvement.* The term "property improvement" means—

(a) If the taxpayer treats expenditures for the asset guideline class under subdivision (iv) (a) of this subparagraph, the amount of all expenditures paid or incurred during the taxable year for the repair, maintenance, rehabilitation or improvement of repair allowance property in the asset guideline class, which exceeds the asset guideline class repair allowance for the taxable year; and

(b) If the taxpayer treats expenditures for the asset guideline class under subdivision (iv) (b) of this subparagraph, the amount of each expenditure paid or incurred during the taxable year for the repair, maintenance, rehabilitation or improvement of repair allowance property which is treated under sections 162, 212 and 263 as a capital expenditure.

The term "property improvement" does not include any expenditure for an excluded addition.

(viii) *Treatment of property improvements and excluded additions.* If for the taxable year there is a property improvement as described in subdivision (vii) of this subparagraph or an excluded addition as described in subdivision (vi) of this subparagraph, the following rules shall apply—

(a) The total amount of any property improvement for the asset guideline class

determined under subdivision (vii)(a) of this subparagraph shall be capitalized in a single "special basis vintage account" of the taxable year in accordance with the taxpayer's election to apply this section for the taxable year (applied without regard to paragraph (b)(5)(v)(*a*) of this section). See subparagraph (3)(vi) of this paragraph for definition and treatment of a "special basis vintage account".

(*b*) Each property improvement determined under subdivision (vii)(b) of this subparagraph, if it is eligible property, shall be capitalized in a vintage account of the taxable year in accordance with the taxpayer's election to apply this section for the taxable year (applied without regard to paragraph (b)(5)(v)(*a*) of this section).

(*c*) Each excluded addition, if it is eligible property, shall be capitalized in a vintage account of the taxable year in accordance with the taxpayer's election to apply this section for the taxable year.

For rule as to date on which a property improvement or an excluded addition is first placed in service, see paragraph (e)(1)(iii) and (iv) of this section.

(ix) *Examples.* The principles of this subparagraph may be illustrated by the following examples:

Example (1). For the taxable year 1972, B elects to apply this section. B has repair allowance property (as described in subdivision (iii) of this subparagraph) in asset guideline class 20.2 under Revenue Procedure 71-25 with an average unadjusted basis determined as provided in subdivision (iii)(*a*) of this subparagraph of $100,000 and repair allowance property in asset guideline class 24.4 with an average unadjusted basis of $300,000. The repair allowance percentage for asset guideline class 20.2 is 4.5 percent and for asset guideline class 24.4 is 6.5 percent. The two asset guideline class repair allowances for 1972 are $4,500 and $19,500, respectively, determined as follows:

ASSET GUIDELINE CLASS 20.2

$100,000 average unadjusted basis multiplied by 4.5 percent	$4,500

ASSET GUIDELINE CLASS 24.4

$300,000 average unadjusted basis multiplied by 6.5 percent	$19,500

Example (2). The facts are the same as in Example (1). During the taxable year 1972, B pays or incurs the following expenditures for the repair, maintenance, rehabilitation or improvement of repair allowance property in asset guideline class 20.2.

General maintenance (including primarily labor costs)	$3,000
Replacement of parts in several machines (including labor costs of $1,650)	$4,000
	$7,000

In addition, in connection with the rehabilitation and improvement of two other machines B pays or incurs $6,000 (including labor costs of $2,000) which is treated as an excluded addition because the capacity of the equipment was substantially increased. For 1972, B elects to apply this section and to apply the asset guideline class repair allowance to asset guideline class 20.2. Since the asset guideline class repair allowance is $4,500, B can deduct $4,500 in accordance with subdivision (iv)(*a*) of this subparagraph. B must capitalize $2,500 in a special basis vintage account in accordance with subdivisions (vi)(*a*) and (viii)(*a*) of this subparagraph. Since the excluded addition is a capital item and is eligible property, B must also capitalize $6,000 in a vintage account in accordance with subdivision (viii)(c) of this subparagraph. B selects from the asset depreciation range an asset depreciation period of 17 years for the special basis vintage account. B includes the excluded addition in a vintage account of 1972 for which he also selects an asset depreciation period of 17 years.

(3) *Treatment of retirements*—(i) *In general.* The rules of this subparagraph specify the treatment of all retirements from vintage accounts. The rules of § 1.167(a)-8 shall not apply to any retirement from a vintage account. In general, an asset in a vintage account is retired when such asset is permanently withdrawn from use in a trade or business or in the production of income by the taxpayer. A retirement may occur as a result of a sale or exchange, by other act of the taxpayer amounting to a permanent disposition of an asset, or by physical abandonment of an asset. A retirement may also occur by transfer of an asset to supplies or scrap. A physical abandonment occurs only if it is reasonably certain that the property will neither be restored to use in the taxpayer's trade or business or in the production of income, nor retrieved for sale, exchange, or other disposition.

(ii) *Definitions of ordinary and extraordinary retirements.* The term "ordinary retirement" means any retirement from a vintage account which is not treated as an "extraordinary retirement" under this subdivision. The retirement of an asset from a vintage account in a taxable year is an "extraordinary retirement" if—

(*a*) The asset is retired as the direct result of fire, storm, shipwreck, or other casualty; or

(*b*) (*1*) The asset is retired (other than by transfer to supplies or scrap) in a taxable year as the direct result of a cessation, termination, curtailment, or disposition of a business, manufacturing, or other income producing process, operation, facility or unit, and (*2*) the unadjusted basis (determined without regard to subdivision (vi) of this subparagraph) of all the assets so retired in such taxable year from such account as a direct result of the event described in (*b*)(*1*) of this subdivision exceeds 20 percent of the unadjusted basis of such account immediately prior to such event. For this purpose, all accounts (other than a special basis vintage account as described in subdivision (vi) of this subparagraph) of the same vintage for which the same asset depreciation period has been selected, and from which a retirement as a direct result of such event occurs within the taxable year, shall be treated as a single vintage account.

(iii) *Treatment of ordinary retirements.* No loss shall be recognized upon an ordinary retirement. Gain shall be recognized only to the extent specified in this subparagraph. All proceeds from ordinary retirements shall be added to the depreciation reserve of the vintage account from which the retirement occurs. See subdivision (vi) of this subparagraph for allocation of basis in the case of a special basis vintage account. See subdivision (ix) of this subparagraph for recognition of gain when the depreciation reserve exceeds the unadjusted basis of the vintage account. The amount of salvage value for a vintage account shall be reduced (but not below zero) as of the beginning of the taxable year by the excess of (*a*) the depreciation reserve for the account, after adjustment for depreciation allowable for such taxable year and all other adjustments prescribed by this section (other than the adjustment prescribed by subdivision (ix) of this subparagraph) over (*b*) the unadjusted basis of the account less the amount of salvage value for the account before such reduction. Thus, in the case of a vintage account with an unadjusted basis of $1,000 and a salvage value of $100, to the extent that proceeds from ordinary retirements increase the depreciation reserve above $900, the salvage value is reduced. If the proceeds increase the depreciation reserve for the account to $1,000, the salvage value is reduced to zero. The unadjusted basis of the asset retired in an ordinary retirement is not removed from the account and the depreciation reserve for the account is not reduced by the depreciation allowable for the retired asset. The previously unrecovered basis of the retired asset will be recovered through the allowance for depreciation with respect to the vintage account. See subdivision (v) of this subparagraph for treatment of ordinary retirements on which gain or loss is not recognized in whole or in part.

(iv) *Treatment of extraordinary retirements.* Unless the transaction is governed by a special nonrecognition section of the Code such as 1031 or 337, gain or loss shall be recognized upon an extraordinary retirement in the taxable year in which such retirement occurs subject to section 1231, section 165, and all other applicable provisions of law such as section 1245. The unadjusted basis of the retired asset shall be removed from the unadjusted basis of the vintage account. The depreciation reserve established for the account shall be reduced by the depreciation allowable for the retired asset computed in the manner prescribed in paragraph (c)(1)(v)(*b*) of this section for determination of the adjusted basis of the asset. See subdivision (ix) of this subparagraph for recognition of gain when the depreciation reserve exceeds the unadjusted basis of the vintage account. See subdivision (iii) of this subparagraph for reduction of salvage value for an account when the depreciation reserve exceeds the unadjusted basis of the account minus salvage value.

(v) *Special rule for certain retirements.* In the case of an ordinary retirement on which gain or loss is in whole or in part not recognized because of a special nonrecognition section of the Code, such as 1031 or 337, the portion of

the proceeds on which gain is not recognized shall not be added to the depreciation reserve of the vintage account in accordance with subdivision (iii) of this subparagraph and the unadjusted basis of the asset shall be removed from the unadjusted basis of the vintage account. The depreciation reserve established for the account shall be reduced by the depreciation allowable for the retired asset computed in the manner prescribed in paragraph (c)(1)(v)(*b*) of this section for determination of the adjusted basis of the asset.

(vi) *Treatment of special basis vintage accounts.* A "special basis vintage account" is a vintage account for an amount of property improvement determined under subparagraph (2)(vii)(*a*) of this paragraph. In general, reference in this section to a "vintage account" shall include a special basis vintage account. The unadjusted basis of a special basis vintage account shall be recovered through the allowance for depreciation in accordance with this section over the asset depreciation period selected for the account. Except as provided in this subdivision, the unadjusted basis, adjusted basis and reserve for depreciation of such account shall not be allocated to any specific asset in the asset guideline class, and the provisions of this subparagraph shall not apply to such account. However, in the event of a sale, exchange or other disposition of "repair allowance property" (as described in subparagraph (2)(iii) of this paragraph) in an extraordinary retirement as described in subdivision (ii) of this subparagraph (or if the asset is not in a vintage account, in an abnormal retirement as described in § 1.167(a)-8), the taxpayer may, if consistently applied to all such retirements in the taxable year and adequately identified in the taxpayer's books and records, elect to allocate the adjusted basis (as of the end of the taxable year) of all special basis vintage accounts for the asset guideline class to each such retired asset in the proportion that the adjusted basis of the retired asset (as of the beginning of the taxable year) bears to the adjusted basis of all repair allowance property in the asset guideline class at the beginning of the taxable year. The election to allocate basis in accordance with this subdivision shall be made on the tax return filed for the taxable year. The principles of this subdivision may be illustrated by the following example:

Example. In addition to other property, the taxpayer has machines A, B, and C, all in the same asset guideline class and each with an adjusted basis on January 1, 1977 of $10,000. The adjusted basis on January 1, 1977, of all repair allowance property (as described in subparagraph (2)(iii) of this subparagraph) in the asset guideline class is $90,000. The machines are sold in an extraordinary retirement in 1977. The taxpayer is entitled to and does elect to allocate basis in accordance with this subdivision. There is also a 1972 special basis vintage account for the asset guideline class, as follows:

	Unadjusted basis	Reserve for depreciation	Dec. 31, 1977 adjusted basis
1972 special basis vintage account, for which the taxpayer selected an asset depreciation period of 10 years, adopted the straight line method, and used the half-year convention	$2,000	$1,100	$900

By application of this subdivision, the adjusted basis of machines A, B, and C is increased to $10,100 each (that is, $\frac{\$10,000}{\$90,000} \times \$900 = \$100$). The unadjusted basis, reserve for depreciation and adjusted basis of the special basis vintage account are reduced, respectively, by one-third (that is, $\frac{\$300}{\$900} = \frac{1}{3}$) in order to reflect the allocation of basis to the special basis vintage account.

(vii) *Reduction in the salvage value of a vintage account.* (*a*) A taxpayer may apply this section without reducing the salvage value for a vintage account in accordance with this subdivision or in accordance with subdivision (viii) of this subparagraph (relating to transfers to supplies or scrap). See subdivision (iii) of this subparagraph for reduction of salvage value in certain circumstances in the amount of proceeds from ordinary retirements. However, the taxpayer may in lieu thereof follow the consistent practice of reducing, as retirements occur, the salvage value for a vintage account by the amount of salvage value attributable to the retired asset, or the taxpayer may consistently follow the practice of so reducing the salvage value for a vintage account as extraordinary retirements occur while not reducing the salvage value for the account as ordinary retirements occur. If the taxpayer does not reduce the salvage value for a vintage account as retirements occur, the taxpayer may be entitled to a deduction in the taxable year in which the last asset is retired from the account in accordance with subdivision (ix)(*b*) of this subparagraph.

(*b*) For purposes of this subdivision, the portion of the salvage value for a vintage account attributable to a retired asset may be determined by multiplying the salvage value for the account by a fraction, the numerator of which is the unadjusted basis of the retired asset and the denominator of which is the unadjusted basis of the account, or by any other reasonable method which is consistently applied.

(*c*) If the taxpayer reduces the salvage value for a vintage account as ordinary retirements occur, in the case of an ordinary retirement the taxpayer may either: (*1*) follow the consistent practice of reducing the salvage value for the account by the amount of salvage value attributable to the retired asset and not adding the same amount to the depreciation reserve for the account, in which case (if the asset is retired by transfer to supplies or scrap) the basis in the supplies or scrap account of the retired asset will be zero, or (*2*) follow the consistent practice of reducing the salvage value for the account by the amount of salvage value attributable to the retired asset and adding the same amount to the depreciation reserve for the account (up to an amount which does not increase the depreciation reserve to an amount in excess of the unadjusted basis of the account) in which case (if the asset is retired by transfer to supplies or scrap) the basis in the supplies or scrap account of the retired asset will be the amount added to the depreciation reserve for the account. Thus, for example, in the case of an ordinary retirement by transfer of an asset to supplies or scrap, the basis of the asset in the supplies or scrap account would either be zero or the amount added to the depreciation reserve of the vintage account from which the retirement occurred. When the depreciation reserve for the account equals the unadjusted basis of the account no further adjustment to salvage value for the account will be made. See subdivision (viii)(*c*) of this subparagraph for special optional rule for determining the basis of an asset transferred to supplies or scrap.

(*d*) In the event of a removal of property from a vintage account in accordance with paragraph (b)(5)(v)(*b*) or (vi) or paragraph (b)(6)(iii) of this section, the salvage value for the account may be reduced by the amount of salvage value attributable to the asset removed determined as provided in (*b*) of this subdivision.

(viii) *Adjustments for transfers to supplies or scrap.* If the taxpayer follows the consistent practice of reducing, as ordinary retirements occur, the salvage value for a vintage account in accordance with subdivision (vii) of this subparagraph, the taxpayer may (in lieu of the method described in subdivision (vii) (*b*) and (*c*) of this subparagraph for determining the basis of the retired asset in the supplies or scrap account) follow the consistent practice of determining the basis (in the supplies or scrap account) of assets retired in an ordinary retirement by transfer to supplies or scrap, in the following manner—

(*a*) The taxpayer may determine the value of the asset (not to exceed its unadjusted basis) by any reasonable method consistently applied (such as average cost, conditioned cost, or fair market value) if such method is adequately identified in the taxpayer's books and records.

(*b*) The salvage value attributable to the asset determined in accordance with subdivision (vii)(*b*) of this subparagraph shall be subtracted from the salvage value for the account (to the extent thereof) and the greater of (*1*) the amount subtracted from the salvage value for the vintage account or (*2*) the

value of the asset determined in accordance with (*a*) of this subdivision, shall be added to the reserve for depreciation of the vintage account.

(*c*) The amount added to the reserve for depreciation of the vintage account in accordance with (*b*) of this subdvision shall be treated as the basis of the retired asset in the supplies or scrap account.

If the taxpayer makes the adjustments in accordance with this subdivision, the reserve for depreciation of the vintage account may exceed the unadjusted basis of the account, and in that event gain will be recognized in accordance with subdivision (ix) of this subparagraph.

(ix) *Recognition of gain or loss in certain situations.* (*a*) If at the end of any taxable year after adjustment for depreciation allowable for such taxable year and all other adjustments prescribed by this section, the depreciation reserve established for a vintage account exceeds the unadjusted basis of the account, the entire amount of such excess shall be recognized as gain in such taxable year. Such gain shall—

(*1*) Constitute gain to which section 1245 applies to the extent that it does not exceed the total amount of depreciation allowances in the depreciation reserve for all years at the end of such taxable year, reduced by gain recognized pursuant to this subdivision with respect to the account previously treated as gain to which section 1245 applies, and

(2) Constitute gain to which section 1231 applies to the extent that it exceeds such total amount as so reduced.

In such event, the depreciation reserve shall be reduced by the amount of gain recognized, so that after such reduction the amount of the depreciation reserve is equal to the unadjusted basis of the account. Thus, for example, in the case of a vintage account with an unadjusted basis of $1,000 and a depreciation reserve of $700 (of which $600 represents depreciation allowances), if $500 is realized during the taxable year from ordinary retirements of assets from the account, the reserve is increased to $1,200, gain is recognized to the extent of $200 (the amount by which the depreciation reserve before further adjustment exceeds $1,000) and the depreciation reserve is then decreased to $1,000. The $200 of gain constitutes gain to which section 1245 applies. If the amount realized from ordinary retirements during the year had been $1,100 instead of $500, the gain of $800 would have consisted of $600 of gain to which section 1245 applies and $200 of gain to which section 1231 applies.

(*b*) If at the time the last asset in a particular vintage account is retired the unadjusted basis of the account exceeds the depreciation reserve for the account (after all adjustments prescribed by this section), the entire amount of such excess shall be recognized in such taxable year as a loss under section 165 or as a deduction for depreciation under section 167. If the retirement of such asset occurs by sale or exchange on which gain or loss is recognized, the amount of such excess shall constitute a loss subject to section 1231. Upon retirement of the last asset in a vintage account, the account shall terminate and no longer be an account to which this section applies.

(x) *Dismantling cost.* The cost of dismantling, demolishing, or removing an asset in the process of a retirement from the vintage account shall be treated as an expense deductible in the year paid or incurred, and such cost shall not be subtracted from the depreciation reserve for the account.

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

Example (*1*). (*a*) Taxpayer A has a multiple asset vintage account with an unadjusted basis of $1,000. All the assets were first placed in service by A on January 15, 1971. This account contains all of A's assets in a single asset guideline class. A elects to apply this section for 1971 and adopts the modified half-year convention. A estimates a salvage value for the account of $100 and this estimate is determined to be reasonable. (See subparagraph (1)(v) of this paragraph for limitation on adjustment of reasonable salvage value.) A adopts the straight line method of depreciation with respect to the account and selects a 10-year asset depreciation period. A does not follow a practice of reducing the salvage value for the account in the amount of salvage value attributable to each retired asset in accordance with subparagraph (3)(vii) of this paragraph. The depreciation allowance for each of the first 4 years is $100, that is one-tenth multiplied by the unadjusted basis of $1,000, without reduction for salvage.

(*b*) In the fifth year of the asset depreciation period, three assets are sold in an ordinary retirement for $300. Under paragraph (c)(1)(ii) of this section and subparagraph (3)(iii) of this paragraph, the proceeds of the retirement are added to the depreciation reserve as of the beginning of the fifth year. Accordingly the reserve as of the beginning of the fifth year is $700, that is, $400 of depreciation as of the beginning of the year plus $300 proceeds from ordinary retirements. The depreciation allowance for the fifth year is $100, that is one-tenth multiplied by the unadjusted basis of $1,000, without reduction for salvage. Accordingly, the depreciation reserve at the end of the fifth year is $800.

(*c*) In the sixth year, asset X is sold in an extraordinary retirement for $30 and gain or loss is recognized. Under the first-year convention used by the taxpayer, the unadjusted basis of X, $300, is removed from the unadjusted basis of the vintage account as of the beginning of the sixth year and the depreciation reserve as of the beginning of such year is reduced to $650 by removing the depreciation applicable to asset X, $150 (see subparagraph (3)(iv) of this paragraph). Since the depreciation reserve ($650) exceeds the unadjusted basis of the account ($700) minus salvage value ($100) by $50, under subparagraph (3)(iii) of this paragraph, salvage value is reduced by $50. No depreciation is allowable for the sixth year.

(*d*) In the seventh year, an asset is sold in an ordinary retirement for $110. This would increase the reserve as of the beginning of the seventh year to $760 and under subparagraph (3)(iii) of this paragraph the salvage value is reduced to zero. Under subparagraph (3)(ix)(*a*) of this paragraph the depreciation reserve is then decreased to $700 (the unadjusted basis of the account) and $60 is reported as gain, without regard to the adjusted basis of the asset. No depreciation is allowable for the seventh year since the depreciation reserve ($700) equals the unadjusted basis of the account ($700).

(*e*) (*1*) In the eighth year, A elects to apply this section and to treat expenditures during the year for repair, maintenance, rehabilitation or improvement under subparagraph (2)(iii) and (iv)(*a*) of this paragraph (the "guideline class repair allowance"). This results in the treatment of $300 as a property improvement for the asset guideline class. (See subparagraph (2)(vii) of this paragraph for definition of a property improvement.) The property improvement is capitalized in a special basis vintage account of the eighth taxable year (see subparagraph (2)(vii)(*a*) of this paragraph). A selects an asset depreciation period of 10 years and adopts the straight line method for the special basis vintage account. A adopts the modified half-year convention for the eighth year.

(*2*) In the eighth year, A sells asset Y in an ordinary retirement for $175. Under paragraph (c)(1)(ii) of this section and subparagraph (3)(iii) of this paragraph, $175 is added to the depreciation reserve for the account as of the beginning of the taxable year. Since the depreciation reserve for the account ($875) exceeds the unadjusted basis of the account ($700) by $175, that amount of gain is recognized under subparagraph (3)(ix) of this paragraph. Upon recognition of gain in the amount of $175, the depreciation reserve for the account is reduced to $700.

(*3*) No depreciation is allowable in the eighth year for the vintage account since the depreciation reserve ($700) equals the unadjusted basis of the account ($700). The depreciation allowable in the eighth year for the special basis vintage account is $30, that is, unadjusted basis of $300, multiplied by one-tenth, the asset depreciation period selected for the special basis vintage account, but limited to $22.50 under the modified half-year convention. (See paragraph (e)(1)(iv) of this section for treatment of $150 of the property improvement as first placed in service in the first half of the taxable year and $150 of the property improvement as first placed in service in the last half of the taxable year.)

Example (*2*). Taxpayer B has a multiple asset vintage account of 1971 with an unadjusted basis of $100,000. B selects from the asset depreciation range an asset depreciation period of 10 years and adopts the straight line method of depreciation and the modified half-year convention. B establishes a salvage value for the account of $10,000. All the assets in the account are first placed in service on January 15, 1971. B follows the practice of reducing salvage value for the account as ordinary retirements occur in accordance with subparagraph (3)(vii) of this paragraph, but does not follow the optional practice of determining the basis of assets transferred to supplies or scrap in accordance with subparagraph (3)(viii) of this paragraph. No retirements occur during the first 5 years. The depreciation reserve at the beginning of the sixth year is $50,000. In the sixth year an asset with an unadjusted basis of $20,000 is transferred to supplies in an ordinary retirement. By application of subparagraph (3)(vii)(*b*) of this paragraph, B determines the reduction in salvage value for the account attributable to such asset to be $2,000 (that is, $\frac{\$20,000}{100,000} \times \$10,000 = \$2,000$). B reduces the salvage value for the account by $2,000 and adds $2,000 to the depreciation reserve for the account. The basis of the retired asset in the supplies account is $2,000. The depreciation allowable for the account for the sixth year is $10,000. The depreciation reserve

for the account at the beginning of the seventh year is $62,000. At the mid-point of the seventh year all the remaining assets in the account are sold in an ordinary retirement for $20,000, which is added to the depreciation reserve as of the beginning of the seventh year, thus increasing the reserve to $82,000. The $5,000 depreciation allowable for the account for the seventh year (one-half of a full year's depreciation of $10,000) increases the depreciation reserve to $87,000. Under subparagraph (3)(ix)(b) of this paragraph, a loss of $13,000 subject to section 1231 is realized in the seventh year (that is, the excess of the unadjusted basis of $100,000 over the depreciation reserve of $87,000). No depreciation is allowable for the account after the mid-point of the seventh year since all the assets are retired and the account has terminated.

(e) *Accounting for eligible property*—(1) *Definition of first placed in service.*—(i) *In general.* The term "first placed in service" refers to the time the property is first placed in service by the taxpayer, not to the first time the property is placed in service. Property is "first placed in service" when first placed in a condition or state of readiness and availability for a specifically assigned function, whether in the taxpayer's trade or business, in the production of income, in a tax-exempt activity, or in a personal activity. The provisions of paragraph (d)(1)(ii) and (d)(2) of § 1.46–3 shall apply for the purpose of determining the date on which property is first placed in service. See subdivision (ii) of this subparagraph for special rule for certain replacement parts. The date on which depreciation begins under a convention used by the taxpayer or under a particular method of depreciation, such as the unit of production method or the retirement method, shall not determine the date on which the property is first placed in service. See paragraph (c)(2) of this section for application of a first-year convention to determine the allowance for depreciation of property in a vintage account.

(ii) *Certain replacement parts.* Property (such as replacement parts) the cost or other basis of which is deducted as a repair expense in accordance with the asset guideline repair allowance described in paragraph (d)(2)(iii) of this section shall not be treated as placed in service.

(iii) *Property improvements and excluded additions.* A property improvement determined under paragraph (d)(2)(vii)(*b*) of this section, and an excluded addition (other than an additional identifiable unit of property which is an excluded addition described in paragraph (d)(2)(vi)(*c*) of this section) is first placed in service when its cost is paid or incurred. See subdivision (i) of this subparagraph for general rule which applies to an excluded addition described in paragraph (d)(2)(vi)(*c*) of this section.

(iv) *Certain property improvements.* In the case of an amount of property improvement determined under paragraph (d)(2)(vii)(*a*) of this section, one-half of such amount is first placed in service in the first half of the taxable year in which the cost is paid or incurred and one-half is first placed in service in the last half of such taxable year.

(v) *Special rules for clearing accounts.* In the case of public utilities which consistently account for certain property through "clearing accounts," the date on which such property is first placed in service shall be determined in accordance with rules to be prescribed by the Commissioner.

(2) *Special rules for transferred property.* If eligible property is first placed in service by the taxpayer during a taxable year of election, and the property is disposed of before the end of the taxable year, the election for such taxable year shall include such property unless such property is excluded in accordance with paragraph (b)(5)(iii), (iv), or (v) of this section.

(3) *Special rules in the case of certain transfers*—(i) *Transaction to which section 381(a) applies.* If the distributor or transferor corporation (including any distributor or transferor corporation of any distributor or transferor corporation) has made an election to apply this section to eligible property transferred in a transaction to which section 381(a) applies, the acquiring corporation is treated as if it were the distributor or transferor corporation with respect to such property. The acquiring corporation must segregate such eligible property (to which the distributor or transferor corporation elected to apply this section) into vintage accounts as nearly coextensive as possible with the vintage accounts created by the distributor or transferor corporation identified by reference to the year the property was first placed in service by the distributor or transferor corporation. The asset depreciation period for each vintage account selected by the distributor or transferor corporation from the asset depreciation range must be used by the acquiring corporation. The method of depreciation adopted by the distributor or transferor corporation, shall be used by the acquiring corporation unless such corporation obtains the consent of the Commissioner to use another method of depreciation in accordance with paragraph (e) of § 1.446–1 or changes the method of depreciation under paragraph (b) of § 1.167(e)–1 or under paragraph (c)(1)(iii) of this section. Thus, the acquiring corporation may apply this section to the property so acquired only if the distributor or transferor corporation elected to apply this section to such property.

(ii) *Partnerships, trusts, estates, donees, and corporations.* Except as provided in subdivision (i) of this subparagraph with respect to transactions to which section 381(a) applies, if eligible property is placed in service by an individual, trust, estate, partnership or corporation, the election to apply this section shall be made by the individual, trust, estate, partnership, or corporation placing such property in service. For example, if a partnership places in service property contributed to the partnership by a partner, the partnership may elect to apply this section to such property. If the partnership does not make the election, this section will not apply to such property. See paragraph (b)(7) of this section for special rule for certain property where there is a mere change in the form of conducting a trade or business.

(iii) *Leased property.* The asset depreciation range and the asset depreciation period for eligible property subject to a lease shall be determined without regard to the period for which such property is leased, including any extensions or renewals of such period. See paragraph (b)(5)(v) of this section for exclusion of property amortized under paragraph (b) of § 1.162–11 from an election to apply this section. In the case of a lessor of property, unless there is an asset guideline class in effect for lessors of such property, the asset guideline class for such property shall be determined by reference to the activity in which such property is primarily used by the lessee. See paragraph (b)(4)(iii)(*b*) of this section for general rule for classification of property according to primary use.

(f) *Election with respect to eligible property*—(1) *Time and manner of election*—(i) *In general.* An election to apply this section to eligible property shall be made with the income tax return filed for the taxable year in which the property is first placed in service (see paragraph (e)(1) of this section) by the taxpayer. An election to compute the allowance for depreciation under this section is a method of accounting but the consent of the Commissioner will be deemed granted to make an annual election. For election by a partnership see section 703(b) and paragraph (e)(3)(ii) of this section. If the taxpayer does not file a timely return (taking into account extensions of the time for filing) for the taxable year in which the property is first placed in service, the election shall be filed at the time the taxpayer files his first return for that year. The election may be made with an amended return only if such amended return is filed no later than the later of (*a*) the time prescribed by law (including extensions thereof) for filing the return for the taxable year of election, or (*b*) [insert date 90 days after these regulations are filed with the Federal Register]. If an election is not made within the time and in the manner prescribed in this paragraph, no election may be made for such taxable year (by the filing of an amended return or in any other manner) with respect to any eligible property placed in service in the taxable year.

(ii) *Other elections under the section.* All other elections under this section may be made only within the time and in the manner prescribed by subdivision (i) of this subparagraph with respect to an election to apply this section.

(2) *Information required.* The election under this section must specify:

(i) That the taxpayer makes such election and consents to, and agrees to apply, all the provisions of this section;

(ii) The asset guideline class for each vintage account of the taxable year;

(iii) The asset depreciation period selected by the taxpayer for each vintage account;

(iv) The first-year convention adopted by the taxpayer for the taxable year of election and (if the taxpayer applies the modified half-year convention by taking a full year's depreciation on property first placed in service in the first half of the taxable year), the total cost or other basis of all eligible property first placed in service in the first half of the taxable year and the total cost or other basis of all eligible property first placed in service in the last half of the taxable year;

(v) The unadjusted basis and salvage value for each vintage account, and if such salvage value has been determined by application of section 167(f), the amount by which gross salvage value was decreased under section 167(f);

(vi) Whether the special 10 percent used property rule described in paragraph (b)(5)(iii) of this section has been applied to exclude used property from the election and, if so, the unadjusted basis of the used property first placed in service during the taxable year;

(vii) Each asset guideline class for which the taxpayer elects to apply the asset guideline class repair allowance described in paragraph (d)(2)(iii) of this section, the amount of property improvement for each such class determined under paragraph (d)(2)(vii)(*a*) of this section, and whether or not the taxpayer elects for the taxable year to allocate the unadjusted basis of a special basis vintage account for the taxable year in accordance with paragraph (d)(3)(vi) of this section;

(viii) A reasonable description of any eligible property for which the taxpayer was not required or permitted to make an election because of the special rules of paragraph (b)(5)(v) or (6) or paragraph (e)(3)(i) of this section;

(ix) A reasonable description of all "section 38 property" excluded under paragraph (b)(5)(iv) of this section from the election to apply this section; and

(x) Such other information as may reasonably be required. (See paragraph (b)(4)(iii)(*a*) of this section for special election by certain public utilities.)

Forms will be provided for submission of the information required and an election to apply this section will not be rendered invalid under this subparagraph so long as there is substantial compliance with the requirements of this subparagraph.

(3) *Irrevocable election.* An election to apply this section to eligible property for any taxable year may not be revoked or changed after the time for filing the election prescribed under subparagraph (1) of this paragraph has expired. No other election under this section may be revoked or changed after such time unless expressly provided for under this section. (See paragraph (b)(5)(v)(*b*) of this section for special rule.)

(4) *Special condition to election to apply this section*—(i) *In general.* The taxpayer may not elect to apply this section for a taxable year unless he files, within the time prescribed in subparagraph (1)(i) of this paragraph for an election to apply this section, the information required by subdivision (ii) of this subparagraph, in the form and manner prescribed by the Commissioner.

(ii) *Special information required.* The taxpayer shall file the following information with respect to each asset guideline class for the taxable year for which the taxpayer elects to apply this section—

(*a*) The total unadjusted basis of all assets retired during the taxable year from each vintage account of each asset guideline class and the proceeds realized during the taxable year from the retirement of such assets;

(*b*) A general description, in reasonable asset groupings, of all assets retired from each vintage account of each asset guideline class during the taxable year.

(*c*) The vintage (that is, the taxable year in which established) of each vintage account from which assets were retired during the taxable year, associated with the information required in (*a*) and (*b*) of this subdivision so as to identify the age of the assets retired;

(*d*) A reasonable description of the reasons for and manner of the retirement of the assets, in reasonable asset groupings in accordance with (*b*) of this subdivision (that is, by sale, exchange, casualty, abandonment, or transfer to scrap);

(*e*) Such reasonable information with respect to expenditures for the repair, maintenance, rehabilitation or improvement of assets as shall be prescribed by the Commissioner; and

(*f*) Such other information required by subparabraph (2) of this paragraph as may be prescribed by the Commissioner.

A retirement of an asset by transfer to a supplies account for reuse shall not be included in the information required by this subparagraph. Forms will be provided for submission of the information required and an election to apply this section will not be rendered invalid under this subparagraph so long as there is substantial compliance with the requirements of this subparagraph.

(g) *Relationship to other provisions*—(1) *Useful life.* An election to apply this section to eligible property constitutes an agreement under section 167(d) and this section to treat the period selected by the taxpayer for each vintage account as the useful life of the property in such account for all purposes of the Code, including sections 46, 47, 48, 57, 163(d), 167(c), 167(f)(2), 179, 312(m), 514(a), and 4940(c). For example, since section 167(c) requires a useful life of at least 3 years and the asset depreciation period selected is treated as the useful life for purposes of section 167(c), the taxpayer may adopt a method of depreciation described in section 167(b) (2) or (3) for an account only if the asset depreciation period selected for the account is at least 3 years.

(2) *Section 167(d) agreements.* If the taxpayer has, prior to January 1, 1971, entered into a section 167(d) agreement which applies to any eligible property, the taxpayer will be permitted to withdraw the eligible property from the agreement provided that an election is made to apply this section to such property. The statement of intent to withdraw eligible property from such an agreement must be made in an election filed for the taxable year in which the property is first placed in service. The withdrawal, in accordance with this subparagraph, of any eligible property from a section 167(d) agreement shall not affect any other property covered by such an agreement.

(3) *Relationship to the straight line method*—(i) *In general.* For purposes of determining the amount of depreciation which would be allowable under the straight line method of depreciation, such amount shall be computed with respect to any property in a vintage account using the straight line method in the manner described in paragraph (c)(1)(i) of this section and a rate based upon the period for the vintage account selected from the asset depreciation range. Thus, for example, section 57(a)(3) requires a taxpayer to compute an amount using the straight line method of depreciation if the taxpayer uses an accelerated method of depreciation. For purposes of section 57(a)(3), the amount for property in a vintage account shall be computed using the asset depreciation period for the vintage account selected from the asset depreciation range. In the case of property to which the taxpayer does not elect to apply this section, such amount computed by using the straight line method shall be determined under § 1.167(b)–1 without regard to this section.

(ii) *Examples.* The principles of this subparagraph may be illustrated by the following examples:

Example (1). (*a*) Corporation X places a new asset in service to which it elects to apply this section. The cost of the asset is $200,000 and the estimated salvage value is zero. The taxpayer selects 9 years from the applicable asset depreciation range of 8 to 12 years. Corporation X adopts the double declining balance method of depreciation and thus the rate of depreciation is 22.2 percent (twice the applicable straight line rate). The depreciation allowance in the first year would be $44,400, that is, 22.2 percent of $200,000.

(*b*) Assume that the provisions of section 57(a)(3) apply to the property. The amount of the tax preference would be $22,200, that is, the excess of the depreciation allowed under this section ($44,400) over the depreciation which would have been allowable if the taxpayer had used the period selected from the asset depreciation range and the straight line rate ($22,200).

Example (2). (*a*) The facts are the same as in example (1) except that corporation X does not elect to apply this section. The depreciation allowance is based on a guideline life of 10 years and thus the rate under the double declining balance method is 20 percent. The depreciation allowance is $40,000, that is, $200,000 multiplied by 20 percent.

(*b*) Assume that the provisions of section 57(a)(3) apply to the property. The amount

of the tax preference under that section would be $20,000, that is, the excess of the amount allowed under the double declining balance method, as determined in (a) of this example, $40,000, over the amount which would have been allowable if the taxpayer had used the straight line method, $20,000.

PAR. 2. The following new section is added immediately after § 1.167(l)–4, to read as follows:

§ 1.167(l)–5 Public utility property; election to use asset depreciation range system.

(a) *Application of section 167(l) to certain property subject to asset depreciation range system.* If the taxpayer elects to compute depreciation under the asset depreciation range system described in § 1.167(a)–11 with respect to certain public utility property placed in service after December 31, 1970, see § 1.167(a)–11(b)(6).

(Sec. 167 of the Internal Revenue Code of 1954 (26 U.S.C. 167) and sec. 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 7805))

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

Approved: June 21, 1971.

EDWIN S. COHEN,
Assistant Secretary of the Treasury.

[FR Doc.71–8981 Filed 6–22–71;11:00 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Industrial Development Bonds

Correction

In F.R. Doc. 71–7734 appearing at page 10953 in the issue of Saturday, June 5, 1971, the following changes should be made in § 1.103–7:

1. In paragraph (c), the phrase "large facilities, City I, which operates its" should be inserted after the fifth line of paragraph (a) of example (14).

2. The eighth line of example (2) in paragraph (d)(3) should be deleted and a line reading "nue bonds in order to retire the outstanding" should be inserted.

[26 CFR Part 53]

FAILURE TO DISTRIBUTE INCOME

Notice of Hearing

Proposed regulations under section 4942, except subsection (j)(3), of the Internal Revenue Code of 1954, relating to taxes on failure to distribute income of private foundations, appear in the FEDERAL REGISTER for June 8, 1971 (36 F.R. 11034).

A public hearing on the provisions of these proposed regulations will be held on Thursday, August 5, 1971, at 10 a.m., e.d.s.t., in Room 3313, Internal Revenue Service Building, 1111 Constitution NW., Washington, DC 20224.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202–964–3935. Under such § 601.601(a)(3), persons who have submitted written comments or suggestions within the time prescribed in the notice of proposed rule making and who desire to present oral comments should by July 22, 1971, submit an outline of the topics and the time they wish to devote to each topic. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

Persons who desire a copy of such written comments or suggestions or outlines and who desire to be assured of their availability on or before the beginning of such hearing should notify the Commissioner, in writing, at the above address by July 29, 1971. In such a case, unless time and circumstances permit otherwise, the desired copies are deliverable only at the above address. The charge for copies is twenty-five cents ($0.25) per page, subject to a minimum charge of $1.

K. MARTIN WORTHY,
Chief Counsel.

[FR Doc.71–8936 Filed 6–22–71;8:53 am]

[26 CFR Parts 53, 143]

FOUNDATION EXCISE TAXES

Taxes on Self-Dealing; Notice of Hearing

Proposed regulations under section 4941 of the Internal Revenue Code of 1954, relating to taxes on self-dealing between a disqualified person and a private foundation, appear in the FEDERAL REGISTER for June 5, 1971 (36 F.R. 10968).

A public hearing on the provisions of these proposed regulations will be held on Wednesday, August 4, 1971, at 10 a.m., e.d.s.t., in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202–964–3935. Under such § 601.601(a)(3), persons who have submitted written comments or suggestions within the time prescribed in the notice of proposed rule making and who desire to present oral comments should by July 21, 1971, submit an outline of the topics and the time they wish to devote to each topic. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

Persons who desire a copy of such written comments or suggestions or outlines and who desire to be assured of their availability on or before the beginning of such hearing should notify the Commissioner, in writing, at the above address by July 28, 1971. In such a case, unless time and circumstances permit otherwise, the desired copies are deliverable only at the above address. The charge for copies is twenty-five cents ($0.25) per page, subject to a minimum charge of $1.

K. MARTIN WORTHY,
Chief Counsel.

[FR Doc.71–8920 Filed 6–22–71;8:53 am]

[26 CFR Parts 250, 251]

IMPORTED ALCOHOLIC BEVERAGES

Overprinting and Reporting of Strip Stamps, and Case Markings

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 final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol, Tobacco and Firearms Division, Internal Revenue Service, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. 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 Director, Alcohol, Tobacco and Firearms Division, within the 30-day period. In such a 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] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to (1) simplify requirements for the overprinting of red strip stamps to be affixed to bottles of distilled spirits for importation, including distilled spirits to be brought into the United States from the Virgin Islands, and eliminate similar requirements for strip stamps affixed to Puerto Rican spirits to be brought into the United States; (2) eliminate the requirement for marking cases of such spirits to show that red strip stamps have been affixed to the enclosed bottles; (3) provide that the report of bottle strip stamps, Form 2260, shall be filed quarterly instead of monthly by revenue agents in Puerto Rico; and (4) eliminate the reference to internal revenue stamps on cases of distilled spirits, the regulations in 26 CFR Parts 250 and 251 are amended as follows:

PARAGRAPH A. Title 26 CFR Part 250 is amended as follows:

1. Section 250.84 is amended to delete the requirement for the overprinting of

red strip stamps. As amended, § 250.84 reads as follows:

§ 250.84 Stamping bottles.

Every bottle of distilled spirits of Puerto Rican manufacture to be shipped to the United States must have affixed thereto a red strip stamp of proper size. Red strip stamps will be procured and used as provided in Subpart G of this part.

(72 Stat. 1358; 26 U.S.C. 5205)

2. The heading and text of § 250.143 are amended to include provisions for the custody of red strip stamps by revenue agents. As amended, § 250.143 reads as follows:

§ 250.143 Procurement and custody of red strip stamps.

The distiller, rectifier, or bottler, or his duly authorized agent, shall submit the original and two copies of the approved Form 428 to the U.S. Internal Revenue Service office, which office will issue the number of stamps covered by the approved requisition, enter the serial numbers of the stamps issued, and stamp the date of issue on all copies of Form 428. The issuing office will retain the original for its files, send one copy with the strip stamps to the revenue agent at the bottling plant, and one copy to the Secretary. The revenue agent will issue stamps to the bottler for affixing to bottles of taxpaid distilled spirits as desired upon application from the proprietor.

(72 Stat. 1358; 26 U.S.C. 5205)

§§ 250.144, 250.145 [Revoked]

3. Sections 250.144 and 250.145 are revoked.

4. Section 250.146 is amended to provide that the report of bottle strip stamps be filed quarterly instead of monthly. As amended, § 250.146 reads as follows:

§ 250.146 Record and report of red strip stamps.

Revenue agents having custody of red strip stamps shall maintain for each day a transaction in red strip stamps occurs a daily record of such stamps by size (small or standard), showing the number received, used, lost, mutilated, destroyed or otherwise disposed of, and on hand at the beginning and at the end of the day. The record shall also show the number and size of bottles to which the stamps were affixed, except that bottles of less than ½-pint capacity shall be recorded as one item. No form is prescribed for the daily records but such records shall be retained to support the quarterly report. Within 10 days following the close of business March 31, June 30, September 30, and December 31, of each year, the revenue agent will prepare a report, in triplicate, of the strip stamps received and used during the period on Form 2260, properly modified. The agent will retain one copy and forward two copies to the Secretary; the Secretary will retain one copy and forward one copy to the assistant regional commissioner.

(72 Stat. 1358; 26 U.S.C. 5205)

5. Section 250.185 is amended to eliminate the reference to the overprinting of red strip stamps. As amended, § 250.185 reads as follows:

§ 250.185 Stamps.

U.S. Internal Revenue red strip stamps which are to be affixed to containers of spirits intended for shipment to the United States shall be procured from the U.S. Internal Revenue Service office. Where the tax is to be paid in accordance with the provisions of this subpart, the stamps may be affixed to the containers prior to taxpayment. The provisions of §§ 250.135 through 250.143 and § 250.146 shall govern the procurement, affixing, reporting, etc., of red strip stamps procured and used under this subpart. Where taxpaid distilled spirits intended for shipment to the United States are in containers of more than 1 gallon, distilled spirits stamps shall be procured and affixed, and the containers released, as provided in §§ 250.88 through 250.91.

(72 Stat. 1358; 26 U.S.C. 5205)

6. Section 250.208 is amended to eliminate the reference to internal revenue stamps on cases of distilled spirits. As amended, § 250.208 reads as follows:

§ 250.208 Destruction of stamps.

All stamps must remain on packages until the contents are emptied. When a package of distilled spirits is emptied, all internal revenue stamps thereon must be completely effaced and obliterated.

(72 Stat. 1358; 26 U.S.C. 5205)

7. Section 250.242 is amended to simplify the requirements for information to be overprinted on strip stamps. As amended, § 250.242 reads as follows:

§ 250.242 Overprinting of red strip stamps.

The importer, or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, shall have the red strip stamps indelibly and legibly overprinted, at his own expense, with the permit number of the importer in whose name the stamps were requisitioned: *Provided*, That if the importer is an agency of a State or a political subdivision thereof, or the District of Columbia, the stamps will be overprinted with the name of the State or with "District of Columbia," or with a recognized abbreviation thereof. He shall submit the stamps to the collector of customs, who will verify the overprinting and make an endorsement showing the verification on Form 428 or on the retained original of Form 1627 where such form is submitted: *Provided*, That the collector of customs may so endorse the Form 428 or Form 1627 on presentation of other evidence satisfactory to him that the stamps have been properly overprinted when, in his opinion, physical submission of the stamps is impractical. The collector of customs will then authorize the importer or his duly authorized agent to send the stamps to the bottler or exporter in the Virgin Islands.

(72 Stat. 1358; 26 U.S.C. 5205)

§§ 250.243, 250.259 [Revoked]

8. Sections 250.243 and 250.259 are revoked.

PAR. B. Title 26 CFR Part 251 is amended as follows:

1. Section 251.68 is amended to simplify the requirements for information to be overprinted on strip stamps. As amended, § 251.68 reads as follows:

§ 251.68 Overprinting of red strip stamps.

The importer, or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, shall have the red strip stamps indelibly and legibly overprinted, at his own expense, with the permit number of the importer in whose name the stamps were requisitioned: *Provided*, That if the importer is an agency of a State or a political subdivision thereof, or the District of Columbia, the stamps will be overprinted with the name of the State or with "District of Columbia," or with a recognized abbreviation thereof. He shall submit the stamps to the collector of customs who will verify the overprinting and make an endorsement showing the verification on Form 428, or on the retained original of Form 1627 where such form is submitted: *Provided*, That the collector of customs may so endorse the Form 428 or Form 1627 on presentation of other evidence satisfactory to him that the stamps have been properly overprinted when, in his opinion, physical submission of the stamps is impractical. The collector of customs will then authorize the importer or his duly authorized agent to send the stamps to the bottler or exporter abroad, as provided in Subpart F of this part; or authorize the importer or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, to affix the stamps to containers under customs supervision, as prescribed in Subparts G and H of this part.

(72 Stat. 1358; 26 U.S.C. 5205)

§§ 251.84, 251.113 [Revoked]

2. Sections 251.84 and 251.113 are revoked.

3. Section 251.122 is amended to eliminate the description of the overprinting of red strip stamps. As amended, § 251.122 reads as follows:

§ 251.122 Red strip stamps.

Red strip stamps overprinted as prescribed by § 251.68 or stamps without any overprinting prescribed for domestic use (Part 201 of this subchapter), may be affixed to containers of imported distilled spirits bottled in a class 8 customs bonded warehouse. Stamps without any overprinting prescribed for domestic use (Part 201 of this subchapter) shall be affixed by the bottler to containers of imported distilled spirits bottled after withdrawal from customs custody.

(72 Stat. 1358; 26 U.S.C. 5205)

[FR Doc.71-8790 Filed 6-22-71;8:48 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 982]

[Docket No. AO–205–A3]

FILBERTS GROWN IN OREGON AND WASHINGTON

Notice of Hearing With Respect to Proposed Amendment of Marketing Agreement and Order

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Conference Room, Washington Building, 1218 Southwest Washington Street, Portland, OR, beginning at 9 a.m., local time, July 8, 1971, with respect to proposed amendment to the marketing agreement and order, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington. The proposed amendment has not received the approval of the Secretary of Agriculture.

The public hearing is for the purpose of receiving evidence with respect to the economic, marketing, and other conditions which relate to the proposed amendment, hereinafter set forth, and to any appropriate modifications thereof.

The Filbert Control Board, the administrative agency established pursuant to the marketing agreement and order, proposed the following amendment and requested a hearing thereon:

1. Sections 982.45(a) and 982.51 are each revised by deleting "(as defined in the Oregon Grades and Standards for Walnuts and Filberts)" and substituting therefor "(as defined in the Oregon Grade Standards for Filberts in Shell)".

2. Section 982.61 is revised by adding a new sentence after the last sentence to read as follows: "If a handler does not pay his assessment within the time prescribed by the Board, the assessment may be increased by a late payment or interest charge at rates prescribed by the Board, with the approval of the Secretary".

3. In connection with the following proposal, evidence will be received as to the need for, and establishment of, credits for a handler that are referrable to that quantity of certified merchantable filberts disposed of by him in the manner provided in current § 982.52 for restricted filberts in excess of that needed to satisfy a restricted obligation:

A new paragraph (d) is added to § 982.52 to read as follows:

(d) *Restricted credits.* Upon a handler's written request to the Board during a marketing year, the Board shall transfer any or all of a handler's restricted credits in excess of his restricted obligations to such other handler as he may designate. The Board, with the approval of the Secretary, shall establish rules and regulations for handling the transfer of excess restricted credits.

The following amendment is proposed by the Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture:

4. Section 982.69 is revised (a) by inserting in the first sentence in lieu of "the Board," the words "the Secretary, and the Board" and (b) by inserting in the second sentence immediately prior to "the Board" the words "the Secretary or".

5. Make such other changes in the amended marketing agreement and order as may be necessary to make the entire marketing agreement and order conform to the amendments which may result from this hearing.

Copies of this notice may be obtained from the Portland Marketing Field Office, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, 1218 Southwest Washington Street, Portland, OR 97205, or from the Filbert Control Board, 12295 Southwest Main Street, Tigard, OR 97223.

Dated: June 18, 1971.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[FR Doc.71–8771 Filed 6–22–71;8:46 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71–EA–60]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Boston, Mass., transition area (36 F.R. 2157).

The VOR instrument approach procedure for Lawrence Municipal Airport, Lawrence, Mass., has been revised in accordance with the U.S. Standard for Terminal Instrument Procedures.

The revised procedure will require alteration of the 700-foot floor transition area to provide controlled airspace protection for aircraft executing the procedure.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views 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 the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Boston, Mass., proposes the airspace action hereinafter set forth:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Boston, Mass., 700-foot-floor transition area by inserting after the phrase, "from 700 feet above the surface bounded by a line beginning at: Latitude 42°53'00" N., longitude 71°05'-00" W.", the following: "to latitude 42°-52'00" N., longitude 71°02'45" W. to latitude 42°54'00" N., longitude 71°00'-15" W. to latitude 42°49'45" N., longitude 70°54'00" W. to latitude 42°48'15" N., longitude 70°55'30" W."

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on June 4, 1971.

R. M. BROWN,
Acting Director, Eastern Region.

[FR Doc.71–8767 Filed 6–22–71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 70–SO–86]

CONTROL AREAS

Proposed Alteration

The Federal Aviation Administration (FAA) is considering amendments to Part 71 of the Federal Aviation Regulations that would alter Control Area 1226 and the State of Florida Transition Area.

Interested persons may participate in the proposed rule making 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 Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 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 amendments. The proposals contained in this notice

may be changed in the light of comments received.

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. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly and expeditious flow of civil air traffic. The purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The FAA proposes the following airspace actions:

1. Alter Control Area 1226 to include the airspace bounded by the following coordinates:

Beginning at lat. 28°36'00" N., long. 88°00'00" W.; to lat. 28°11'45" N., long. 86°28'45" W.; to lat. 27°43'00" N., long. 83°45'30" W.; to lat. 27°35'00" N., long. 83°45'00" W.; to lat. 27°47'00" N., long. 85°00'00" W.; to lat. 28°08'30" N., long. 88°00'00" W.; to point of beginning, excluding the airspace below 2,000 feet MSL.

2. Alter the State of Florida transition area to include the airspace extending upward from 2,000 feet above the surface bounded by the following coordinates:

Beginning at lat. 27°19'00" N., long. 82°47'00" W.; to lat. 26°04'30" N., long. 82°14'30" W.; to lat. 26°10'00" N., long. 82°58'00" W.; to lat. 26°10'00" N., long. 83°30'00" W.; to lat. 27°19'00" N., long. 83°42'00" W.; to point of beginning.

These proposed actions would provide additional controlled airspace to be utilized for radar vectoring aircraft during periods of moderate to heavy IFR traffic flow and when thunderstorm activity exists on routes and airways within the Gulf offshore area adjacent to the western Florida coast.

These amendments are proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 F.R. 9565) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 17, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-8768 Filed 6-22-71;8:46 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; Enlargement of Time for Filing Comments

JUNE 17, 1971.

Notice of proposed rule making in this proceeding was published in the FEDERAL REGISTER June 5, 1971 (36 F.R. 10985). Upon request of interested parties and good cause appearing, time for filing comments in response to the notice of proposed rule making is enlarged to and including August 2, 1971. Comments should be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, with an original and 15 copies.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8815 Filed 6-22-71;8:51 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 141, 260]

[Docket No. R-423]

NONUTILITY DIVERSIFIED BUSINESS ACTIVITIES

Annual Report Forms

JUNE 15, 1971.

Amendments to certain schedule pages of FPC Annual Report Forms No. 1 and No. 2 to obtain additional information on nonutility diversified business activities; Docket No. R-423.

Pursuant to 5 U.S.C. 553, the Commission gives notice it proposes to amend, effective for the reporting year 1971:

A. Schedule pages 102 and 103 of FPC Form No. 1, Annual Report for Class A and Class B Electric Utilities, Licensees and Others, prescribed by § 141.1, Chapter I, Title 18, CFR.

B. Schedule pages 102 and 103 of FPC Form No. 2, Annual Report for Class A and Class B Natural Gas Companies, prescribed by § 260.1, Chapter I, Title 18, CFR.

The amendments as proposed herein are for the purpose of acquiring additional information where regulated utilities are engaged in other diversified business activities. The information which is presently available to the Commission through the annual report forms medium is considered inadequate for present day surveillance and informational purposes.

The Commission now finds itself regulating an increasing number of electric and gas utilities which have diversified their operations outside the sphere of regulatory jurisdiction. In amending the referenced schedules, the Commission is seeking to obtain more valid and comprehensive information about these diversifications so as to perform adequate financial analysis and to evaluate the actual and potential impact that such diversifications might have on the regulated activities. This information should also be available to other interested persons for similar evaluations and investment purposes.

The proposed amendments to schedule pages 102 and 103 of the Commission's Annual Report Form No. 1 would be issued under authority granted the Federal Power Commission by the Federal Power Act, particularly sections 301, 304, and 309 (49 Stat. 854, 855, 858; 16 U.S.C. 825, 825c, 825h).

The proposed amendments to schedule pages 102 and 103 of the Commission's Annual Report Form No. 2 would be issued under authority granted the Federal Power Commission by the Natural Gas Act, particularly sections 8, 10, and 16 (52 Stat. 825, 826, 830; 15 U.S.C. 717g, 717i, 717o).

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than July 29, 1971, data, views, comments, or suggestions in writing concerning all or part of the amendments proposed herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. In addition, interested persons wishing to have their comments considered in the clearance of the proposed revisions in the report forms

pursuant to 44 U.S.C. 3501–3511 may, at the same time, submit a conformed copy of their comments directly to the Clearance Officer, Office of Statistical Policy, Office of Management and Budget, Washington, D.C. 20503. Submittals to the Commission should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the proposed amendments. The staff, in its discretion, may grant or deny requests for conference.

(A) Effective for the reporting year 1971, it is proposed to amend schedule pages 102 and 103 of FPC Form No. 1, Annual Report for Electric Utilities, Licensees and Others (Class A and Class B) prescribed by § 141.1, Chapter I, Title 18 of the Code Federal Regulations, all as set forth in Attachment A hereto.[1]

(B) Effective for the reporting year 1971, it is proposed to revise schedule pages 102 and 103 of FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B) prescribed by § 260.1, Chapter I, Title 18 of the Code of Federal Regulations, all as set out in Attachment B hereto.[1]

The Acting Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8834 Filed 6-22-71;8:52 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 222]

[Reg. Y]

BANK HOLDING COMPANIES

Nonbanking Activities and Interests

By Act of Congress approved December 31, 1970 (Public Law 91-607) the Bank Holding Company Act was expanded to cover companies that control only one bank. In conjunction with that expansion Congress amended section 4(c)(9) and added section 4(c)(13) of that Act to authorize the Board to exempt activities and investments of foreign bank holding companies and foreign investments of domestic bank holding companies "if the Board by regulation or order determines that, under the circumstances and subject to the conditions set forth in the regulation or order, the exemption would not be substantially at variance with the purposes of this Act and would be in the public interest."

The Board proposes to add a new paragraph (f) to § 222.4 of Regulation Y to implement its authority under section 4(c)(9). Under the proposal a foreign-based bank holding company could (1) engage directly in nonbanking activities outside the United State, (2) engage directly in nonbanking activities in the United States that are merely incidental to its activities outside the United States, (3) invest in companies that do no business in the United States except as an incident to their international or foreign business, and (4) own noncontrolling interests in foreign companies more than 80 percent of whose consolidated assets and revenue are located and derived outside the United States, other than companies engaged in the business of underwriting, selling, or distributing securities in the United States. A foreign-based bank holding company may seek the Board's determination whether other activities or investments not enumerated in the regulation might, under the circumstances of a particular application and subject to appropriate conditions, be eligible for exemption under the standards prescribed in section 4(c)(9).

This proposal reflects the Board's view that the purposes of the Act can be achieved without undue interference with foreign banking operations in other countries that are likely to have only incidental effects in the United States. The Board considers it unlikely that the foreign banking activities that it proposes to exempt will have adverse consequences in the United States of the type that Congress intended to prevent through section 4 of the Act.

The Board also proposes to add a new paragraph (g) to § 222.4 of Regulation Y to implement its authority under section 4(c)(13). Under this proposal a domestic bank holding company could, with prior consent of the Board, invest in any company in which an Edge Act corporation may invest. The procedures under which the Board will grant its consent would be the same as those set forth in § 211.8 of Regulation K. The Board believes that it is both consistent with the purposes of the Act and in the public interest that the foreign operations of domestic bank holding companies be subject to the Board's surveillance in the same manner as the foreign operations of member banks and edge corporations.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 23, 1971. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information.

The proposed new paragraphs of Regulation Y read as follows:

§ 222.4 Nonbanking activities and interests.

* * * * *

(f) *Foreign bank holding companies.* (1) A bank holding company, organized under the laws of a foreign country, more than half of whose consolidated assets and revenues are located and derived outside the United States may:

(i) Engage in direct activities of any kind outside the United States,

(ii) Engage in direct activities in the United States that are incidental to its activities outside the United States,

(iii) Own or control voting shares of any company (other than a bank holding company) that is not engaged, directly or indirectly, in any activities in the United States except as shall be incidental to the international or foreign business of such company, and

(iv) Own or control voting shares of any company organized under the laws of a foreign country (other than a bank holding company) if (*a*) more than 80 percent of such company's consolidated assets and revenues are located and derived outside the United States, (*b*) such company is not a subsidiary of such bank holding company, and (*c*) such company does not engage in the business of underwriting, selling, or distributing securities in the United States.

(2) A bank holding company, organized under the laws of a foreign country, that is of the opinion that other activities or investments may, in particular circumstances, meet the conditions for an exemption under section 4(c)(9) of the Act may apply to the Board for such a determination by submitting to the Reserve Bank of the district in which its banking operations in the United States are principally conducted a letter setting forth the basis for that opinion.

(3) A bank holding company shall inform the Board through such Reserve Bank within 30 days after the close of each quarter with respect to the acquisition during that quarter pursuant to an exemption under this paragraph (f) of voting shares of any companies that do any business whatsoever in the United States, including the following information concerning any company whose voting shares it acquired for the first time (unless previously furnished): (i) Recent balance sheet and income statement, (ii) brief descriptions of the company's business (including full information concerning any business transacted in the United States) and the shares acquired, (iii) lists of directors and principal officers (with address and principal business affiliation of each) and of all shareholders (known to the issuing company) holding 10 percent or more of any class of the company's voting shares (and the amount held by each).

(g) *Foreign activities of domestic bank holding companies.* Any bank holding company may own or control voting shares of any company in which a company organized under section 25(a) of the Federal Reserve Act (12 U.S.C. 611-631) may invest: *Provided,* That it acquires ownership or control of such shares with prior consent of the Board in accordance with the procedures of § 211.8 of this chapter (§ 211.8 of Regulation K). A bank holding company shall comply with such conditions as the Board may prescribe with respect to any such

[1] Attachments A and B filed as part of original document.

acquisition. It shall also comply with the conditions in § 211.8 of this chapter regarding disposition of shares so acquired and shall report on any acquisition or disposition of shares as therein provided.

By order of the Board of Governors, June 15, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8751 Filed 6-22-71;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1048]

[Ex Parte No. MC-30 (Sub-No. 1)]

CINCINNATI, OHIO, COMMERCIAL ZONE

Proposed Redefinition of Limits

JUNE 18, 1971.

Petitioner: Land Investment Corporation; Petitioner's representative: Gordon W. Moss, 304 Security Trust Building, Lexington, Ky. 40507. By petition filed May 13, 1971, petitioner requests the Commission to institute a proceeding for the purpose of specifically redefining the limits of the zone adjacent to and commercially, a part of Cincinnati, Ohio, which are now prescribed by the specific definition promulgated in "Cincinnati, Ohio, Commercial Zone," 113 M.C.C. (49 CFR 1048.7).

The instant petition requests a redefinition of the Cincinnati commercial zone so as to include all of the area which is presently included within the zone and, in addition, that part of Boone County, Ky., beginning at the intersection of U.S. Highway 42 and Interstate Highway 75, just south of Florence, Ky., and continuing in a southwesterly direction along U.S. Highway 42 to its intersection with Gunpowder Road; thence along Gunpowder Road in a southeasterly direction to its intersection with Sunnybrook Road; thence in an easterly direction along Sunnybrook Road to its intersection with Interstate 75; thence along Interstate 75 in a northerly direction to the point of beginning.

No oral hearing is contemplated at this time, but anyone wishing to make representations in favor of, or against, the above-proposed specific redefinition of the limits of the Cincinnati, Ohio, commercial zone, may do so by the submission of written data, views, or arguments. An original and 15 copies of such data, views, or arguments shall be filed with the Commission on or before August 9, 1971. Written material or suggestions submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution, Washington, D.C., during regular business hours.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8791 Filed 6-22-71;8:48 am]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

OFFICE OF INDUSTRIAL ECONOMICS

Functions

This material amends functional statement 1113.8 and adds new functional statement 1113.85 to the statement on organization and functions published at 36 F.R. 849–890. This amendment establishes the Office of Industrial Economics in the Office of the Assistant Commissioner (Planning and Research).

Dated: June 21, 1971.

RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

1113.8 *Office of Assistant Commissioner (Planning and Research).* The Assistant Commissioner (Planning and Research) acts as the principal assistant to the Commissioner and the Deputy Commissioner in the development and administration of the program and financial plan, related objectives and policies, and in the analysis of all Service programs for the purpose of promoting maximum effectiveness in the administration of the Internal Revenue Code with the most efficient and economical expenditure resources; and is responsible for research, statistics, and systems development. The Assistant Commissioner (Planning and Research) represents the Commissioner on these matters in relations with the Treasury Department, the Congress, other Government agencies and outside organizations. He discharges these primary responsibilities in cooperation with the appropriate Assistant Commissioners (or other principal officials), each of whom exercises related responsibilities within his own functional area. The Assistant Commissioner (Planning and Research) is responsible for and supervises the activities of the Planning and Analysis Division, Research Division, Statistics Division, Systems Development Division, and the Office of Industrial Economics.

1113.85 *Office of Industrial Economics.* Provides taxpayers and the Government with timely and up-to-date asset classes, forecasts of useful economic lives for such classes, and current repair allowances as part of the Asset Depreciation Range system by accomplishing the following functions: Collects and analyzes data on various asset classes, periods of use and factors of obsolescence and repair and maintenance practices in accordance with the vintage account procedure under the ADR system. Utilizing a variety of data gathering methods, such as economic reports, econometric models, and statistical sampling, compiles information on industrial experience on utilization of depreciable plant and equipment, salvage value, and replacement practices. Receives data and proposed changes in asset classes, depreciation periods, and repair allowances submitted by taxpayers and other knowledgeable sources. Analyzes and evaluates these data as a basis for recommending changes in the ADR system. Analyses are performed by a specialized staff of economists and engineers and involve rather complex issues, including things such as forecasting new technological developments and modes of operation in the various technological fields in the future. Effective liaison is maintained with the Commerce Department's Bureau of the Census and Office of Business Economics and similar offices in other industrialized nations. Closely monitors the operation of the ADR system in tax administration and recommends changes based on its staff observations, as well as reports from field revenue agents. Recommendations are of an administrative, regulatory, or legislative nature. Analyses of data and resultant recommendations are also made available for other elements of IRS for better and more efficient tax administration.

[FR Doc.71-8980 Filed 6-22-71;11:00 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

LINDSAY F. JOHNSON

Report of Appointment and Statement of Financial Interests

JUNE 16, 1971.

Pursuant to section 302(a) of Executive Order 10647, the following information on a WOC appointee in the Department of the Interior is furnished for publication in the FEDERAL REGISTER:

Name of appointee: Lindsay F. Johnson.

Name of employing agency: Department of the Interior.

The title of the appointee's position: Consultant.

The name of the appointee's private employer or employers: None.

The statement of "financial interests" for the above appointee is set forth below.

W. T. PECORA,
Acting Secretary of the Interior.

APPOINTEE'S STATEMENT OF FINANCIAL INTERESTS

In accordance with the requirements of section 302(b) of Executive Order 10647, I am filing the following statement for publication in the FEDERAL REGISTER:

(1) Names of any corporations of which I am, or had been within 60 days preceding my appointment, on June 10, 1971, as Consultant, Office of Minerals and Solid Fuels, an officer or director:

None.

(2) Names of any corporations in which I own, or did own within 60 days preceding my appointment, any stocks, bonds, or other financial interests:

Name and kind of organization.	Address	Position in organization	Nature of financial interest
The New Jersey Zinc Co. (Corporation)	Bethlehem, Pa	Retired	Pension.
American Smelting and Refining Co. (Corporation).	New York, N.Y		Stock.
American Telephone & Telegraph Co. (Corporation).	do		Stock debentures warrants.
Anaconda Co. (Corporation)	do		Stock.
Bethlehem Steel Corp. (Corporation)	Bethlehem, Pa		Stock debentures.
General Motors Corp. (Corporation)	Detroit, Mich		Stock.
Gulf & Western Industries Inc. (Corporation).	New York, N.Y		Do.
Kennecott Copper Corp. (Corporation)	do		Do.
Liggett & Meyers Corp. (Corporation)	do		Do.
Pan American World Airways Inc. (Corporation).	do		Do.
Phelps Dodge Copper Co. (Corporation)	do		Do.
Standard Brands, Inc. (Corporation)	do		Do.
Standard Oil Co. of New Jersey (Corporation).	do		Do.
Transnation Land & Development Corp. (Corporation).	do		Do.

(3) Names of any partnerships in which I am associated, or had been associated within 60 days preceding my appointment:

None.

(4) Names of any other businesses which I own, or owned within 60 days preceding my appointment:

None.

LINDSAY F. JOHNSON.

MAY 26, 1971.

[FR Doc.71-8773 Filed 6-22-71;8:47 am]

WILLIAM R. REMALIA

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of June 8, 1971.

Dated: June 8, 1971.

WILLIAM R. REMALIA.

[FR Doc.71-8774 Filed 6-22-71;8:47 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[Dockets Nos. SH-295, SH-296]

SUGARCANE IN LOUISIANA AND FLORIDA

Notice of Hearings on Wages and Prices and Designation of Presiding Officers

Pursuant to the authority contained in section 301(c) (1) and (2) of the Sugar Act of 1948, as amended (61 Stat. 929; 7 U.S.C. 1131), and in accordance with the rules of practice and procedure applicable to wage and price proceedings (7 CFR 802.1 et seq.), notice is hereby given that public hearings will be held as follows:

At Houma, La., on July 9, 1971, in the Municipal Auditorium, 880 Verret Street, beginning at 9:30 a.m.;

At Belle Glade, Fla., on July 13, 1971, in the Glades Auditorium, Palm Beach County Annex Building, U.S. 441, beginning at 9:30 a.m.

The purpose of these hearings is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining (1) pursuant to the provisions of section 301(c)(1) of the act, whether the wage rates established for Louisiana sugarcane fieldworkers in the wage determination which became effective October 26, 1970 (35 F.R. 15741), and for Florida sugarcane fieldworkers in the wage determination which became effective October 26, 1970 (35 F.R. 16235), continue to be fair and reasonable under existing circumstances, or whether such determination(s) should be amended; and (2) pursuant to the provisions of section 301(c)(2) of the act, fair and reasonable prices to be paid for the 1971 crops of sugarcane in Louisiana and Florida, under either purchase or toll agreements, by producers who process sugarcane grown by other producers and who apply for payment under the act.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

In the interest of obtaining the best possible information, all interested persons are requested to appear at the hearings to express their views and present appropriate data in regard to wages and prices.

While testimony on all pertinent points is desired, it is especially requested that witnesses be prepared to offer information and recommendations on the following matters regarding fair wages for fieldworkers and fair prices for sugarcane:

I. *Louisiana*—(a) *Wages.* (1) Need for changes in number of worker classifications and elimination of differential in wage rates for harvest and nonharvest workers.

(2) Wage rate differentials among unskilled, semiskilled, and skilled workers.

(b) *Prices.* (1) Periods to be used to determine the season's average prices of raw sugar and blackstrap molasses.

(2) Recommendations on matters pertaining to other pricing bases, such as the delivered average price.

II. *Florida*—(a) *Wages.* (1) Need for additional worker classifications such as workers employed in mechanical harvesting operations.

(2) Wage rate differentials among different classifications of workers.

(3) Statement of total tons of cane cut by hand, total amount of wages paid cane cutters, total hours worked, and average earnings per worker per hour, by months, for the 1970–71 crop.

(b) *Prices.* (1) Methods of determining for each producer the quantity of trash delivered with sugarcane which has been harvested mechanically.

The hearings after being called to order at the times and places mentioned herein may be continued from day to day within the discretion of the presiding officers and may be adjourned to a later day or to a different place without notice other than the announcement thereof at the hearings by the presiding officer(s).

T. O. Murphy, R. R. Stansberry, C. F. Denny, J. E. Agnew, and T. M. Popp, are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearings.

Signed at Washington, D.C. on June 18, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-8875 Filed 6-22-71;8:53 am]

Packers and Stockyards Administration

HODGES' CAPITAL STOCKYARDS ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Name, location of stockyard and date of posting

Hodges' Capital Stockyards, Camden, Ala., May 18, 1958.
Ramsey & Sons., Inc., Dothan, Ala., May 14, 1959.
Union Stock Yards, Eufaula, Ala., May 25, 1959.
Hartford Livestock Company, Hartford, Ala., May 14, 1959.
Mobile County Stockyards, Inc., Mobile, Ala., Nov. 19, 1970.
Monroe Livestock Market, Inc., Monroeville, Ala., May 1, 1961.
Montgomery Livestock Commission Co., Montgomery, Ala., Nov. 1, 1921.
White Livestock Comm. Co., Inc., Moulton, Ala., May 18, 1959.
Blount County Sales Barn, Oneonta, Ala., June 9, 1959.
East Alabama Livestock Company, Opelika, Ala., July 8, 1959.
Samson Livestock Auction, Samson, Ala., May 15, 1959.
Tuscaloosa Stock Yard, Tuscaloosa, Ala., Aug. 12, 1963.
Fort Collins Sales Yard, Fort Collins, Colo., Apr. 25, 1957.
Otis Livestock, Inc., Otis, Colo., Mar. 19, 1962.
Bonifay State Livestock Market, Bonifay, Fla., Feb. 29, 1960.
A & J Livestock Auction, Orlando, Fla., Sept. 12, 1969.
Augusta Livestock Market, Augusta, Ga., Sept. 24, 1959.
Bearden's Livestock Commission, Calhoun, Ga., Mar. 4, 1969.
Bleckley Livestock Sales Company, Cochran, Ga., July 13, 1959.
Candler Livestock Market, Metter, Ga. May 1, 1959.
G. N. Byram Auction Co., Newman, Ga., June 15, 1959.
Mitchell County Livestock Market, Inc., Pelham, Ga., May 13, 1959.
Ragsdale Long Commission Co., Quitman, Ga., Sept. 4, 1959.
Reidsville Livestock Company, Reidsville, Ga., Aug. 11, 1962.
Emanuel County Livestock Market, Inc., Swainsboro, Ga., Aug. 30, 1959.
Toccoa Livestock Auction, Toccoa, Ga., May 14, 1959.
Burke County Stockyard, Waynesboro, Ga., Nov. 9, 1961.
Clovis Stock Yards, Clovis, N. Mex., Nov. 15, 1938.
Valley Livestock Auction, Inc., Roswell, N. Mex., Feb. 13, 1958.
Triangle Livestock Auction, Vado, N. Mex., July 25, 1963.
Farmers Livestock Auction Market, Inc., Bennettsville, S.C., Aug. 2, 1967.
Homewood Livestock Auction, Conway, S.C., Apr. 5, 1961.
Herndon Stock Yard, Inc., Fairfax, S.C., Feb. 8, 1961.
Piedmont Saddle Horse and Pony Sales, Greer, S.C., Sept. 18, 1963.

Lake City Auction Company, Inc., Lake City, S.C., Apr. 27, 1960.
Neeses Stockyard, Inc., Neeses, S.C., Feb. 5, 1960.
Rock Hill Sale Barn, Rock Hill, S.C., Dec. 8, 1960.

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not deposting promptly a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER (6-23-71).

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C. this 16th day of June 1971.

EDWARD L. THOMPSON,
Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.71-8772 Filed 6-22-71;8:47 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File No. 23-991]

CHINA RESOURCES CO.

Order Terminating Indefinite Denial Order

In the matter of China Resources Co., Bank of China Building, Queens Road, Hong Kong, B.C.C., respondent.

On October 5, 1964 (29 F.R. 14082, Oct. 13, 1964), an order was entered against the above respondent denying it for an indefinite period, all privileges of participating in transactions involving commodities or technical data exported or to be exported from the United States because it failed to answer interrogatories duly served in accordance with § 388.15 of the Export Control Regulations (formerly § 382.15 of the Export Regulations) without showing good cause for such failure. The above respondent was also known as Wah Yun Co. and Hua Jun Co. and the order was also effective against said named companies. The order was also made effective against Ng Fung Hong, also known as Wu Feng Hong as a related party to the respondent.

A request has been received for termination of the indefinite denial order. It is found that there is good cause for such termination.

Accordingly, it is ordered, The above mentioned order of October 5, 1964, be and the same hereby is terminated against the respondent and the other companies named herein.

Dated: June 11, 1971.

RAUER H. MEYER,
Director, Office of Export Control.

[FR Doc.71-8843 Filed 6-22-71;8:53 am]

Office of the Secretary

DIRECTOR AND CHIEF, MARINE MAPPING AND CHARTING DIVISION, LAKE SURVEY CENTER, NATIONAL OCEAN SURVEY

Delegation of Authority to Certify Records

Pursuant to this authority delegated to the Assistant Secretary of Commerce for Administration by Department Administrative Order 201-17, the following officials of the National Oceanic and Atmospheric Administration are hereby authorized to sign as certifying officers certifications as to the official nature of copies of correspondence and records from the files, publications and other documents of the Department and to affix the seal of the Department of Commerce to such certifications or documents for all purposes, including the purposes authorized by 28 U.S.C. 1733 (b).

Director, Lake Survey Center, National Ocean Survey.
Chief, Marine Mapping and Charting Division, Lake Survey Center; Alternate.

This delegation of authority shall be effective as of the date hereof.

Dated: June 18, 1971.

LARRY A. JOBE,
Assistant Secretary for Administration.

[FR Doc.71-8780 Filed 6-22-71;8:47 am]

AUGUSTANA COLLEGE ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 71-00452-01-28600. Applicant: Augustana College, 29th and Summit, Sioux Falls, SD 57102. Article: SIRIGOR Gas Exchange Chamber and Associated Control and Measurement Components. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article will be used to study the process of photosynthesis in plants which inhabit the extreme environments of the arctic and alpine tundra. The main properties to be investigated are the CO_2 and H_2O exchange rates from individual species and land areas as these are related to growing season, temperature, time of day, and light intensity in the Arctic. The temperature responses, light responses, water use efficiencies, diffusion resistance, energy exchange, and other properties will be examined. Application received by Commissioner of Customs: March 19, 1971.

Docket No. 71-00453-33-46040. Applicant: State University College at Geneseo, Biology Department, Geneseo, N.Y. 14454. Article: Electron microscope, Model HS-8-1. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used primarily in support of undergraduate and graduate courses in cytology, cytogenetics, microtechnic, microbiology and virology, mycology and embryology. Research uses concern investigations dealing with membrane structure; mitochondrial and golgi relationships, genetic relationships on the cellular, microbial, and viral levels; and DNA and RNA structure and distribution. Application received by Commissioner of Customs: March 19, 1971.

Docket No. 71-00454-33-46500. Applicant: Veterans Administration Hospital, 4150 Clement Street, San Francisco, CA 94121. Article: Ultramicrotome, Model OmU2. Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article will be utilized for the preparation of thin and thick sections of osmium tetroxide and glutaraldehyde fixed and epoxy resin embedded material. These sections, which are examined by electron and light microscopy, are a part of research in the area of liver and gut, lipid, cholesterol, drug and steroid metabolism. Application received by Commissioner of Customs: March 22, 1971.

Docket No. 71-00455-99-01200. Applicant: Institute of Logopedic, Inc., 2400 Jardine Drive, Wichita, KS 67219. Article: Pulsatone analyzers. Manufacturer: Dr. Guy Perdoncini, France. Intended use of article: The article is intended for use in the training and education of deaf and severely hard-of-hearing children. The instrument produces specified pure tones at variable intensity levels, and has provision for visual monitoring of speech. Application

received by Commissioner of Customs: March 22, 1971.

Docket No. 71–00456–33–68200. Applicant: University of Minnesota, Office of the Purchasing Agent, Administrative Services Building, 2610 University Avenue, St. Paul, MN 55455. Article: High precision fluid pump (motor-driven, for maintaining constant flow of reactant solutions through a microflow calorimeter (calorimeter manufactured by LKB Produkter, Sweden, No. 10700–1). Pumping must be uniform in rate to a noise nevel no greater than the intrinsic noise level of the calorimeter and must be designed to drive syringes. Flow rate to be appropriate to the calorimeter, i.e., from 1 ml./hr. to 50 ml./hr. in steps. Manufacturer: Thermochemistry Institute of the University of Lund, Sweden. Intended use of article: The article will be used to measure the quantitative behavior of hemoglobin in binding oxygen and other, more sensitive substances. The study insofar as it includes calorimetric measurements of oxygen binding and the dissociation of hemoglobin into subunits is of fundamental importance to the physiology of blood and also the pilot study in area of protein behavior for proteins which consist of dissociable subunits. Application received by Commissioner of Customs: March 24, 1971.

Docket No. 71–00457–65–46070. Applicant: The University of Michigan, Department of Chem. and Met. Engineering, East Engineering Building, East University Avenue, Ann Arbor, Michigan 48104. Article: Scanning electron microscope, Model JSM–U3. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used for research on the structure of porous glassy carbon; research on the distribution of silicon, potassium and other metals in plant cells; research on scrapie, a transmissible, fatal chronic disease of the central nervous system of sheep; and for a program of research requiring the identification and classification of algae, diatoms, and phyteplankton found in the Great Lakes. Application received by Commissioner of Customs: March 24, 1971.

Docket No. 71–00458–75–40600. Applicant: The University of Tennessee, Department of Physics, Knoxville, TN 37916. Article: Dual on-line, off-line isotope separator custom-built to applicant's specifications. Manufacturer: Danfysik A/S, Denmark. Intended use of article: The article will be used as a research tool, making possible the study of very short-lived isotopes produced in cyclotron targets. A secondary use is the education of graduate students who will perform their graduate research on the machine. Application received by Commissioner of Customs: March 24, 1971.

Docket No. 71–00459–33–60060. Applicant: The Children's Cancer Research Foundation, 35 Binney Street, Boston, MA 02115. Article: Reflection photometer. Manufacturer: Karolinska Institute, Sweden. Intended use of article: The article will be used to produce characteristic fluorescence curves or patterns from photographic negatives of human and other metaphase chromosomes after selecting staining with quinacrine mustard or other fluorochromes. In particular, chromosomes from cancer patients will be examined and analyzed. Application received by Commissioner of Customs: March 25, 1971.

Docket No. 71–00460–33–46040. Applicant: West Virginia University, Morgantown, W. Va. 26506. Article: Electron Microscope, Model Corinth 275. Manufacturer: AEI Scientific Apparatus Ltd., United Kingdom. Intended use of article: The article will be used for screening studies on human brain tissues in which viral infections can be suspected. The brain tissues to be studied include both biopsy and autopsy materials; and also brain tissue from experimental animals, inoculated with virus or filtrate from human brains will be studied in parallel. The division of neuropathology will use the electron microscope for educational purposes. Application received by Commissioner of Customs: March 24, 1971.

Docket No. 71–00461–33–46040. Applicant: University of Cincinnati, College of Medicine, Department of Surgery, Eden and Bethesda Avenues, Cincinnati, OH 54219. Article: Electron microscope, Model HU–12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in a research program concerned with the nature and causes of surgical infections complicating trauma, the factors related to bacterial infection which alter and impair the process of wound healing, and the diagnosis and control of cancer. The electron microscope will also be used in the research education of pre- and post-doctoral fellows, interns, and residents in the Department of Surgery. Application received by Commissioner of Customs: March 25, 1971.

Docket No. 71–00463–00–00500. Applicant: University of South Carolina, Purchasing Department, Columbia, SC 29208. Article: Step motor controller, 95/2224–1/6. Manufacturer: U.K. Atomic Energy Authority Research Group, United Kingdom. Intended use of article: The article will be used with a low energy nuclear accelerator for research on crystals. Application received by Commissioner of Customs: March 25, 1971.

Docket No. 71–00464–33–46500. Applicant: Howard University, College of Medicine, 520 W Street NW., Washington, DC 20001. Article: Ultramicrotome, Model LKB, 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used to study the role of lymphatic capillaries during the normal and inflammatory states. In order to provide a true relationship of the topographical association of the lymphatics to the surrounding connective tissue areas, serial sections are needed over long distances of the vessel to establish this relationship of lymphatic vessel and connective tissue. Application received by Commissioner of Customs: March 25, 1971.

Docket No. 71–00465–33–46500. Applicant: The University of Connecticut, Storrs, Conn. 06268. Article: Three each LKB 8800A ultramicrotomes and accessories. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used for studies dealing with the fine structure of nervous tissue from the cerebellum of developing and adult animals, normal and operated. One of the major projects is the study of the maturation of intercellular contacts and synaptic membranes, as well as their reaction to axonal degeneration at different stages of maturation. Application received by Commissioner of Customs: March 26, 1971.

Docket No. 71–00466–65–46040. Applicant: University of Alabama, in Birmingham, 1919 Seventh Avenue South, Birmingham, AL 35233. Article: Electron microscope, Model JEM–50B. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used primarily as a teaching tool to study the microstructures of solid materials such as aluminum, steel, copper, ceramics, etc. These studies will permit the student to correlate the structure with current theories. The course is entitled electron microscopy and consists of lecture and laboratory. Application received by Commissioner of Customs: March 26, 1971.

Docket No. 71–00467–75–14200. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, NM 87544. Article: Image analysing computer, Model 720. Manufacturer: Metals Research Ltd., United Kingdom. Intended use of article: The article will be used to study the microstructural properties and parameters of materials and their relationship to temperature, mechanical stress, radiation effects, and other factors. Application received by Commission of Customs: March 29, 1971.

Docket No. 71–00468–33–46500. Applicant: University of Illinois, Purchasing Division, 223 Administration Building, Urbana, Ill. 61801. Article: Ultramicrotome, Model OmU2. Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article will be used for ultrastructural studies of plant materials from hardwood fibers and seeds to soft embryonic cells; for animal materials from very hard tissues, such as teeth and bones, to very soft embryonic cells, blood cells and pellets of cell organelles; and for thin-section studies of metals such as copper, aluminum, and gold. Application received by Commissioner of Customs: March 20, 1971.

Docket No. 71–00469–89–44630. Applicant: University of Alaska, Geophysical Institute, College, Alaska 99701. Article: One weather station consisting of RIM CO "Sumner" Mk II long period recorder types 2/W–D, Type 2/T2, and Type 2RA/R, and two containers Type CO/S. Manufacturer: Rauchfuss Instruments & Staff PTY, Ltd., Australia. Intended uses of article: The article will be used for unattended operation in a project to record meteorological parameters. Application received by Commissioner of Customs: March 30, 1971.

Docket No. 71–00470–33–46040. Applicant: Mount Sinai School of Medicine,

Fifth Avenue and 100th Street, New York, NY 10029. Article: Electron Microscope, Model HU-11E. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used by several investigators at the neurovirology laboratory who have recently succeeded in growing SMCA (suckling mouse cataract agent) in tissue culture. SMCA, which causes disease of the central nervous system of mice has never before been passaged in tissue culture and this recent success will enable much work to be done to characterize the agent, to better understand the changes that the agent induces in the cells of the central nervous system. Application received by Commissioner of Customs: March 30, 1971.

Docket No. 71-00471-33-46040. Applicant: Department of Health, Bureau of Health, Institute of Public Health Laboratories, Psychiatry Hospital, Rio Piedras, PR 00928. Araicle: Electron Microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in a long-term program designed to investigate the effects of alcohol on the central nervous system and the liver. Application received by Commissioner of Customs: March 30, 1971.

Docket No. 71-00472-75-14200. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, NM 87544. Article: Image analyzing computer, Model 720. Manufacturer: Metals Research Ltd., United Kingdom. Intended use of article: The article will be used to study radioactive ceramic materials containing Pu^{238} being used or being considered for use as fuels in SNAP generators. The particle sizes and size distributions contained in samples of these materials will be studied. Solid samples will be exposed to various mechanical and thermal environments and the fine particles formed during the exposures will be counted and sized. Application received by Commissioner of Customs: March 30, 1971.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-8796 Filed 6-22-71;8:49 am]

CORNELL UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00325-33-46040. Applicant: Cornell University Medical College, 1300 York Avenue, New York, NY 10021. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics, NVD, The Netherlands.

Intended use of article: The article will be used in a number of research projects aimed at defining the secretory nature of bat thyroid follicular and parafollicular cells; determining the interrelationships between parafollicular cells, parathyroid gland, and bone secretory states; determining changes in the secretory state of these tissues at different times of the annual life cycle of the bat; and defining the nature of bat thyroid cell to cell contacts and intracellular crystalloid inclusions.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 220 to 550,000 magnifications, without changing the polepiece. The most closely comparable domestic instrument is the Model EMU-4C manufactured by the Forgflo Corp. The Model EMU-4C, with its standard polepiece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU-4C that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification polepiece should be used. Changing the polepiece on the Model EMU-4C requires a break in the vacuum of the column. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated April 20, 1971, that the applicant requires the capability of taking high-quality micrographs at low magnifications in order to achieve the purposes for which the article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 220 to 550,000 magnifications without changing polepieces, while at the same time providing high-quality micrographs at low magnifications, is considered to be a pertinent characteristic. For these reasons, we find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-8797 Filed 6-22-71;8:49 am]

NEW JERSEY COLLEGE OF MEDICINE AND DENTISTRY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00273-33-46500. Applicant: New Jersey College of Medicine and Dentistry, 100 Bergen Street, Newark, NJ 07103. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for research on irradiated cardiac and aortic wall tissue from rabbits, and, corresponding tissue from untreated rabbits, as control, for comparison. The reactions of rabbit cardiac and aortic wall tissues to X-irradiation at ultrastructural and histochemical levels will be studied.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability

for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of February 12, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the production of ultrathin sections of the softer and more difficult specimens encountered in the applicant's studies of normal and irradiated cardiac and aortic wall tissue at ultrastructural and histochemical levels. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00001-33-465000 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotime is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-8799 Filed 6-22-71;8:49 am]

OHIO UNIVERSITY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 71-00495-91-46500. Applicant: Ohio University, Department of Purchases, Administrative Annex Building, 51 Smith Street, Athens, OH 45701. Article: Ultramicrotome, Model "OmU2". Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article will be used in a study of eukaryotic chromosome ultrastructure in plant meiotic and mitotic cells. Chromosome structure will be studied through thin-sections to determine the arrangement and organization of the elementary chromosome fibrils during meisosis and mitosis. Application received by Commissioner of Customs: April 12, 1971.

Docket No. 71-00496-33-46500. Applicant: State University of New York, at Albany, Department of Biological Sciences, Albany, N.Y. 12203. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used in a study of the reticulopodia of allogromia and cell movement systems; the ultrastructure of closely identified tips of growing pollen tubes; and the ultrastructure and physiology of the accoustic receptor of the noctuid moth. Application received by Commissioner of Customs: April 13, 1971.

Docket No. 71-00497-33-46040. Applicant: Scott and White Memorial Hospital, Temple, Tex. 76501. Article: Electron microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for studies of kidney tissue to determine the effects of antigen-antibody reactions, the localization of these changes into specific areas, and the early and long range effects of these reactions; for the examination of small bowel biopsies in cases of intestinal malabsorption; and thyroid tissue is being studied to ascertain the effect of radioactive chemicals on the morphology and physiology of the cells and the glands. Application received by Commissioner of Customs: April 13, 1971.

Docket No. 71-00498-01-07520. Applicant: University of Kansas, Lawrence, Kans. 66044. Article: Batch microcalorimeter with gold reaction cells, No. 10700-2B. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be employed in the determination of heats of dilution, heats of reaction and heat capacity changes for aqueous and nonaqueous solutions. Studies concern the effect of temperature on the heat of dilution of tetraalkylammonium salts, salts of carboxylic acids in water and water organic mixtures; and the heat effects associated with the interaction of toxic metal ions and nucleic acids, amino acids and polymine acids. Application received by Commissioner of Customs: April 14, 1971.

Docket No. 71-00500-00-46500. Applicant: Washington State University, Pullman, Wash. 99163. Article: Freezing attachment for the OmU2 Ultramicrotome, Model FC 150. Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article will be used in studies in samples of sclerotia in progressive stages of drying to determine the ultrastructural changes which take place. Application received by Commissioner of Customs: April 14, 1971.

Docket No. 71-00501-33-46040. Applicant: Boston University, School of Medicine, 80 East Concord Street, Boston, MA 02118. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands. Intended use of article: The article will be used by the Department of Dermatology for the training of residents and for the conduct of fine structural studies in normal and pathologic skin. Research concerns the structure and function of the epidermis and sebaceous gland. One study involves the ultrastructural details of keratohyalin granules, membrane-coating granules (MGC), and the thickened envelope of horny cells of the epidermis. Application received by Commissioner of Customs: April 16, 1971.

Docket No. 71-00502-33-46500. Applicant: University of Nebraska, College of Medicine, 42d Street and Dewey Avenue, Omaha, NE 68105. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used to study biological materials, primarily from mammalian experimental animals. Cell membrane alterations as they relate to tumor development will be investigated, focusing on precancerous and early cancerous cell alterations during skin and lung tumor development, including alterations of cell membranes and organelles. Application received by Commissioner of Customs: April 16, 1971.

Docket No. 71-00506-33-46040. Applicant: New York University Medical Center, 560 First Avenue, New York, NY 10016. Article: Electron microscope, Model Elmisko 101. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article will be used for high resolution electron microscope of biologically important macromolecules to measure the size and shape (stained or unstained) by ultrathin support films. DNA studies will be made and the enzymes to be studied will include those involved in fatty acid biosynthesis and in protein biosynthesis such as ribosomal particles. Application received by Commissioner of Customs: April 20, 1971.

Docket No. 71-00508-33-46040. Applicant: University of Washington, Dental School, Department of Oral Biology, B-122—HSB—RD-50, Seattle, Wash. 98105. Article: Electron microscope, Model EM

801. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article: The article will be used for the study of the formation of the byssus attachment apparatus in bivalves and the complex interaction of three cell types of the synthesis, secretion and polymerization of extraorganismal collagen. Another project involves the changes in mammalian exocrine glands resulting from malnutrition and undernutrition. Application received by Commissioner of Customs: April 26, 1971.

Docket No. 71–00510–75–82600. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, NM 87544. Article: Recording Vacuum Thermanalyzer. Manufacturer: Mettler Analytical & Precision Balances, Switzerland. Intended use of article: The article is intended for use in a continuing program of research on the thermogravimetric determination of oxygen-to-metal (O/M) atom ratios of mixed uranium plutonium oxide fast breeder reactor fuels and other oxide fuels. Application received by Commissioner of Customs: April 26, 1971.

Docket No. 71–00511–01–77030. Applicant: Thiel College, Greenville, Pa. 16125. Article: NMR Spectrometer, Model JNM–MH–60–II. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used as a research tool in two chemistry courses, Problems in Chemistry and Independent Study, and in other chemistry courses as a teaching tool. Typical materials to be studied include products of photochlorination reactions of dischlorotoluenes with tertiary-butylhypochlorite; coordination compounds of chromium (III) with various organic ligands; and deuteration and degradation products of the antibiotic citrinin. Application received by Commissioner of Customs: April 26, 1971.

Docket No. 71–00514–33–46040. Applicant: W. Alton Jones Cell Science Center Unit of Tissue Culture Association, Inc., Post Office Box 631, Lake Placid, NY 12946. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands. Intended use of article: The article will be used for studies of-cell fine structure in the areas of cyto-chemistry, intercellular virus studies, chromosome structure, membrane structure and other areas of cell and molecular biology. Post-graduate students taking formal courses as well as those doing individual research will be taught the methods of cell fine structure analysis. Application received by Commissioner of Customs: April 27, 1971.

Docket No. 71–00515–33–46040. Applicant: University of Louisville, School of Medicine, Health Sciences Center, 500 South Preston Street, Louisville, KY 40200. Article: Electron microscope, model EM 9S–2. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: The article will be used for an ultrastructural in estigation of animal tissues from hormone deficient animals. Diabetic rats, dogs, rabbits, and monkeys will be treated with a variety of drugs for studies on the site of action of insulin and prostaglandins on the subcellular elements of the animal tissues. Educational use will be in a course in "Selected Topics in Molecular Endocrinology" which has approximately 25 students per semester. Application received by Commissioner of Customs: April 27, 1971.

Docket No. 71–00512–33–46500. Applicant: Iowa State University, Department of Zoology and Entomology, Ames, Iowa 50010. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used for research on immunofertilization and sperm-egg interactions in Limulus polyphemus, and fertilization and reproductory systems in isopods and ticks. Special techniques involving cytochemistry and immunology will be used on the tissues which have a wide range of texture. Application received by Commissioner of Customs: April 27, 1971.

Docket No. 71–00517–33–46040. Applicant: U.S. Department of Agriculture, ARS Plant Science Research Division, Plant Virology Laboratory, Plant Industry Stations, Beltsville, Md. 20705. Article: Electron microscope, Model JEM–100B. Manufacturer: Japan Electron Optics Laboratory, Co., Ltd., Japan. Intended use of article: The article will be used for research aimed at improving the freeze-etching and related techniques of preparing biological specimens for electron microscopy and studying the molecular morphology of viruses and other pathogens, both within the infected cells and in isolated form. Application received by Commissioner of Customs: April 29, 1971.

Docket No. 71–00518–33–46500. Applicant: University of Virginia, School of Medicine, Department of Anatomy, Charlottesville, Va. 22901. Article: LKB 8800 Ultramicrotome complete with Cryo-Accessory. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used to study biological tissues derived from developing, normal, and regenerating animals (amphibia, avian, and mammalian). The experiments to be conducted include electron microscopic studies of normal retinal development and regeneration and studies on cell cycle kinetics. Application received by Commissioner of Customs: April 29, 1971.

Docket No. 71–00519–33–16095. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Article: Sealed gas-filled proportional counter type CPX180M1 with built-in preamplifier. Manufacturer: Compagnie Generale de Radiologie, France. Intended use of article: The article will be used to measure the radiation of very low energy, emitted in small numbers by certain very toxic radioactive materials (such as plutonium) when deposited in the human body (especially the lung), in order to determine the amount of such material present. Application received by Commissioner of Customs: April 29, 1971.

Docket No. 71–00520–33–46040. Applicant: University of Rochester School of Medicine and Dentistry, Department of Pathology, Rochester, N.Y. 14620. Article: Electron microscope, Model HS–8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used primarily for training purposes. Electron microscopy will be taught to house officers training for careers in pathology, medical students taking elective training in the field of pathology, graduate students in the discipline of experimental pathology, postdoctoral fellows in experimental pathology and technicians. Application received by Commissioner of Customs: April 29, 1971.

Docket No. 71–00521–33–46040. Applicant: University of Miami, Post Office Box 8184, Coral Gables, FL 33124. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, the Netherlands. Intended use of article: The article will be used at the Department of Physiology and Biophysics of the Medical School for studies on cell junctions in normal and cancerous tissues. Research concerns the structural aspects of cellular communication in normal cells and the structural alterations in cancer cells. Application received by Commissioner of Customs: April 29, 1971.

Docket No. 71–00451–33–46500. Applicant: University of Massachusetts Medical School, 419 Belmont Street, Worcester, MA 01604. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used for studies dealing with the in vivo and in vitro uptake of metals by cells and tissues taken from normal and from experimentally diseased animals. A primary aim is the electron microscopic study of the uptake of transferrin-bound iron. A course entitled "Ultrastructural Aspects of Diseases" will be taught to second year medical students and medical technical students. Application received by Commissioner of Customs: March 18, 1971.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71–8800 Filed 6–22–71;8:49 am]

PENNSYLVANIA STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00314–33–46040. Applicant: The Pennsylvania State University, College of Medicine, Department of Microbiology, 500 University Drive, Hershey, PA 17033. Article: Electron

microscope, Model HU–12. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used for research, teaching and training purposes. The development of viruses within cells will be monitored as an integral part of a cancer research program. A graduate course, "Electron Microscopic Techniques", will teach the basic techniques in specimen preparation for the ultrastructural approach to research.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 250 to 500,000 magnifications, without changing the polepiece. The most closely comparable domestic instrument is the Model EMU–4B manufactured by the Forgflo Corp. The Model EMU–4B, with its standard polepiece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU–4B that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification polepiece should be used. Changing the polepiece on the Model EMU–4B requires a break in the vacuum of the column. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated March 26, 1971, that the applicant requires the capability of taking high-quality micrographs at low magnifications in order to achieve the purposes for which the article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 250 to 500,000 magnifications without changing polepieces, while at the same time providing high-quality micrographs at low magnifications, is considered to be a pertinent characteristic. For these reasons, we find that the Model EMU–4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71–8801 Filed 6–22–71;8:49 am]

RED ACRE FARM, INC.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00312–33–46040. Applicant: Red Acre Farm, Inc., Red Acre Road, Stow, MA 01775. Article: Electron microscope, Model EM 9S–2. Manufacturer: Carl Zeiss, Inc., West Germany.

Intended use of article: The article will be used for an investigation of pathological changes produced by deficiency of certain vitamins; an inquiry into the cause of heart failure that has been observed in rats of a certain strain produced in the applicant's laboratory; and for a project relating to the problem of human peptic ulcer disease.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 0–60,000 magnifications, without changing the polepiece. The most closely comparable domestic instrument is the Model EMU–4C manufactured by the Forgflo Corp. The Model EMU–4C, with its standard polepiece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU–4C that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification polepiece should be used. Changing the polepiece on the Model EMU–4C requires a break in the vacuum of the column. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated March 19, 1971, that the applicant requires the capability of taking high-quality micrographs at low magnifications in order to achieve the purposes for which the article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 0–60,000 magnifications without changing polepieces, while at the same time providing high-quality micrographs at low magnifications, is considered to be a pertinent characteristic. For these reasons, we find that the Model EMU–4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71–8802 Filed 6–22–71;8:49 am]

SINAI HOSPITAL OF BALTIMORE, INC.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00338–33–46040. Applicant: Sinai Hospital of Baltimore, Inc., Belvedere at Greenspring Avenue, Baltimore, MD 21215. Article: Electron microscope, Model HU–12. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used for the training of M.D. pathologists in the use of microscopic techniques as applicable to human tissues such as kidney biopsies, liver biopsies, cancer, and other pertinent specimens. The second use is for investigative purposes pertaining to research programs on human and experimental cancer. Research concerns carcinogenesis in the urinary bladder of the rat and the behavior of the Golgi apparatus in various tissues during carcinogenesis.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 500 to 500,000 magnifications, without changing the polepiece. The most closely comparable domestic instrument is the Model EMU–4C manufactured by the Forgflo Corporation. The Model EMU–4C, with

its standard polepiece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU–4C that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification polepiece should be used. Changing the polepiece on the Model EMU–4C requires a break in the vacuum of the column.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated April 20, 1971, that the applicant requires the capability of taking high-quality micrographs at low magnifications in order to achieve the purposes for which the article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 500 to 500,000 magnifications without changing polepieces, while at the same time providing high-quality micrographs at low magnifications, is considered to be a pertinent characteristic. For these reasons, we find that the Model EMU–4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71–8803 Filed 6–22–71;8:49 am]

UNIVERSITY OF LOUISVILLE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00205–33–46040. Applicant: University of Louisville, School of Dentistry, Health Sciences Center, Louisville, Ky. 40202. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use of article: The article will be used for research on healing of superficial wounds inflicted to the wall of the large blood vessels; and ultrastructural study on the effect of cytotoxic agents on the microcirculation; and for educational purposes in oral pathology.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 220 to 500,000 magnifications, without changing the polepiece. The most closely comparable domestic instrument is the Model EMU–4B manufactured by the Forgflo Corp. The Model EMU–4C, with its standard polepiece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU–4B that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification polepiece should be used. Changing the polepiece on the Model EMU–4B requires a break in the vacuum of the column.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated January 22, 1971, that the applicant requires the capability of taking high-quality micrographs at low magnifications in order to achieve the purposes for which the article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 220 to 500,000 magnifications without changing polepieces, while at the same time providing high-quality micrographs at low magnifications, is considered to be a pertinent characteristic.

For these reasons, we find that the Model EMU–4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71–8804 Filed 6–22–71;8:49 am]

UNIVERSITY OF MINNESOTA HOSPITALS

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00326–33–46500. Applicant: University of Minnesota Hospitals, Department of Obstetrics and Gynecology, Box 395, Mayo Memorial Hospital, Minneapolis, MN 55455. Article: Ultramicrotome, LKB 4800. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The purposes of the research project for which the article will be used are to clarify the histogenesis of the human ovarian neoplasms and to identify the intercellular location of steroidgenesis in the ovaries by morphological methods.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high-quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69–00665–33–46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70–00077–33–46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT–2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall

Model MT–2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of March 26, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to satisfactory ultrathin sectioning of the very soft and fragile specimens encountered in the applicant's studies of human ovarian tissue biopsies to determine the site of steroidgenesis and the origin of cancer cells in tumors. HEW cites as a precedent its prior recommendation relating to Docket No. 71–00003–33–46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT–2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71–8805 Filed 6–22–71;8:49 am]

UNIVERSITY OF SOUTHERN CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00202–33–46040. Applicant: Los Angeles County, University of Southern California Medical Center, 1200 North State Street, Los Angeles, CA 90033. Article: Electron microscope, Model HU–11C. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for research on the male and female reproductive tracts of experimental animals, as well as the human patient. The ultrastructural changes due to disease or medication will be studied. Also, the electron microscope will be used for educational purposes for the training of research fellows and residents in obstetrics and gynecology and pathology.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 400 to 500,000 magnifications, without changing the polepiece. The most closely comparable domestic instrument is the Model EMU–4C manufactured by the Forgflo Corp. The Model EMU–4C, with its standard polepiece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU–4C that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification polepiece should be used. Changing the polepiece on the Model EMU–4C requires a break in the vacuum of the column. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated January 22, 1971, that the applicant requires the capability of rapid shift from very low to very high magnification without opening the column in order to achieve the purposes for which the article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 400 to 500,000 magnifications without changing polepieces, while at the same time providing high-quality low magnification, is considered to be a pertinent characteristic. For these reasons, we find that the Model EMU–4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71–8798 Filed 6–22–71;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

AMERICAN HOECHST CORP.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1B2691) has been filed by American Hoechst Corp., 777 Third Avenue, New York, N.Y. 10017, proposing that § 121.2566 *Antioxidants and/or stabilizers for polymers* (21 CFR 121.2566) be amended to provide for the safe use of poly[(1,3-dibutyldistannthianediylidene) 1,3-dithio] as a stabilizer in polyvinyl chloride materials used in the manufacture of food-contact articles.

Dated: June 17, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71–8754 Filed 6–22–71;8:45 am]

[Docket No. FDC–D–332; NDA Nos. 5–731, 10–354]

SMITH KLINE AND FRENCH LABORATORIES AND LEDERLE LABORATORIES

Thora-Dex Tablets and Gravidox Parenteral Solution; Notice of Withdrawal of Approval of New Drug Applications

A notice of opportunity for hearing on the proposed withdrawal of approval of new drug application No. 10–354 and all amendments and supplements thereto held by Smith Kline and French Laboratories, 1500 Spring Garden Street, Philadelphia, Pa. 19101, for the drug Thora-Dex Tablets and No. 5–731 and all amendments and supplements thereto held by Lederle Laboratories, Division American Cyanamid Co., Pearl River, N.Y. 10965, for the drug Gravidox Parenteral Solution was published in the FEDERAL REGISTER on April 20, 1971 (36 F.R. 7472).

Subsequently, Smith Kline and French Laboratories filed a written appearance electing not to avail itself of the opportunity for a hearing. Lederle Laboratories failed to file a written appearance of election within 30 days, as required by the notice, and is therefore deemed to have elected not to avail itself of the opportunity for a hearing.

The Commissioner of Food and Drugs, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1053, as amended; 21 U.S.C. 355(e)) and under authority delegated to him (21 CFR 2.120) finds on the basis of new information before him with respect to said drugs evaluated together with the evidence available to him when the applications were approved, that there is a lack of substantial evidence that such drugs will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing findings, approval of new drug application No. 10–354 and all amendments and supplements thereto applying to Thora-Dex Tablets, and application No. 5–731 and all amendments and supplements thereto applying to Gravidox Parenteral Solution, are withdrawn effective on the date of signature of this document.

Dated: June 14, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71–8755 Filed 6–22–71;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23315]

DELTA AIR LINES, INC., AND NORTHEAST AIRLINES, INC.

Notice of Hearing Regarding Merger

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding is assigned to be held on July 19, 1971, at 10 a.m., e.d.s.t in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the various documents which are in the docket of this case on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., June 17, 1971.

[SEAL] ARTHUR S. PRESENT,
Hearing Examiner.

[FR Doc.71-8840 Filed 6-22-71;8:53 am]

ENVIRONMENTAL PROTECTION AGENCY

ANSUL CO.

Notice of Withdrawal of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 420.8 *Withdrawal of petitions without prejudice* of the pesticide procedural regulations (21 CFR 420.8), Ansul Co., 1 Stanton Street, Marinette, WI 54143, has withdrawn its petition (PP 1F1047), notice of which was published in the FEDERAL REGISTER of November 7, 1970 (35 F.R. 17210), proposing the establishment of tolerances (21 CFR Part 420) for negligible residues of the herbicide *N,N*-bis(2-chloroethyl)-2,6-dinitro-*p*-toluidine in or on the raw agricultural commodities cottonseed, soybeans, and soybean forage at 0.05 part per million.

Dated: June 15, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-8807 Filed 6-22-71;8:50 am]

E. I. DU PONT DE NEMOURS & CO., INC.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1162) has been filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, proposing establishment of a tolerance (21 CFR Part 420) for negligible residues of the insecticide methomyl (*S*-methyl *N*-[(methylcarbamoyl)oxy]thioacetimidate) in or on the raw agricultural commodity cottonseed at 0.2 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is a modification of the method of H. L. Pease and J. J. Kirkland, "Journal of Agricultural and Food Chemistry," volume 16, pages 554–7 (1968). The modified method utilizes a flame photometric detector instead of a sulfur microcoulometric detector.

Dated: June 15, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-8809 Filed 6-22-71;8:50 am]

E. I. DU PONT DE NEMOURS & CO., INC.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1158) has been filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, proposing establishment of a tolerance (21 CFR Part 420) for negligible residues of the insecticide methomyl (*S*-methyl *N*-[(methylcarbamoyl)oxy] thioacetimidate) in or on the raw agricultural commodity peanuts at 0.2 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is the method of H. L. Pease and J. J. Kirkland, "Journal of Agricultural and Food Chemistry," volume 16, pages 554–7 (1968).

Dated: June 15, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-8810 Filed 6-22-71;8:50 am]

NOR-AM AGRICULTURAL PRODUCTS, INC.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1160) has been filed by Nor-Am Agricultural Products, Inc., 11710 Lake Avenue, Woodstock, IL 60098, proposing establishment of a tolerance (21 CFR Part 420) for negligible residues of the herbicide phenmedipham (methyl *m*-hydroxycarbanilate *m*-methylcarbanilate) in or on the raw agricultural commodity beets at 0.3 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a procedure in which the residue is hydrolyzed to 3-methylaniline by treatment with alkali. Bromination in aqueous acid solution yields 2,4,6-tribromo-3-methylaniline, which is determined using a gas chromatograph with an electron capture detector.

Dated: June 15, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-8811 Filed 6-22-71;8:50 am]

UNION CARBIDE CORP.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1138) has been filed by Union Carbide Corp., Post Office Box 65, Tarrytown, N.Y. 10591, proposing the establishment of an exemption from requirement of a tolerance for residues of vinyl chloride-vinyl acetate copolymers in or on raw agricultural commodities when used as an inert binding agent in pesticide formulations applied to growing crops only.

The analytical method proposed in the petition for determining residues of the inert ingredient is an infrared spectrophotometric procedure.

Dated: June 15, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-8813 Filed 6-22-71;8:50 am]

WEST CHEMICAL PRODUCTS, INC.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1077) has been filed by West Chemical Products, Inc., 42–16 West Street, Long Island City, NY 11101, proposing the establishment of an exemption from the requirement of a tolerance for residues of the pesticide which is a complex of elemental iodine, with polyoxypropylene-polyoxyethylene block polymers (minimum average molecular weight 1900), and/or with *alpha*(*p*-nonylphenyl)-*omega*-hydroxypoly(oxyethylene) (maximum average molecular weight 748) in eggs and poultry when used as a sanitizer in poultry drinking water at specified concentrations.

The analytical method proposed in the petition for determining residues of the pesticide is that of J. Benotti and N.

Benotti, "Clinical Chemistry" *9*, 408–416 (1963).

Dated: June 15, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71–8814 Filed 6–22–71;8:50 am]

BENZOYL CHLORIDE (2,4,6-TRICHLOROPHENYL) HYDRAZONE

Notice of Establishment of Temporary Tolerance

The Upjohn Co., Kalamazoo, Mich. 49001, submitted a petition requesting a temporary tolerance for residues of the insecticide benzoyl chloride (2,4,6-trichlorophenyl) hydrazone and its metabolite benzoic acid (2,4,6-trichlorophenyl) hydrazide in or on the raw agricultural commodity citrus fruit at 1 part per million.

The Fish and Wildlife Service, U.S. Department of Interior, advised that it has no objection to this temporary tolerance.

It has been determined that a temporary tolerance of 1 part per million for residues of the insecticide in or on citrus fruit is safe and will protect the public health. It is therefore established as requested on condition that the insecticide is used in accordance with the temporary permit which is being issued concurrently by the Environmental Protection Agency and which provides for distribution under the Upjohn Co. name. This temporary tolerance expires May 18, 1972.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038).

Dated: June 15, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71–8808 Filed 6–22–71;8:50 am]

POLYVINYLPYRROLIDONE-IODINE COMPLEX

Notice of Establishment of Temporary Exemption from Requirement of Tolerance for Pesticide Chemicals

At the request of James Huggins and Son, Inc., Malden, Mass. 02148, a temporary exemption from the requirement of a tolerance is established for residues of the fungicide polyvinylpyrrolidone-iodine complex in or on potatoes resulting from postharvest application of the fungicide.

It has been determined that this temporary exemption is safe and will protect the public health. It is therefore established as requested on condition that the fungicide be used in accordance with the temporary permit which is being issued concurrently and which provides for distribution under the James Huggins and Son company name.

This temporary exemption will expire on June 15, 1972.

This action is taken pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Pesticides Office of the Environmental Protection Agency (36 F.R. 9038).

Dated: June 15, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71–8812 Filed 6–22–71;8:50 am]

FEDERAL MARITIME COMMISSION

CALCUTTA, EAST COAST OF INDIA AND EAST PAKISTAN/U.S.A. CONFERENCE

Notice of Agreement Filed

Correction

In F.R. Doc. 71–8531 appearing at page 11679 in the issue for Thursday, June 17, 1971, the reference to "Agreement No. 6850–7" in the first line of the fifth paragraph should read "Agreement No. 8650–7".

EASTERN FORWARDING INTERNATIONAL ET AL.

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders, pursuant to section 44(a), of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Eastern Forwarding International, 105 Marsh Street, Port Newark, NJ 07114.
Officers:
S. David Goldberg, President.
Jay L. Goldberg, Vice President.
George Goldberg, Secretary/Treasurer.

Sunvan & Storage Co., Inc., 534 Westlake Avenue North, Seattle, WA 98109.
Officers:
W. E. Fallon,[1] President.
Andre H. Michel,[1] Executive Vice President/Controller.
Delbert V. Benedict, Vice President Domestic Sales-Services.
Joseph D. Gallina, Vice President Eastern Region.
Dorothy G. Fallon,[1] Secretary.
Lloyd G. Smith, Treasurer.

Air-Mar Shipping, Inc., El Imparcial Building, Room No. 407, 400 Comercio Street, Post Office Box 2664, Old San Juan, PR. 00903.
Officers:
Robert N. Altman, President.
Ramon Surillo, Vice President.
Martha Melendez de Altman, Secretary.
Judith Surrillo, Treasurer.

C. E. Tolonen Co., Inc., 604 Olympic National Life Building, Seattle, WA 98104.
Officers:
Clarence E. Tolonen, President.
Doreen M. Tolonen, Secretary/Treasurer.
Albert L. Tokin Jr., Vice President.

Mills International Corp., 31 Fargo Street, Boston, MA 02210.
Officers:
R. J. Fenick, President/Director.
D. P. Hurley, Treasurer/Director.
A. Fenick, Director.

Orlando Gatell, Fifth and Chestnut Streets, Philadelphia, PA.
Orlando Gatell, Proprietor.

Seairland Forwarders, Inc., 1087 Old River Road, Cleveland, OH 44113.
Officers:
Albert Mars, President.
David Fraigun, Secretary/Treasurer.
S. Reza Teimouri, Executive Vice President.
Joseph Grabowski, Vice President.

Dorsey Express, Inc., Post Office Box 789, Glen Burnie, MD 21061.
Officers:
Joseph F. Cipriano, President.
Pearl V. Cipriano, Vice President.

N. J. Defonte Co., Inc., 11 Broadway, New York, NY.
Officers:
Nicholas John Defonte, President.
George Helstrom, Vice President.
Margaret Defonte, Secretary/Treasurer.
Daniel Defonte, Director.
James Plunkett, Vice President.

Hudson International, Inc., 1121 Walker, Houston, TX 77002.
Officers:
G. C. H. Osborne, Director /Vice President.
Walter McKindlay, Director.
Pieter Wadstrom, Director/President.
Sarah M. Wadstrom, Director/Secretary/Treasurer.

Foreign Trade Export Packing Co., 8109 Market Street, Houston, TX.
Officers:
Creighton M. Hatz, President and Chairman of Board.
Leona L. Hatz, Secretary/Director.
Margaret B. Hatz, Director.

Dated: June 17, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71–8817 Filed 6–22–71;8:51 am]

[Docket No. 71–49; Special Permission No. 5364]

GULF PUERTO RICO LINES, INC.

General Increases in Rates in U.S. Gulf/Puerto Rico Trade; Second Supplemental Order

By the original order in this proceeding served April 30, 1971, the Commission placed under investigation a general rate increase of the subject carrier,

[1] Directors.

and suspended to and including September 1, 1971 supplement No. 7 and various revised pages 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. 55 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, to make changes in rates and provisions held in effect by reason of suspension in said docket, but only to the extent that such changes will result in a reduction in rates and charges on eggs.

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. 71–49 to make the changes in rates and provisions as set forth in Special Permission Application No. 55, said changes to become effective on not less than 1 day's notice, is hereby granted.

2. 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.

3. Publications issued and filed under this authority shall bear the following notation: "Issued under authority of Second Supplemental Order in Docket No. 71–49 and Federal Maritime Commission Special Permission No. 5364."

4. This special permission does not modify any outstanding formal orders of the Commission except insofar as it allows the aforementioned changes, 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.71–8816 Filed 6–22–71;8:51 am]

AMERICAN EXPORT ISBRANDTSEN LINES, INC., AND FIRST ATOMIC SHIP TRANSPORT, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute said violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. James N. Jacobi, Kurrus and Jacobi, 2000 K Street NW., Washington, DC 20006.

Agreement No. 9451–4, between American Export Isbrandtsen Lines, Inc. (AEIL), and its wholly owned subsidiary, First Atomic Ship Transport, Inc. (FAST), amends the basic agreement to extend the agreement until June 30, 1972, or until all final audits between FAST and the Owner (AEIL) have been completed under the Bareboat Charter. Under this modification, FAST shall not pay any additional compensation to AEIL.

Dated: June 21, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY, *Secretary.*

[FR Doc. 71–8877 Filed 6–22–71;8:53 am]

FEDERAL POWER COMMISSION

[Docket No. RP71–122]

ARKANSAS LOUISIANA GAS CO.

Order Granting Reconsideration, Amending Suspension Period, Fixing Date of Hearing, and Specifying Procedures

JUNE 15, 1971.

The Arkansas Public Service Commission on June 11, 1971, filed a notice of intervention in the above-entitled proceeding and a petition for reconsideration of the Commission's order issued therein on June 7, 1971, in which the Commission had suspended for 1 day[1] certain proposed tariff sheets[2] tendered for filing by Arkansas Louisiana Gas Co. (Arkla) on May 18, 1971, in response to paragraph (A)(2) of the Commission's Order No. 431, issued April 15, 1971, in Docket No. R–418. Arkla had represented in its filing that it would immediately institute a policy of conserving its existing gas supplies by extending the productive life of all connected sources for the benefit of "human needs" customers who were defined as those in the domestic and commercial classifications.

In its petition for reconsideration the Arkansas Commission states that it had assumed that this Commission would suspend the proposed tariff sheets for a longer period than 1 day. It states that it must assume that Arkla's curtailment program is directed to reducing the volumes of natural gas available for the generation of electricity by the utilities which supply electric energy to consumers in Arkansas. The Arkansas Commission further notes that the electric utilities which provide electric energy in Arkansas are members of the Southwest Power Pool which relies heavily upon steam generating plants equipped with gas-fired boilers. It alleges that its efforts to determine the impact upon users of electric energy indicate that Arkla's proposed curtailment plan will result in an electric power shortage. The Arkansas Commission states that it needs time within which (1) to accelerate its assistance to bulk power generating companies in examining all practical fuel alternatives, (2) to develop emergency load curtailment policies for electric companies, (3) to seek the cooperation of other industrial users in conserving energy, and (4) to obtain permission from environment regulatory agencies to use higher sulphur content fuels during the impending emergency which it believes will occur if Arkla's curtailment program is permitted to become effective on June 16, 1971. The Arkansas Commission, therefore, asks that the effectiveness of Arkla's proposed tariff sheets be suspended for 4 months so as to permit it to prepare for the impact which Arkla's curtailment program may have on electric utilities supplying energy for consumers in Arkansas.

Since Arkla's tariff filing does not indicate the extent that it would institute its proposed curtailment program or the exact nature of its alleged gas supply problems and does not advise the Commission as to the reduction in overall gas supplies which will result from its intention to conserve its connected sources for human needs, there is no way for the Commission, pending receipt of evidence at a hearing, to determine whether Arkla must immediately institute the curtailment program as it is set forth in the tariff sheets filed in this proceeding. Therefore, this order will hereinafter extend the suspension period for the requested 4-month period and provide for an immediate hearing on the basis of which the Commission will be able to determine whether a further modification of the suspension period is required.

The granting of the Arkansas Commission's request for extension of the suspension period is a procedural action pending receipt of evidence and should

[1] Until June 16, 1971, and until such further time as the tariff sheets are made effective in the manner prescribed by the Natural Gas Act.

[2] Original Sheets Nos. 3A, 3B, and 3C of its FPC Gas Tariff, First Revised Volume No. 1.

not be construed as a determination based on the merits of any allegations made by the Arkansas Commission or contained in Arkla's proposed tariff sheets.

Other protests and petitions to intervene have been filed in this proceeding but action on them will be deferred pending expiration of the June 21, 1971, notice period which was fixed in the Commission's order issued June 7, 1971.

The Commission finds:

(1) Good cause has been shown for granting the Arkansas Commission's petition for reconsideration to the extent of provisionally extending the suspension period for 4 months, or until October 15, 1971, and for granting its request for permission to enlarge its statement of position at a future date.

(2) 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 disposition of this proceeding be expedited in accordance with the procedures set forth below.

The Commission orders:

(A) The Arkansas Commission's petition for reconsideration filed June 11, 1971, is granted to the extent of provisionally extending the suspension period for four months as hereinafter ordered and granting its request to enlarge its statement of position at a future date.

(B) Paragraph (A) of the Commission's order issued herein on June 7, 1971, is amended by substituting the date of October 15, 1971, for June 16, 1971, as the terminal suspension date of Arkla's proposed tariff sheets.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 15 and thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held commencing July 13, 1971, at 10 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning the lawfulness of the curtailment provisions contained in Arkla's FPC Gas Tariff as proposed to be revised herein. The hearing shall begin with admission into the record of Arkla's direct case, subject to appropriate motions, followed by cross-examination of Arkla's witnesses. Except for very brief recesses which may be allowed by the Presiding Examiner upon a showing of good cause therefor, the hearing shall go forward immediately with any oral direct testimony the interveners and the Commission's staff may wish to offer followed by cross-examination thereon, and oral rebuttal if any, by Arkla with cross-examination thereon.

(D) A Presiding Examiner to be designated by the Chief Examiner for that purpose (see Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(E) On or before June 30, 1971, Arkla shall prepare and file with the Commission and serve on the Commission's staff and all parties to this proceeding its direct testimony and exhibits in support of the proposed tariff sheets submitted on May 18, 1971. Arkla's presentation should include precise details concerning (1) the nature of its alleged gas shortage, (2) the extent of curtailments contemplated and the relation, if any, to refilling storage fields, and (3) market data showing its direct and resale customers' requirements, with appropriate subdivisions reflecting residential, commercial, and industrial classifications. (A service list shall be forwarded to Arkla to facilitate serving all parties upon expiration of the June 21, 1971, date for filing protests and petitions to intervene.)

(F) The Commission's order issued June 7, 1971, shall remain in full force and effect except to the extent modified and amended herein.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-8832 Filed 6-22-71;8:52 am]

[Docket No. RP71-130]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Existing Curtailment Procedures

JUNE 16, 1971.

Take notice that on May 17, 1971, Texas Eastern Transmission Corp. (Texas Eastern) 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, stating that it "* * * does not know at this time whether it will be necessary to curtail deliveries to its customers during the 71-72 winter heating season."

Texas Eastern states that if it becomes necessary to make any curtailment in deliveries to its customers that the curtailments will be made in accordance with section 12.3 of the General Terms and Conditions of Texas Eastern's FPC Gas Tariff, Second Revised Volume No. 1. Section 12.3, *Proration of impaired deliveries* reads as follows:

12.3 *Proration of impaired deliveries.* If due to any cause whatsoever, not limited to Force Majeure, the deliveries from Seller's transmission system are impaired so that Seller is unable to deliver to Buyer the quantity of gas which Seller is then obligated to deliver to Buyer, then Buyer shall be entitled to such proportion of the total impaired deliveries from such line as the quantity of gas which Seller is then obligated to deliver to Buyer bears to the total quantities of gas Seller is then obligated to deliver to all Buyers affected by such impairment.

Texas Eastern states in its report that it reserves the right to seek appropriate rate relief in connection with the imposition of any curtailment of deliveries made pursuant to the provisions of section 12.3. Also in its report, Texas Eastern states that all of its sales of gas are sales for resale and it does not make any direct sales, either firm or interruptible.

Although Texas Eastern's existing curtailment policy is on file with the Commission and it is not known at this time whether such curtailment policy will of necessity be implemented in the foreseeable future, any person desiring to be heard or to make any protest with respect to Texas Eastern's existing tariff provisions governing curtailments of service should on or before July 9, 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 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 of practice and procedure. Texas Eastern's report, submitted pursuant to Order No. 431, is on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Acting Secretary.*

[FR Doc.71-8833 Filed 6-22-71;8:52 am]

FEDERAL RESERVE SYSTEM

ALAMEDA BANCORPORATION

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by Alameda Bancorporation, Inc., Alameda, Calif., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 98 percent or more of the voting shares of Alameda First National Bank, Alameda, Calif.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks

concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of San Francisco.

By order of the Board of Governors, June 17, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8775 Filed 6-22-71;8:47 am]

FBT CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by FBT Corp., South Bend, Ind., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 100 percent (less directors' qualifying shares) of First Bank and Trust Company of South Bend, South Bend, Ind. (Bank). Applicant and Bank presently are 100 percent owned (less directors' qualifying shares) by Associates Corporation of North America (Associates), a subsidiary of Gulf & Western Industries, Inc. (G & W). The application is a preliminary step of a plan by which Associates and G & W will cease to be bank holding companies by divesting ownership and control of Bank and Applicant.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

By order of the Board of Governors, June 16, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8818 Filed 6-22-71;8:51 am]

FIRST AT ORLANDO CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First at Orlando Corp., Orlando, Fla., for approval of acquisition of all of the voting shares (less directors' qualifying shares) of The Fort Pierce Bank, Fort Pierce, Fla., a proposed new bank.

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 First at Orlando Corp., Orlando, Fla. (Applicant), for the Board's prior approval of the acquisition of all of the voting shares (less directors' qualifying shares) of The Fort Pierce Bank, Fort Pierce, Fla. (Bank), a proposed new bank.[1]

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Florida Commissioner of Banking, and requested his views and recommendation. The Commissioner recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on April 27, 1971 (36 F.R. 7876), providing an opportunity for interested persons to submit comments and views with respect to the proposal. 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.

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, and finds that:

Applicant, the fifth largest banking organization in Florida, controls 18 banks which hold combined deposits of $574.2 million, representing 4.1 percent of the total deposits held by Florida commercial banks. (All banking data are as of December 31, 1970, and reflect holding company formations and acquisitions approved by the Board through April 30, 1971.) Since Bank is a proposed new bank, no existing competition would be eliminated, nor would concentration be increased in any relevant area.

Bank will be located in a growing commercial and residential area south of downtown Fort Pierce, 2 miles from Applicant's closest existing subsidiary, St. Lucie County Bank. Bank's proposed site is adjacent to the two largest shopping centers in St. Lucie County, both of which have been established within the last 10 years. St. Lucie County Bank ($36.8 million in deposits), is the third largest bank in the Fort Pierce banking market, and the largest of three existing banks in the city of Fort Pierce. However, consummation of the proposal would not give Applicant a dominant position in the Fort Pierce area market or raise substantial barriers to entry. There are nine banks representing seven banking organizations located in this area. Applicant with 18 percent of deposits within the market ranks third behind organizations with 25.5 percent and 19.5 percent, respectively. The largest bank holding company within the State ranks fourth with 14.5 percent and each of the remaining three independent banks has between 6.2 percent and 8.3 percent of area deposits. On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area.

The financial condition, management and prospects of Applicant and its subsidiary banks are regarded as generally satisfactory. Bank has no prior financial history, but will open with satisfactory capital and will be able to draw on Applicant for its management. Its future prospects are satisfactory. Although convenience and needs of the community are adequately served at present, Bank's location adjacent to two major shopping centers, which presently have no banking facilities, should provide additional convenience to residents and merchants of the area. Consequently, these factors lend some weight toward approval. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest, and the application should be approved.

It is hereby ordered, For the reasons set forth above, that said application be and hereby is approved: *Provided*, That the acquisition 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: *And provided further*, That (c) The Fort Pierce Bank shall be opened for business not later than 6 months after the date of this order. The periods described in (b) and (c) hereof may be extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

[1] Tentative approval has been received from the Florida Commissioner of Banking to change the name of the proposed bank to "First Peoples Bank".

By order of the Board of Governors,[3] June 17, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8776 Filed 6-22-71;8:47 am]

SUPERIOR EQUITY CORP. AND IOWA BUSINESS INVESTMENT CORP.

Notice of Request for Determination and Order Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(3)), by the Superior Equity Corp. (Superior), Lincoln, Nebr., proposed successor in interest through merger to Iowa Business Investment Corp. (IBIC), a bank holding company, for a determination that with respect to a proposed sale by Superior/IBIC of the Sibley State Bank, Sibley, Iowa, to Bruce R. Lauritzen, Darrell D. Green, and Joseph J. Latoza, all of Omaha, Nebr., Superior/IBIC is not in fact capable of controlling the said transferees.

Inasmuch as section 2(g)(3) of the Act requires that any determination thereunder be made only after opportunity for hearing:

It is ordered, That, pursuant to section 2(g)(3) of the Act, an opportunity be and hereby is provided for filing a request for hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received on or before July 6, 1971. The request for hearing should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which said person wishes to give testimony at such hearing. The Board will subsequently designate a time and place for any hearing ordered, and will give notice of such hearing to the transferor, the transferees, and all persons who have requested a hearing. In the absence of a request for hearing, the Board will proceed with consideration of the requested determination on the basis of documentary evidence filed in connection with the application.

By order of the Board of Governors, June 17, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8777 Filed 6-22-71;8:47 am]

[3] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, and Sherrill. Absent and not voting: Governors Daane, Maisel, and Brimmer.

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-107]

CHAIRMAN, ATOMIC ENERGY COMMISSION

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Chairman, Atomic Energy Commission, to represent the consumer interests of the executive agencies of the Federal Government in an electric service rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Chairman, Atomic Energy Commission, to represent the consumer interests of the executive agencies of the Federal Government before the Pennsylvania Public Utility Commission in a proceeding involving electric service rates of the Duquesne Light Co.

b. The Chairman, Atomic Energy Commission, may redelegate this authority to any officer, official, or employee of the Atomic Energy Commission.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: June 16, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71-8781 Filed 6-22-71;8:47 am]

[Federal Property Management Regs.; Temporary Reg. F-108]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in an electric service rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government before the Georgia Public Service Commission in a proceeding (Docket No. 2222-U) involving electric rates of the Georgia Power Co.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: June 18, 1971.

W. H. SANDERS,
Acting Administrator of General Services.

[FR Doc.71-8841 Filed 6-22-71;8:53 am]

SECURITIES AND EXCHANGE COMMISSION

[812-2105]

SCUDDER DUO-VEST EXCHANGE FUND, INC.

Notice of Filing of Application for Modification of Order of Exemption

JUNE 17, 1971.

Notice is hereby given that Scudder Duo-Vest Exchange Fund, Inc. (Applicant), 345 Park Avenue, New York, NY 10022, a Delaware corporation registered under the Investment Company Act of 1940 (Act) as a diversified, open-end management investment company, has filed an application for modification of an order of exemption (1967 Order) issued on June 15, 1967 (Investment Company Act Release No. 4995) pursuant to sections 6(c) and 18(i) of the Act, to permit Applicant to purchase common stock purchase warrants in units with notes or other securities of the same issuer. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

As authorized by its certificate of incorporation, as amended, Applicant has two classes of stock outstanding, its income preferred shares, $1 par value per share (Income Shares) and its capital shares, $1.00 par value per share (Capital Shares). The two classes of stock are redeemable in units at the option of holders at net asset value. The holders of the Income Shares are entitled to receive all of Applicant's net investment income earned through January 31, 1983. In addition, if the dividend paid on the Income Shares with respect to any quarter does not equal at least 37.5 cents, the deficiency is carried forward as an arrearage to be paid, together with the then current quarterly dividend, from

future net investment income. To the extent not paid from future income, the arrearage is added to the redemption and liquidation value of the Income Shares. Applicant has paid dividends totalling $3.72 per Income Share leaving an arrearage per Income Share for the period through December 31, 1970, of $1.549. The redemption value of an Income Share, and also its liquidation preference, is equal to $25 plus any accrued and unpaid dividends plus its share of undistributed net investment income. Management of Applicant has stated its intention to propose for adoption in 1982 a charter amendment reclassifying Income Shares into Capital Shares effective January 31, 1983, on the basis of the liquidation preference of the Income Shares and the net asset value of the Capital Shares as of the close of business on that date. It is also the stated intention of Applicant's management to redeem on February 1, 1983, any Income Shares outstanding on that date.

The holders of the Capital Shares benefit from any appreciation on applicant's portfolio, subject only to the cumulative $1.50 annual dividend right of the Income Shares. The holders of the Capital Shares will not receive any dividends from net investment income through January 31, 1983, nor will they receive any dividends from long-term capital gains. With the exception of any short-term capital gains that have to be distributed in order to permit Applicant to continue to qualify as a regulated investment company under the Internal Revenue Code, all capital gains are to be reinvested. Following the reclassification or redemption of the Income Shares in 1983, each holder of Capital Shares will have the right to receive the net asset value of his shares either upon termination of Applicant on March 31, 1983, pursuant to its certificate of incorporation, or otherwise as provided in an amendment to its certificate of incorporation adopted at that time.

A condition of the 1967 Order provides that Applicant will not purchase warrants. Applicant requests modification of the 1967 Order by the deletion of this restriction in order to permit Applicant to purchase common stock purchase warrants in units with notes or other securities of the same issuer. Applicant's shareholders have approved amendments to Applicant's bylaws and fundamental policies to permit such purchases. It is Applicant's view that such units of warrants and other securities are often comparable to convertible securities and could, in some instances, be appropriate investments for Applicant.

Notice is further given that any interested person may, not later than July 7, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after such date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8785 Filed 6-22-71;8:48 am]

[81-89]

SHANGHAI POWER CO.

Notice of Application and Opportunity for Hearing

JUNE 17, 1971.

Notice is hereby given that Shanghai Power Co., c/o Ebasco International Corp., 2 Rector Street, New York, NY 10006, a Delaware company, has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (Act) for an order of the Commission exempting the company from the requirements of section 12(g) of the Act.

Section 12(h) of the Act empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the registration, periodic reporting any proxy solicitation provisions and to grant exemptions from the insider reporting and trading provisions of the Act if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The company's application states, in part:

The applicant is a company organized under the laws of Delaware in 1929. Its business from 1929 to 1950 was operating the electric generating, transmission, and distribution system serving the International Settlement in Shanghai, China. In 1950, the Chinese Communists took possession of all of the properties of the applicant and its subsidiary and no compensation for the properties has been offered to or received by either company.

According to the latest information available to the company, dated February 3, 1949, there were 6,733 registered owners of applicant's 6 tael preferred stock of which 55 holders had record addresses inside the United States or its possessions. Applicant's common stock is 100 percent owned by Far East Power Corp., a Delaware corporation. Over 80 percent of the common stock of Far East Power Corp. is owned by the Brazilian Electric Power Co., which, in turn, is a wholly owned subsidiary of Boise Cascade Corp., a Delaware corporation which is successor in interest to Ebasco Industries (formerly named Electric Bond and Share Co.) and American Foreign Power Co., Inc.

The applicant filed a claim in 1964 under the War Claims Act of 1948, for damage to its properties and was issued an award on February 8, 1967, in the amount of $7,808,208.12. During 1967 payments aggregating $4,790,301.58 were received by applicant and after payment of certain outstanding liabilities, applicant intends to conserve the cash received and to be received as a result of its war claims to meet current expenses through income generated. It is anticipated that income therefrom should cover substantially all of applicant's current expenses including pensions due former members of its foreign staff. There are no present employees of the company. At June 30, 1970, applicant's assets consisted of cash and short-term securities aggregating $3,596,468.26. On August 2, 1970, the Foreign Claims Settlement Commission under the China Claims Act certified the applicant's loss at $53,832,885, plus interest at 6 percent from December 28, 1950, to the date of eventual settlement. The Act provides for the certification of losses but it does not provide for the payment of compensation in respect to such losses.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, DC.

Notice is further given that any interested person may, not later than July 8, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8786 Filed 6-22-71;8:48 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 4.4–1 (Region VII) for Disaster No. 824]

MANAGER, DISASTER BRANCH OFFICE, JOPLIN, MO.

Delegation of Authority

I. Pursuant to the authority delegated to the regional director by Delegation of Authority No. 4.4 (Revision 1) (36 F.R. 7291) and Delegation of Authority No. 30 (Revision 13) (36 F.R. 5881), as amended (36 F.R. 7625 and 36 F.R. 11129), the following authority is hereby redelegated to the position as indicated herein:

A. *Manager, Joplin, Mo., Disaster Branch Office.* 1. To decline direct disaster and immediate participation disaster loans in any amount and to approve such loans up to the total SBA funds of (a) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (b) $350,000 on disaster business loans except to the extent of refinancing of a previous SBA disaster loan.

2. To approve disaster guaranteed loans up to an SBA guarantee of $350,000, and to decline such loans in any amount.

3. To execute loan authorizations for Central, regional, and district office approved loans and disaster loans approved under delegated authority, said execution to read as follows:

(Name), Administrator,
By ----------
Manager,
Disaster Branch Office.

4. To cancel, reinstate, modify, and amend authorizations for disaster loans approved under delegated authority.

5. To disburse unsecured disaster loans.

6. To extend the disbursement period on disaster loan authorizations or undisbursed portions of disaster loans.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein to a specific position may be exercised by an SBA employee designated as acting in that position.

Effective date: May 10, 1971.

C. I. MOYER,
Regional Director,
Region VII, Kansas City, Mo.

[FR Doc.71–8757 Filed 6–22–71;8:45 am]

[Delegation of Authority No. 4.4–2—(Region IX) for Disaster No. 802]

MANAGER, EARTHQUAKE DISASTER BRANCH OFFICE, LOS ANGELES, CALIF.

Delegation of Authority

I. Pursuant to the authority delegated to the District Director, Los Angeles, Calif., by Delegation of Authority No. 4.4–1 (Revision 1) (36 F.R. 6929), and Delegation of Authority No. 30–A (34 F.R. 11836), as amended (34 F.R. 20076; 35 F.R. 1073; 35 F.R. 12683; 35 F.R. 15033; 35 F.R. 17156; 36 F.R. 481; and 36 F.R. 2948), the following authority is hereby redelegated to the position as indicated herein:

Manager, Earthquake Disaster Branch Office, Los Angeles, Calif. a. To approve or decline disaster direct and immediate participation loans up to the total SBA share of (1) $50,000 per household for repairs or replacement of the homes and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgage, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (2) $350,000 on disaster business loans (excluding displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters) except to the extent of refinancing of a previous SBA disaster loan.

b. To approve disaster guaranteed loans up to $350,000, and to decline disaster guaranteed loans in any amount.

c. To execute loan authorizations for Central, regional and district office approved loans and disaster loans approved under delegated authority, said execution to read as follows:

(Name), Administrator,
By ----------
Manager,
Disaster Branch Office.

d. To cancel, reinstate, modify, and amend authorizations for disaster loans approved under delegated authority.

e. To disburse unsecured disaster loans.

f. To extend the disbursement period on disaster loan authorizations or undisbursed portions of disaster loans.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein to a specific position may be exercised by any SBA employee designated as acting in that position.

Effective date: February 9, 1971.

GILBERT MONTANO,
District Director, Los Angeles, Calif.

[FR Doc.71–8756 Filed 6–22–71;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 15]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JUNE 18, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 583) (Cancels Deviation No. 278), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed June 8, 1971. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Henderson, N.C., over Interstate Highway 85 to Petersburg, Va., with the following access routes: (1) From junction U.S. Highway 1 and access road approximately 2 miles north of Henderson, N.C., over access road to junction Interstate Highway 85; and (2) from South Hill, Va., over U.S. Highway 58 to junction Interstate Highway 85, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Richmond, Va., over U.S. Highway 1 via Petersburg and South Hill, Va., and Henderson, N.C., to Raleigh, N.C., and return over the same routes.

No. MC 1515 (Deviation No. 584), GREYHOUND LINES, INC. (East Division), 1400 West Third Street, Cleveland, OH 44113, filed June 8, 1971. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and*

newspapers in the same vehicle with passengers, over a deviation route as follows: From Henderson, Ky., over Kentucky Highway 54 to junction Pennyrile Parkway, thence over the Pennyrile Parkway to junction Audubon Parkway, thence over the Audubon Parkway to Owensboro, Ky., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Juntington, W. Va., over U.S. Highway 60 to Louisville, Ky., thence over U.S. Highway 31 via West Point, Ky., to Tip Top, Ky., thence over U.S. Highway 60 to Henderson, Ky., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-8793 Filed 6-22-71;8:48 am]

[Notice 21]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JUNE 18, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-44605 (Deviation No. 7), MILNE TRUCK LINES, INC., 2200 South Third West, Salt Lake City, UT 84115, filed May 28, 1971. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Santaquin, Utah, over combined U.S. Highways 6 and 50 to junction U.S. Highway 93 approximately 27 miles south of Ely, Nev., thence over U.S. Highway 93 to junction Nevada Highway 25 at Panaca, Nev., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Salt Lake City, Utah, over U.S. Highway 91 to St. George, Utah, (2) from St. George, Utah, over U.S. Highway 91 to Barstow, Calif., thence over U.S. Highway 66 via San Bernardino, Calif., to Los Angeles, Calif. (also from San Bernardino over U.S. Highway 395 to junction Interstate Highway 10 (formerly portion U.S. Highway 70), thence over Interstate Highway 10 to Los Angeles; also from San Bernardino over U.S. Highway 395 to junction U.S. Highway 60, thence over U.S. Highway 60 to Los Angeles), and (3) from Los Angeles, Calif., to Barstow, Calif., as specified above (also from Los Angeles over U.S. Highway 99 to junction Interstate Highway 10, formerly portion U.S. Highway 99, thence over Interstate Highway 10 to junction U.S. Highway 395, thence over U.S. Highway 395 to San Bernardino, thence over U.S. Highway 66 to Barstow), thence to St. George as specified above, and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-8794 Filed 6-22-71;8:48 am]

[Notice 49]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JUNE 18, 1971.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 85465 (Sub-No. 31) (Republication), filed October 19, 1970, published in the FEDERAL REGISTER issue of November 19, 1970, and republished this issue. Applicant: WEST NEBRASKA EXPRESS, INC., Post Office Box Drawer 350, Scottsbluff, NE 69361. Applicant's representative: John H. Lewis and Truman Stockton, Jr., The 1650 Grant Street Building, Denver, Colo. 80203. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated April 28, 1971, and served June 8, 1971, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of meats, meat products and meat byproducts and articles distributed by meat packinghouses (except commodities in bulk, in tank vehicles) as described in sections A and C of appendix I to report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Gordon, Nebr., to Chicago, Ill.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority without the requested limitation in our findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file and appropriate petition for leave to intervene in the proceeding setting forth in detail the precise maner in which it has been prejudiced.

No. MC 125844 (Sub-No. 23) (Republication), filed October 1, 1970, published in the FEDERAL REGISTER issue of October 29, 1970 and republished this issue. Applicant: BIO-MED-HU, INC., 8603 Preston Highway, Louisville, KY 40219. Applicant's representative: Ollie L. Merchant, Suite 202, 140 South Fifth Street, Louisville, KY 40202. The modified procedure has been followed in this proceeding and a supplemental order of the Commission, Operating Rights Board, dated May 28, 1971, and served June 14, 1971, finds; that the present and future public convenience and necessity require operation by applicant, as a common carrier by motor vehicle, over irregular routes; of (1) placentae, derivatives of placentae, placentae compounds, blood, derivatives of blood, cells, tissues, organs, cellular secretions, tissue and cellular culture and media, Inteferon, Enzymes, Antiserum, Immunosuppressants, Immuno Vaccine, Antigens, and Antibodies; (2) materials, equipment, and supplies used with the commodities set forth in (1) above when moving in the same vehicle and with such commodities, and at the same time between points in Utah, Texas, Oklahoma, New Mexico, Nebraska, Arizona, Colorado, Illinois, Indiana, Iowa, Kansas, Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Wisconsin, Michigan, West Virginia, and the District of Columbia; and (3) materials, equipment, and supplies used with the commodities set forth in (1) above, between points in Alabama, Arkansas, California, Florida, Georgia, Idaho, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, North Carolina, North Dakota, Oregon, South Carolina, South Dakota, Tennessee, Vermont, Virginia, Washington, and Wyoming. The authority granted herein, and applicant's existing authority shall

be construed as conferring only a single operating right. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition to intervene or other pleading setting forth in precise detail the manner in which it has been so prejudiced.

No. MC 126603 (Sub-No. 6) (Republication), filed October 16, 1970, published in the FEDERAL REGISTER issue of November 26, 1970, and republished this issue. Applicant: R. MENARD TRANSPORT LTD., a corporation, St. Philippe, County of La Prairie, Quebec, Canada. Applicant's representative: John J. Brady, Jr., 75 State Street, Albany, NY 12207. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated April 30, 1971, and served June 10, 1971, finds; That the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes; of (1) slate, from Middle Granville, N.Y., and points in Rutland County, Vt., to those ports of entry on the United States-Canada boundary line located at or near Champlain, N.Y., Rouses Point, N.Y., Trout River, N.Y., North Burke, N.Y.; Highgate Springs, Richford, North Troy, Derby Line, Vt.; and (2) lumber; (a) from those ports of entry on the United States-Canada boundary line located at or near Champlain, Rouses Point, Trout River, Rooseveltown, and Ogdensburg, N.Y.; Morses Line, Richford, North Troy, Derby Line, and Norton, Vt.; Van Buren, Houlton, Jackman, Vanceboro, and Calais, Maine, to points in Maine, Vermont, Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, and Delaware; and (b) from those ports of entry on the United States-Canada boundary line located at or near Champlain, subject in 2 (a) and (b) above to the coincidental cancellation, at applicant's written request, of its certificates Nos. MC-126603 (Sub-Nos. 2 and 4), issued May 2, 1969, and January 27, 1970, respectively; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 135200 (Sub-No. 2) (Republication), filed December 28, 1970, published in the FEDERAL REGISTER issue of January 28, 1971, and republished this issue. Applicant: W. H. SAPP AND HILTON SAPP, a partnership doing business as SAPP BROS. TRUCKING CO., Tifton Highway R.F.D. 1, Box 135-A, Barney, GA 31625. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, Fla. 32207. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated April 30, 1971, and served June 10, 1971, finds; That the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier, by motor vehicle, over irregular routes; of (1) animal and poultry feed ingredients derived from peanuts, from Moultrie, Ga., to points in Florida; and (2) animal and poultry feed ingredients derived from soybeans, from Valdosta, Ga., to Dothan and Enterprise, Ala., and to points in Florida; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

APPLICATION FOR WATER CARRIER

No. W-1254 (RIVER LOGGING COMPANY Contract Carrier Application), (Republication) filed November 27, 1970 published in the FEDERAL REGISTER issue of January 14, 1971, and republished this issue. Applicant: RIVER LOGGING COMPANY, a corporation, Frohna, Mo. Applicant's representative: Francis Toohey, Jr., 11 North Main Street, Perryville, MO 63775. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated April 30, 1971, and served June 8, 1971, finds; that the transportation by applicant as a contract carrier by water, by non-self-propelled vessels with the use of separate towing vessels, in interstate or foreign commerce of logs from: (1) Points and places on the Mississippi River, between Keokuk, Iowa, and Wittenberg, Mo.; (2) points and places on the Missouri River below and including Jefferson City, Mo.; and (3) points and places on the Illinois River below and including Peoria, Ill., to Wittenberg, Mo.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 125466 (Sub-No. 2) (Notice of Filing of Petition to Modify Permit), filed June 1, 1971. Petitioner: V & P CARRIERS, INC., Brooklyn, N.Y. Petitioners representatives: Edward M. Alfano and John L. Alfano, 2 West 45th Street, New York, NY 10036. Petitioner holds authority in No. MC 125466 (Sub-No. 2), to conduct operations as a motor contract carrier transporting: *Such commodities* as are dealt in by distributor of automotive parts, uncrated, and *such commodities* as are dealt in by distributor of automotive parts, crated, when moving in mixed loads with such commodities as are dealt in by distributor of automotive parts, uncrated, from Chicago, Ill., to Huntington Station, N.Y., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts with Transportation Parts Company of New York, Inc., of Huntington Station, N.Y. The purpose of this petition is to modify said permit by changing the territorial description to read as follows: Such commodities as are dealt in by distributor of automotive parts, uncrated, and such commodities as are delt in by distributor of automotive parts, crated, when moving in mixed loads with such commodities as are dealt in by distributor of automotive parts, uncrated, between Chicago, Ill., on the one hand, and, on the other, Huntington Station, N.Y. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts with Transportation Parts Company of New York, Inc., of Huntington Station, N.Y. The commodity description will remain the same. The restriction to transportation service to be performed under a continuing contract, or contracts with

Transportation Parts Company of New York, Inc., of Huntington Station, N.Y., will also remain unchanged. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATION FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 11220 (Sub-No. 123), filed May 14, 1971. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38118. Applicant's representative: Warren A. Goff, 2111 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities generally*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, between Birmingham, Ala., and points within 15 miles thereof, on the one hand, and, on the other, Albertville, Alexander City, Boaz, Centre, Fairfax, Fort Payne, Guntersville, Oneonta, Opelika, Phenix City, Scottsboro, Sylacauga, Talladega, Tuskegee, and Wetumpka, Ala. NOTE: Applicant states that the requested authority can be tacked with its existing authority at Birmingham, Ala. The instant application is a matter directly related to the application in MC-F-11143 published in the FEDERAL REGISTER issue of April 21, 1971. If a hearing is deemed necessary, applicant requests it be held at Birmingham or Montgomery, Ala., or Memphis, Tenn.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11182. (GOTTRY CORP.—Purchase—J. N. WILSON COMPANY, INC.), published June 3, 1971, issue of the FEDERAL REGISTER on page 10829. Application filed June 10, 1971, for temporary authority under section 210a(b).

No. MC-F-11185. (Correction) (TERMINAL TRANSPORT COMPANY, INC.—Purchase (Portion)—MICHIGAN EXPRESS, INC., and CUSHMAN MOTOR DELIVERY COMPANY), published in the June 3, 1971, issue of the FEDERAL REGISTER on pages 10829 and 10830. Prior notice should be modified to include the following authority. Also serving coordinately with the above described routes in regular service the territory adjacent to Chicago, including such points as Elgin, Aurora, Joilet, and St. Charles, Ill., and more fully described as from junction of U.S. Highways 41 and 30 over U.S. Highway 30 to junction Illinois Highway 31; thence over Illinois Highway 31 to junction U.S. Highway 20; thence over U.S. Highway 20 to Chicago; *general commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, over regular routes, serving the plantsite of Hussman Refrigerator Co. at St. Charles Rock Road and Taussig Road, Bridgeton, Mo., as an off-route point in connection with carrier's presently authorized regular route authority, serving the plantsite of Montgomery Elevator Co. near the intersection of U.S. Highway 6 and Interstate Highway 80 near Green Rock (Henry County), Ill., as an off-route point in connection with carrier's presently authorized regular route operations to and from Moline, Ill.

No. MC-F-11201. Authority sought for purchase by FOSS L & T CO., 660 West Ewing Street, Seattle, WA 98119, of the operating rights of SOUTHERN ALASKA FAST FREIGHT, INC., 2440 Hemlock Avenue, Ketchikan, AK 99901, and for acquisition by DILLINGHAM CORPORATION, 1441 Kapiolani Boulevard, Honolulu, HI 96814, of control of such rights through the purchase. Applicants' attorney: Edward G. Lowry III, 14th Floor, Norton Building, Seattle, Wash. 98104. Operating rights sought to be transferred: (1) *General commodities*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment; and (2) agricultural commodities, as defined in section 203(b)(6) of the Interstate Commerce Act, when transported in the same vehicle at the same time as the commodities set forth in (1) above, as a *common carrier*, over irregular routes, between points in Washington (except points in Mason, Kitsap, Clallam, and Jefferson Counties, Wash), on the one hand, and, on the other, Juneau, Alaska, and points on Revillagigedo Island, Alaska. Vendee is authorized to operate as a *common carrier* in Alaska and Washington. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11202. Authority sought for purchase by CAROLINA FREIGHT CARRIERS CORPORATION, Post Office Box 697, Cherryville, NC 28021, of a portion of the operating rights and certain property of TERMINAL TRANSFER AND STORAGE COMPANY, INC., Post Office Box 8308, Charlotte, NC, and for acquisition by C. G. BEAM, also of Cherryville, N.C. 28021, of control of such rights and property through the purchase. Applicants' attorney: James E. Wilson, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-99521 Sub-4, covering that portion of transportation of general commodities, as a common carrier, in interstate commerce, within the State of North Carolina, generally within 100 miles of Hillsboro. Vendee is authorized to operate as a *common carrier* in North Carolina, Georgia, South Carolina, Florida, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Maryland, Virginia, Pennsylvania, Delaware, Alabama, West Virginia, Ohio, Illinois, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11203. Authority sought for purchase by CAROLINA FREIGHT CARRIERS CORPORATION, Post Office Box 697, Cherryville, NC 28021, of the operating rights and certain property of ARTHUR OVENS (MABEL OVENS, EXECUTRIX OF THE ESTATE), 1708 Nay Aug Avenue, Scranton, PA 18509. Applicants' attorney: James E. Wilson, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. Operating rights sought to be transferred: *General commodities*, excepting among others, dangerous explosives, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Scranton and Susquehanna, Pa., between Scranton, Pa., and Endicott, N.Y. Vendee is authorized to operate as a *common carrier* in North Carolina, Georgia, South Carolina, Florida, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Maryland, Virginia, Pennsylvania, Delaware, Alabama, West Virginia, Ohio, Illinois, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11204. Authority sought for purchase by INTRACOASTAL TRUCK LINE, INC., 1200 Peters Road, Post Office Box 354, Harvey, LA 70058, of the operating rights of J. C. DUKE, doing business as DUKE TRANSPORTATION, Post Office Box 149, Jena, LA 70544, and for acquisition by JOHN C. AND LEWIS E. HOOPER, both of Post Office Box 354, Harvey, LA 70058, of control of such rights through the purchase. Applicants' attorney: Daniel Lund, 806 National Bank of Commerce Building, New Orleans, La. 70112. Operating rights sought to be transferred: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and *machinery, materials, equipment, and supplies* used in, or in connection with the construction operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, as a *common carrier*, over irregular routes, between points in Texas and Louisiana. Vendee is authorized to operate as a *common carrier* in Louisiana, Mississippi, Alabama, Georgia, and Florida. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11205. Authority sought for purchase by BRANDT TRUCK LINE, INC., Routes 66 and 150, Post Office

Box 812, Bloomington, IL 61701, of the operating rights of NIMZ TRANSPORTATION, INC. (EDWARD LITAK, TRUSTEE), Post Office Box 220, Watseka, IL 60970, and for acquisition by ARTHUR BRANDT, 903 Monroe Drive, Bloomington, IL 61701 and JOHN S. BRANDT, 2013 East Taylor, Bloomington, IL 61701, of control of such rights through the purchase. Applicants' attorney: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be transferred: Under a certificate of registration in Docket No. MC–99441 Sub-1, covering the transportation of general commodities, as a common carrier in interstate commerce, within the State of Illinois. Vendee is authorized to operate as a common carrier in Illinois. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11206. Authority sought for purchase by DISTRIBUTORS SERVICE CO., 2000 West 43d Street, Chicago, IL 60609, of a portion of the operating rights of CAMBEIS TRUCKING COMPANY, INC., 312 Third Avenue, Brooklyn, NY 11215, and for acquisition by D. S. CORPORATION, also of Chicago, Ill. 60609, of control of such rights through the purchase. Applicants' attorneys: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368, and Harris J. Klein, 280 Broadway, New York, NY 10007. Operating rights sought to be transferred: *General commodities,* excepting among others, dangerous explosives, household goods and commodities in bulk, as a *common carrier,* over irregular routes, between points and places in Middlesex, Union, Essex, Passaic, Hudson, and Bergen Counties, N.J., on the one hand, and, on the other, Newark, N.J., with restriction. Vendee is authorized to operate as a *common carrier* in Indiana, Illinois, Iowa, Ohio, New York, Connecticut, Delaware, Maryland, Massachusetts, New Jersey, Pennsylvania, Rhode Island, Wisconsin, District of Columbia, Kentucky, Michigan, Maine, New Hampshire, Tennessee, Vermont, Virginia, West Virginia, and Minnesota. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11207. Authority sought for purchase by SARDO'S DELIVERY SERVICE, INC., 50 Kean Street, West Babylon, NY 11704 of a portion of the operating rights of CAMBEIS TRUCKING CO., INC., 312 Third Avenue, Brooklyn, NY 11215, and for acquisition by ANGELO SARDO, also of West Babylon, N.Y., of control of such rights through the purchase. Applicants' attorneys: Arthur J. Pikens, 160–16 Jamaica Avenue, Jamaica, NY 11432 and Harris J. Klein, 280 Broadway, New York, NY. Operating rights sought to be transferred: *General commodities,* except of those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, as a *common carrier* over irregular routes, between New York, N.Y., on the one hand, and, on the other, points in Nassau and Suffolk Counties, N.Y. Vendee is authorized to operate as a *common carrier* in New York. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11208. Authority sought for purchase by LAWRENCE TRANSFER & STORAGE CORPORATION, 2727 Whiteside Avenue, Roanoke, Va., of the operating rights and certain property of BOWARD MOVING AND STORAGE, INC., Post Office Box 2366, Commerce Road, Staunton, VA 24401, and for acquisition by WELDON T. LAWRENCE, JR., also of Roanoke, Va., of control of such rights through the purchase. Applicants' attorney: Alan F. Wohlstetter, 1 Farragut Square South, Washington, DC 20006. Operating rights sought to be transferred: *Household goods* as defined by the Commission, as a *common carrier,* over irregular routes, between Staunton, Va., and points in Augusta County, Va., within 50 miles of Staunton, on the one hand, and, on the other, Washington, D.C., and points in North Carolina, Maryland, Pennsylvania, and West Virginia, between points in Rockbridge and Rockingham Counties, Va., on the one hand, and, on the other, Washington, D.C., and points in North Carolina, Maryland, Pennsylvania, and West Virginia, between Waynesboro, Va., and points within 25 miles of Waynesboro, on the one hand, and, on the other, points in Delaware, the District of Columbia, Maryland, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, and West Virginia, between Harrisonburg, Va., and points in Virginia within 25 miles of Harrisonburg, on the one hand, and, on the other, points in Virginia, Ohio, North Carolina, Maryland, Pennsylvania, West Virginia, and the District of Columbia. Vendee is authorized to operate as a *common carrier* in Virginia, Tennessee, North Carolina, Maryland, Pennsylvania, West Virginia, Ohio, New York, Delaware, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11209. Authority sought for purchase by H. C. GABLER, INC., Rural Delivery No. 3, Chambersburg, PA 17201, of the operating rights of JOHN E. FOLEY, DISTRICT DIRECTOR, INTERNAL REVENUE SERVICE, Post Office Box 266, Niagara Square Station, Buffalo, NY 14202, and for acquisition by HAROLD C. GABLER, Montgomery Avenue Extended, Chambersburg, PA 17201, of control of such rights through the purchase. Applicants' attorney: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Operating rights sought to be transferred: *General commodities,* except those of unusual value, and except dangerous explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over irregular routes, between Rochester, N.Y., on the one hand, and, on the other, points in Monroe County, N.Y.; *household goods* as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, between Rochester, N.Y., and points in Monroe County, N.Y., on the one hand, and, on the other, points in Connecticut, New York, New Jersey, Pennsylvania, and Ohio. Vendee is authorized to operate as a *common carrier* in Pennsylvania, Maryland, New Jersey, Virginia, West Virginia, Iowa, Kentucky, Massachusetts, Michigan, Missouri, New Hampshire, Rhode Island, Vermont, Maine, Connecticut, Delaware, New York, Ohio, Indiana, Illinois, Michigan, North Carolina, Alabama, Tennessee, Mississippi, Wisconsin, South Carolina, Minnesota, Louisiana, Texas, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11210. Authority sought for purchase by PACELLI BROS. TRANSPORTATION, INC., 119 Trowel Street, Bridgeport, CT, of the operating rights and property of CENTRAL CONNECTICUT FREIGHT LINES, INC., 69 Newfield Street, Middletown, CT, and for acquisition by TORINO PACELLI, 36 Hillston Road, Trumbull, CT, of control of such rights and property through the purchase. Applicants' attorney: John E. Fay, 342 North Main Street, West Hartford, CT 06117. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC–121031 Sub-1, covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Connecticut. Vendee is authorized to operate as a *common carrier* in Connecticut, New York, and New Jersey. Application has been filed for temporary authority under section 210a(b). NOTE: MC–61007 Sub-7 is a matter directly related.

No. MC–F–11211. Authority sought for purchase by MELTON TRUCK LINES, INC., Post Office Box 7666, Shreveport, LA 71107, of a portion of the operating rights of MID-SOUTH DELIVERY SERVICE CO., 3215 Tulane Road, Memphis, TN 38116, and for acquisition by DUNCAN McRAE, also of Shreveport, La., of control of such rights through the purchase. Applicants' attorneys: Dale Woodall, 900 Memphis Bank Building, Memphis, Tenn. 38103, and Wilburn L. Williamson, Suite 280, National Foundation Life Center, 3535 Northwest 58th, Oklahoma City, OK 73112. Operating rights sought to be transferred: *Agricultural implements, farm machinery, and incidental component parts and attachments* thereof when moving at the same time for use thereon (except commodities the transportation of which, because of size or weight, requires the use of special equipment), as a *common carrier,* over irregular routes, from Memphis, Tenn., to points in Arkansas (except points bounded by a line commencing at Pine Bluff, Ark., and extending along the southeast bank of the Arkansas River to the west bank of the Mississippi River, thence along the west bank of the Mississippi River to the Arkansas-Louisiana State line, thence along the Arkansas-Louisiana State line to the east bank of

the Ouachita River (approximately 5 miles east of Huttig, Ark.), thence along the east bank of the Ouachita River to Morobay, Ark., and thence along Arkansas Highway 15 to points of the beginning), and to points in Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, and Texas, with restriction. Vendee is authorized to operate as a *common carrier* in all States in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-8795; Filed 6-22-71;8:48 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

JUNE 18, 1971.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. MC 27362 (Sub-No. 2), filed June 11, 1971. Applicant: JIMMY W. SWEET, doing business as J & M TRUCK LINE, 520 South Fifth Street, Clinton, OK 73601. Applicant's representative: Dean Williamson, Suite 280, National Foundation Life Center, 3535 Northwest 58th Street, Oklahoma City, OK 73112. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities* over the following routes: Between Oklahoma City, Okla., and the Oklahoma-Texas State line 4 miles west of the intersection of State Highway 30 and State Highway 33 via Interstate Highway 40 from Oklahoma City, Okla., to Clinton, Okla., thence over U.S. Highway 183 to its intersection with State Highway 47, thence over State Highway 34 to Camargo, Okla., thence over State Highway 34 to its intersection with Oklahoma State Highway 47, thence over State Highway 47 to the Oklahoma-Texas State line and return over the same route serving Oklahoma City, Okla., and all points on the above route between Arapaho, Okla., and the Oklahoma-Texas State line and the off-route point of Trail, Okla.; and between Oklahoma City, Okla., and Durham, Okla., via Interstate Highway 40 to Clinton, Okla., thence over State Highway 73 to its intersection with State Highway 44, thence over State Highway 44 to its intersection with State Highway 33, thence over State Highway 33 to its intersection with State Highway 47 and U.S. Highway 283 north of Cheyenne, Okla., thence over State Highway 47 to its intersection with State Highway 30, thence over State Highway 30 to Durham, Okla., and return over the same route serving Oklahoma City, Okla., and Durham, Okla., and all points on the above route between Clinton, Okla., and Durham, Okla., and the off-route points of Stafford, McClure, Hammon, Herring, and Reydon, Okla. Both intrastate and interstate authority sought.

HEARING: July 12, 1971, 9 a.m., Third Floor, Jim Thorpe Building, Oklahoma City, Okla. 73104. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Oklahoma Corporation Commission, Third Floor, Jim Thorpe Building, Oklahoma City, Okla. 73105, and should not be directed to the Interstate Commerce Commission.

State Docket No. 52678, filed June 9, 1971. Applicant: BRUNO ALBERT MALUCCHI, doing business as A. M. DEVINCENZI COMPANY, 1598 Carroll Avenue, San Francisco, CA 94124. Applicant's representative: Bertram S. Silver, 140 Montgomery Street, San Francisco, CA 94104. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities,* as follows: *Part I*—Between the following points, serving all intermediate points on the said routes and all off-route points within 10 miles thereof: (1) Santa Rosa and Salinas on U.S. Highway 101; (2) Salinas and Carmel Valley via Monterey, Pacific Grove and Carmel on unnumbered highway; (3) Castroville and Hollister on California Highway 156; (4) San Francisco and Monterey on California Highway 1; (5) San Jose and Santa Cruz on California Highway 17; (6) Santa Clara and Santa Cruz on California Highway 9; (7) San Francisco and Saratoga on California Highway 35; (8) Oakland and Sacramento on U.S. Highway 50; (9) Oakland and Sacramento on Interstate Highway 80; (10) Vallejo and Napa on California Highway 29; (11) Pinole and Stockton on U.S. Highway 4; (12) Vallejo and Pleasanton on Interstate Highway 680; (13) Oakland and Walnut Creek on California Highway 24; (14) Sacramento and junction California Highway 4 and California Highway 160 on California Highway 160; (15) Ignatio and Vallejo on California Highway 37; (16) Sonoma and Sears Point on California Highway 121; (17) Fairfield and Lodi on California Highway 12; (18) Sacramento and Modesto on U.S. Highway 99;

(19) Davis and Woodland on California Highway 113; (20) To and from and between all points and places located in San Francisco territory as described in Part II set forth below, and points located within 10 miles of the boundaries of said territory. Through routes and rates may be established between any and all points specified in subparagraphs 1 through 19 above. Alternate routes for operating convenience only, between points in California, serving no intermediate points except as otherwise authorized, over any and all highways within the State of California. Applicant shall not transport any shipments of: (1) Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A; (2) automobiles, trucks, and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses, and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses, bus chassis; (3) livestock; viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags, or swine; (4) commodities requiring protection from heat by the use of ice (either water or solidified carbon dioxide) or by mechanical refrigeration; (5) liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers, or a combination of such highway vehicles; (6) commodities when transported in bulk in dump trucks or in hopper-type trucks; (7) commodities when transported in motor vehicles equipped for mechanical mixing in transit; and

(8) Logs. *Part II*—San Francisco Territory includes all of the city of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Co. right-of-way at Arastradero Road; southeasterly along the Southern Pacific Co. right-of-way to Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to West Parr Avenue; easterly along West Parr Avenue to Capri Drive; southerly along Capri Drive to East Parr Avenue; easterly along East Parr Avenue to the Southern Pacific Co. right-of-way; southerly along the Southern Pacific Co. right-of-way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly

along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard;

Northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive, and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the city of Richmond; southwesterly along the highway extending from the city of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Both intrastate and interstate authority sought.

HEARING: Time and place not shown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Public Utilities Commission, State of California, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, CA 94102 and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-8792 Filed 6-22-71;8:48 am]

CUMULATIVE LIST OF PARTS AFFECTED—JUNE

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during June.

3 CFR

Page

PROCLAMATIONS:

4057 ... 10769
4058 ... 10839
4059 ... 11077
4060 ... 11791
4061 ... 11847

EXECUTIVE ORDERS:

May 27, 1913 (revoked in part by PLO 5064) ... 11098
3406 (see PLO 5074) ... 11732
6704 (revoked by PLO 5079) ... 11733
11513 (amended by EO 11597) ... 11501
11596 ... 11079
11597 ... 11501
11598 ... 11711
11599 ... 11793

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:

Reorganization Plan No. 1 of 1971 ... 11181

5 CFR

213 ... 10771, 10948, 11081, 11270–11271, 11633, 11713
294 ... 11901
550 ... 11901

PROPOSED RULES:

300 ... 11817
772 ... 11817

7 CFR

51 ... 10771
55 ... 10937, 11795
56 ... 10937
59 ... 10841
70 ... 10937
215 ... 10937
225 ... 11633
719 ... 11271, 11802
722 ... 10772
725 ... 10772, 11559
729 ... 11901
730 ... 11633, 11849
760 ... 11279
777 ... 11019
905 ... 11281, 11561
908 ... 10721, 10733, 11019, 11205, 11509, 11633
910 ... 10773, 10937, 11019, 11421, 11509, 11802, 11902
911 ... 10721
915 ... 11509
916 ... 11206
917 ... 11803
919 ... 11206
922 ... 11713, 11714
923 ... 11020
944 ... 10774, 11804
946 ... 11714
953 ... 10841
959 ... 10938
966 ... 11902
980 ... 11902
1090 ... 10775
1098 ... 10775, 11511
1103 ... 10775, 11511
1104 ... 10775, 11511
1106 ... 10775, 11511
1421 ... 10777, 11081, 11714
1464 ... 11634
1488 ... 11081

PROPOSED RULES:

201 ... 11451
909 ... 11103
911 ... 11655, 11735
915 ... 11043, 11735
917 ... 10979, 11103, 11737
921 ... 11104
944 ... 10740
982 ... 11942
999 ... 11519
1030 ... 11352
1032 ... 11352
1040 ... 11455
1046 ... 11352
1049 ... 11352
1050 ... 11352
1062 ... 11352
1063 ... 11211, 11864, 11865
1070 ... 11211, 11865
1078 ... 11211, 11865
1079 ... 10879, 11211, 11865
1094 ... 10980
1099 ... 11352
1125 ... 11655
1136 ... 11104

8 CFR

103 ... 11634, 11903
204 ... 11635, 11903
212 ... 11635
214 ... 11635, 11903
238 ... 11636
242 ... 11636
245 ... 11636
292 ... 11903
299 ... 11636
316a ... 11636
336 ... 11636
343b ... 11636
499 ... 11637

PROPOSED RULES:

211 ... 11296
235 ... 11735
242 ... 11296
299 ... 11735

9 CFR

74 ... 10841
76 ... 10842, 10843, 11020, 11421, 11422, 11508, 11589, 11637, 11638
79 ... 10844
310 ... 11639, 11903
311 ... 11903
314 ... 11639, 11903
317 ... 11903
318 ... 11639, 11903
319 ... 11903
322 ... 11903
325 ... 11639
327 ... 11903
331 ... 11720, 11904

10 CFR

1 ... 11589
40 ... 10938
50 ... 11423
115 ... 11423
150 ... 10938

PROPOSED RULES:

50 ... 11113

12 CFR

Page

222 ... 10777, 10778, 11805
265 ... 10778, 10779
505 ... 11185
527 ... 11596
541 ... 10722, 11281
545 ... 10722, 10723, 11281, 11854
556 ... 10723, 11854
561 ... 10724
563 ... 10724, 10939, 11428
564 ... 11512
582 ... 10725
582b ... 10725
672 ... 11428
673 ... 11428
741 ... 10844
747 ... 11855
748 ... 10940, 11512

PROPOSED RULES:

222 ... 11944
545 ... 11818
703 ... 11672
741 ... 11603

13 CFR

PROPOSED RULES:

121 ... 11525, 11526

14 CFR

39 ... 10779, 10780, 10946, 11185, 11186, 11428, 11512, 11640, 11721
71 ... 10781, 10946, 10947, 11081, 11187, 11188, 11429, 11513, 11597, 11640–11642, 11721–11723, 11806, 11904–11905
73 ... 11430, 11723, 11905–11906
75 ... 10781, 11081, 11806–11807, 11905, 11907
97 ... 11021, 11430, 11642
302 ... 11643
374 ... 11189, 11807
376 ... 11644

PROPOSED RULES:

1 ... 11218
39 ... 10801, 10984, 11303, 11522
43 ... 11218
47 ... 10801
61 ... 11865
71 ... 10741, 10802, 10984, 11218–11222, 11523, 11524, 11601–11602, 11668–11670, 11749, 11750, 11815, 11866, 11867, 11942
73 ... 11816
75 ... 10984
91 ... 11218
93 ... 11670
121 ... 11456
241 ... 11750
249 ... 10803
296 ... 11816
297 ... 11816
371 ... 10803
399 ... 10806

15 CFR

370 ... 10845
371 ... 11808
372 ... 10845
373 ... 10845
376 ... 11808
379 ... 10846

PROPOSED RULES:

1200 ... 10980

16 CFR

Page

1 ... 11082
13 ... 11281–11291, 11597, 11907–11916
500 ... 10781
501 ... 10846, 11082

17 CFR

211 ... 11918
231 ... 11918
240 ... 11513, 11919
241 ... 11918
270 ... 11645, 11919
274 ... 11919

18 CFR

101 ... 11431
104 ... 11431
105 ... 11431
154 ... 11579
201 ... 11431
204 ... 11432
205 ... 11432

PROPOSED RULES:

141 ... 11943
260 ... 11943

19 CFR

1 ... 11849
9 ... 11850
10 ... 10726, 10727, 11581
13 ... 10727
16 ... 10727
22 ... 10847
54 ... 10727

PROPOSED RULES:

1 ... 11864
153 ... 11526

20 CFR

1 ... 11432
3 ... 11432
25 ... 11433
405 ... 10848

PROPOSED RULES:

422 ... 10880

21 CFR

1 ... 11022, 11723
2 ... 10728, 11433
3 ... 11022, 11514, 11723
8 ... 11645
28 ... 10781
121 ... 10728, 10479, 11646, 11723, 11724, 11811
130 ... 11022, 11723
135 ... 11724
135a ... 10947, 11724
135b ... 10850, 10947
135c ... 11920
135e ... 11190, 11920
135g ... 11811
141 ... 11515
141b ... 11725
145 ... 11516
146 ... 11022, 11516, 11723
146b ... 11725
146d ... 11726
148 ... 11516
148b ... 11292
148k ... 11292
148q ... 11811
148w ... 11433
149v ... 11434

21 CFR—Continued

Page

151g ... 11516
191 ... 11190
420 ... 10851, 11293, 11517, 11726, 11727, 11920

PROPOSED RULES:

1 ... 11217
3 ... 11521
121 ... 10983, 11742
125 ... 11521
130 ... 10983
135g ... 11742
141a ... 11742
146a ... 11742
146c ... 11742
146e ... 11742
191 ... 11044

22 CFR

201 ... 11921

24 CFR

17 ... 11024
60 ... 10781
200 ... 10781
1914 ... 11083, 11269, 11728
1915 ... 11083, 11270, 11729

PROPOSED RULES:

8 ... 11296
76 ... 11744
200 ... 11869
241 ... 11815
1909 ... 11109
1910 ... 11109

25 CFR

PROPOSED RULES:

131 ... 11043

26 CFR

1 ... 10729, 10730, 10851, 11025, 11032, 11084, 11190, 11434, 11730, 11864, 11923–11924
3 ... 10948
301 ... 10782, 11025, 11503, 11730

PROPOSED RULES:

1 ... 10787, 10953, 11100, 11442, 11451, 11864, 11940
13 ... 10787, 11451
45 ... 11451
53 ... 10968, 11034, 11655, 11940
143 ... 10968, 11655, 11940
250 ... 11940
251 ... 11940

28 CFR

0 ... 10862, 10863

29 CFR

7 ... 10863
20 ... 11505
50 ... 10865
51 ... 10865
602 ... 11434
603 ... 10866
612 ... 10866
615 ... 11561
697 ... 11561

PROPOSED RULES:

202 ... 11044
1902 ... 11738

30 CFR

PROPOSED RULES:

231 ... 11815

31 CFR

Page

316 ... 10949
500 ... 11441

PROPOSED RULES:

102 ... 11208
103 ... 11208

32 CFR

809d ... 11196
819a ... 11196
1801 ... 11505
1802 ... 11581

33 CFR

2 ... 10949
117 ... 11087, 11434
204 ... 10730
207 ... 10730

PROPOSED RULES:

117 ... 10779–10801, 11045, 11455, 11667

36 CFR

PROPOSED RULES:

7 ... 10877–10879

39 CFR

Ch. I ... 11505
61 ... 11850
62 ... 11850
171 ... 10783
951 ... 11562
952 ... 11562
953 ... 11566
954 ... 11567
955 ... 11569
956 ... 11572
957 ... 11575
958 ... 11578

41 CFR

1–1 ... 11435
1–4 ... 11199
3–1 ... 11582
3–30 ... 11582
5A–72 ... 11088
9–1 ... 11646
9–3 ... 11095
9–5 ... 11646
9–16 ... 11095
14–1 ... 11506
29–3 ... 11647
60–6 ... 10868
101–19 ... 11199
101–26 ... 10950, 11438
101–30 ... 10950

41 CFR—Continued

Page

101–35 ... 10951
101–47 ... 11438

PROPOSED RULES:

3–4 ... 11599

42 CFR

54 ... 10874, 10875, 11295
72 ... 11025
481 ... 10731

43 CFR

PUBLIC LAND ORDERS:

64 (revoked by PLO 5067) ... 11098
639 (amended by PLO 5074) ... 11732
1556 (revoked in part by PLO 5066) ... 11098
1703 (revoked in part by PLO 5063) ... 11098
2052 (revoked by PLO 5075) ... 11732
3920 (see PLO 5074) ... 11732
4582 (see PLO 5072) ... 11731
4962 (see PLO 5072) ... 11731
5010 (corrected by PLO 5080) ... 11733
5045 (corrected by PLO 5071) ... 11731
5062 ... 11097
5063 ... 11098
5064 ... 11098
5065 ... 11098
5066 ... 11098
5067 ... 11098
5068 ... 11099
5069 ... 11730
5070 ... 11730
5071 ... 11731
5072 ... 11731
5073 ... 11731
5074 ... 11732
5075 ... 11732
5076 ... 11732
5077 ... 11732
5078 ... 11732
5079 ... 11733
5080 ... 11733

45 CFR

117 ... 11200
120 ... 10951
206 ... 10783

46 CFR

11 ... 11653
146 ... 11733
251 ... 11033, 11099
310 ... 11851
381 ... 10739
531 ... 11439

PROPOSED RULES:

146 ... 11302
512 ... 10985, 11943

47 CFR

Page

0 ... 11440
2 ... 11587
21 ... 11144
73 ... 10784
74 ... 10876, 11587
83 ... 11440
87 ... 11587
89 ... 11587
91 ... 11588
93 ... 11588

PROPOSED RULES:

13 ... 11225
25 ... 10806
73 ... 10741, 10806, 11225, 11818
74 ... 11818
83 ... 10807

49 CFR

172 ... 10732
173 ... 10732, 10952, 11734
176 ... 10733
177 ... 10784
178 ... 10733, 10785
179 ... 10733
391 ... 11205
571 ... 10733, 10736, 11508, 11852, 11921
1002 ... 11293
1033 ... 10785

PROPOSED RULES:

171 ... 11304
172 ... 11304
173 ... 10882, 11224, 11304, 11670
174 ... 11304
175 ... 11304
177 ... 10882, 11304
178 ... 10882, 11224, 11524, 11670
192 ... 10885
213 ... 11974
228 ... 11303
391 ... 11223
393 ... 11046
395 ... 10802
567 ... 11868
571 ... 11750, 11868
Ch. X ... 10741, 10742
1048 ... 11945
1056 ... 11671
1100 ... 10808
1332 ... 10886

50 CFR

32 ... 11099
253 ... 10736
254 ... 10737
258 ... 11922
280 ... 11441
295 ... 11923

LIST OF FEDERAL REGISTER PAGES AND DATES—JUNE

Pages	*Date*		
10715–10762	June 2	11415–11494	12
10763–10832	3	11495–11551	15
10833–10929	4	11553–11625	16
10931–11011	5	11627–11704	17
11013–11070	8	11705–11784	18
11071–11173	9	11785–11842	19
11175–11261	10	11843–11894	22
11263–11413	11	11895–11980	23

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PART II

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

▪

TRACK SAFETY STANDARDS

Notice of Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 213]

[Docket No. RST-1; Notice 1]

TRACK SAFETY STANDARDS

Notice of Proposed Rule Making

The Federal Railroad Administration (FRA) proposes to amend Chapter II of Subtitle B of Title 49 of the Code of Federal Regulations by adding a Part 213 prescribing initial safety standards for track and track inspection as required by the Federal Railroad Safety Act of 1970 (84 Stat. 971, 45 U.S.C. 421 et seq.). Section 202(e) of the Act requires initial safety standards based upon existing railroad safety standards and data to be issued before October 17, 1971.

Proposed Part 213 sets forth initial safety standards for track and track inspection. Further notices of proposed rule making will be addressed to initial railroad equipment standards and operating practices.

Interested persons are invited to participate in the making of these initial track safety standards by submitting written data, views, or comments. Communications should identify the regulatory docket number and notice number, and should be submitted in triplicate to the Docket Clerk, Office of Hearings and Proceedings, Federal Railroad Administration, Attention: Docket No. RST-1, 400 Seventh Street SW., Washington, DC 20590. Communications received before July 31, 1971, will be considered by the Federal Railroad Administrator before taking final action on the proposed standards. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5100, Nassif Building, 400 Seventh Street SW., Washington, DC. The proposals contained in this notice may be changed in light of comment received.

In developing proposed initial track safety standards, FRA considered information available within FRA and information as to "existing safety data and standards" made available to it by representatives of the Association of American Railroads, railroad industry, railroad labor organizations, and State regulatory agencies. Informal meetings were held with representatives of those groups to assist FRA in the refinement of the information. Technical publications provided by foreign governments also were considered in the preparation of the proposed initial track safety standards.

The proposed initial standards are, in part, based on the railroad industry's own recommended standards. The proposed initial standards, therefore, will be similar to those recommended industry standards in several respects.

For several reasons, however, it is necessary to substantially reorganize and revise the language that will be incorporated into the Federal standards. One major consideration is that the industry standards, intended to serve only as recommendations, are not written as a regulatory document, which the standard proposed in this notice must be. Violation of these regulatory standards will be subject to a penalty of at least $250 and up to $2,500 per day for each violation. Therefore it is important that the regulatory requirements be written in terms that clearly indicate what the minimum requirements are.

FRA intends to state the Federal requirements in performance terms rather than detailed specifications, wherever it is possible to do so without lowering the level of safety. In some cases it may not be possible to substitute performance requirements without further research. Also it may be necessary to retain some specific requirements because there is not time to develop an enforceable performance-type substitute within the period specified by the Act.

Effective date of proposed regulations. The FRA recognizes that the railroad industry will need a reasonable period of time in which to comply with some of the proposed regulations. Therefore it is proposed in § 213.3(c) that the regulations become effective October 15, 1971, with respect to newly constructed track and rebuilt track, and effective October 15, 1972, with respect to existing track. Any person who identifies a requirement that needs a longer lead time to implement should indicate specifically the problems that would arise from an early requirement of compliance, and the time needed to solve those problems.

Cost/benefit determinations. In evaluating the proposed regulations, commentators should bear in mind that every safety regulation has a cost factor, either a direct purchase and operation cost or an indirect cost resulting from operating at less than maximum efficiency. Every safety regulation also has a benefit factor—the increase in safety to the public and railroad personnel and a benefit to the railroads in reducing its casualty losses and damage claims. Although the cost of complying with a regulation may be initially borne by the railroad, it is ultimately paid by the public. Thus, the cost/benefit determination to be made by the FRA with respect to a particular safety requirement is whether the safety benefit to the public and railroad personnel justifies the ultimate monetary cost of compliance to the public. For this reason, the regulations proposed in this notice should be evaluated as to costs and benefits. When comments on the specific proposed regulations are submitted, these factors should be discussed fully. The information resulting from these cost/benefit determinations will be most helpful to the FRA in making decisions with respect to particular proposed regulations.

The time within which the initial standards must be issued does not permit full coverage of all of the areas of track construction and maintenance that would perhaps be included in a comprehensive set of standards. The initial regulations, therefore, relate directly to operating speeds and concentrate on those areas that the FRA believes to be the principal sources of railroad related accidents.

The proposed Part 213 applies to standard-gage track of the general railroad system of transportation, but does not apply to either (1) industrial track located more than 10 feet inside the limits of a nonrailroad installation, or (2) track used exclusively for rapid transit, commuter, or other short-haul passenger service in metropolitan or suburban areas.

Rapid transit and commuter service track, although not included in the initial proposed track standards, may be included in future rulemaking proceedings.

The proposed initial track standards are divided into several subparts covering roadbed, track geometry, track structure, and track appliances. In addition there is a subpart which prescribes the method and frequency of track inspections, including an annual inspection of rail for internal defects. Track owners would have the duty of maintaining their track in accordance with the standards and performing the required inspections. In accordance with the Act, for each violation of the regulations a track owner would be subject to a civil penalty of not less than $250 or more than $2,500 for each offense, subject to compromise by the Federal Railroad Administrator. Persons who are involved in or concerned with the leasing of track are requested to comment on the owner/leasee relationships as it would be affected by the proposed regulations.

This notice is issued under the authority of the Federal Railroad Safety Act of 1970 (84 Stat. 971 et seq.; 45 U.S.C. 421 et seq.) and § 1.49(n) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.49(n)).

Issued in Washington, D.C., on June 16, 1971.

CARL V. LYON,
Acting Administrator,
Federal Railroad Administration.

PART 213—TRACK SAFETY STANDARDS

Subpart A—General

Subpart B—Roadbed

Subpart C—Track Geometry

Subpart D—Track Structure

Subpart E—Track Appliances and Track Related Devices

Subpart F Inspection

AUTHORITY: The provisions of this Part 213 issued under sections 202 and 209, 84 Stat. 971, 975; 45 U.S.C. 431 and 438 and § 1.49(n) of the Regulations of the Office of the Secretary of Transportation; 49 CFR 1.49(n).

Subpart A—General

§ 213.1 Scope of part.

This part prescribes initial minimum safety requirements for railroad track that is part of the general railroad system of transportation. The requirements prescribed in this part apply to specific track conditions existing in isolation. Therefore, a combination of track conditions, none of which individually amounts to a deviation from the requirements in this part, may require remedial action to provide for safe operations over that track.

§ 213.3 Application.

(a) Except as provided in paragraphs (b) and (c) of this section, this part applies to all standard-gage track in the general railroad system of transportation.

(b) This part does not apply to track—

(1) Located more than 10 feet inside an installation which is not part of the general railroad system of transportation; or

(2) Used exclusively for rapid transit, commuter, or other short-haul passenger service in a metropolitan or suburban area.

(c) Until October 16, 1972, this part does not apply to track, construction of which began before October 15, 1971. However, it does apply to track, construction of which began after October 14, 1971, or which is rebuilt after that date.

§ 213.5 Responsibility of track owners.

Any owner of track to which this part applies who knows or should know that the track does not comply with the requirements of this part, shall—

(a) Bring the track into compliance;

(b) Halt operations over that track; or

(c) Reduce operating speed over that track as required by this part.

§ 213.7 Designation of qualified persons to supervise certain renewals and inspect track.

(a) Each track owner to which this part applies shall designate qualified persons to supervise restorations and renewals of track under traffic conditions. Each person designated must have—

(1) At least 1 year of supervisory experience in railroad track maintenance; and

(2) Demonstrated to the owner that he—

(i) Knows and understands the requirements of this part;

(ii) Can detect deviations from those requirements; and

(iii) Can prescribe appropriate remedial action to correct or safely compensate for those deviations.

(b) Each track owner to which this part applies shall designate qualified persons to inspect track for defects. Each person designated must have—

(1) At least 1 year of experience in railroad track inspection; and

(2) Demonstrated to the owner that he—

(i) Knows and understands the requirements of this part;

(ii) Can detect deviations from those requirements; and

(iii) Can prescribe appropriate remedial action to correct or safely compensate for those deviations.

(c) Each designation under paragraphs (a) and (b) of this section must be made in writing and kept available for inspection and copying by the Federal Railroad Administrator or his designee.

§ 213.9 Classes of track: operating speed limits.

(a) Except as provided in paragraph (b) of this section and §§ 213.57(b), 213.59(a), 213.105(d), 213.113(a), and 213.137 (b) and (c), the following maximum allowable operating speeds apply:

Over track that meets all of the requirements prescribed in this part for—	*The maximum allowable operating speed is—*
Class 1 track	10 m.p.h.
Class 2 track	25 m.p.h.
Class 3 track	40 m.p.h.
Class 4 track	60 m.p.h.
Class 5 track	80 m.p.h.
Class 6 track	110 m.p.h.

(b) If a segment of track does not meet all of the requirements for its intended class, it is reclassified to the highest class of track for which it does meet all of the requirements of this part. However, if it does not at least meet the requirements for class 1 track, no operations may be conducted over that segment except as provided in § 213.11.

§ 213.11 Restoration or renewal of track under traffic conditions.

If, during a period of restoration or renewal, track is under traffic conditions and does not meet all of the requirements prescribed in this part, the work and operations on the track must be under the continuous supervision of a person designated under § 213.7(a).

§ 213.13 Measuring track not under load.

When track that is not under load is measured to determine whether or not it complies with this part and there is evidence of rail movement under load, the amount of that movement must be added to the no-load measurements.

§ 213.15 Civil penalty.

(a) Any owner of track to which this part applies that violates any requirement prescribed in this part is liable to a civil penalty of at least $250 but not more than $2,500.

(b) For the purpose of this section, each day a violation persists shall be treated as a separate offense.

(c) The Administrator may compromise a civil penalty for any amount, but not less than $250.

§ 213.17 Exemptions.

(a) Any owner of track to which this part applies may petition the Federal Railroad Administrator for a permanent or temporary waiver of compliance with any requirement prescribed in this part.

(b) Each petition for a waiver under this section must be filed in the manner and contain the information required by § 211.11 of this chapter.

(c) Each petition received is processed in the manner prescribed in Part 211 of this chapter.

(d) If the Administrator finds that a waiver of compliance is in the public interest and is consistent with railroad safety, he may grant the waiver. Notice of each waiver granted is published in the FEDERAL REGISTER together with a statement of the reasons therefor.

Subpart B—Roadbed

§ 213.31 Scope.

This subpart prescribes minimum requirements for roadbed and areas immediately adjacent to roadbed.

§ 213.33 Drainage.

(a) Each culvert and bridge passing under track must be kept sufficiently free

of obstruction to accommodate expected water flow for the area concerned.

(b) Each drainage facility running alongside a roadbed must be maintained to accommodate the expected water flow for the area concerned.

(c) If, after drainage facilities are constructed, there is a significant change in the water flow adjacent to the roadbed, each existing drainage facility must be modified or additional drainage facilities must be installed, as the case may be, to accommodate the change.

§ 213.35 Embankments and excavations.

(a) In maintaining roadbed embackments and excavations, the stability and erosion characteristics of the material used in the slope must be taken into account.

(b) Each slope subject to excessive scour, whether by water flow or wave action, must be paved, rip-rapped, or similarly protected.

§ 213.37 Vegetation.

Vegetation on and adjacent to roadbed must be controlled to ensure that it does not—

(a) Become a fire hazard to track-carrying structures;

(b) Prevent proper functioning of drainage facilities;

(c) Obstruct visibility of railroad signs and signals;

(d) Interfere with railroad employees performing normal trackside duties;

(e) Prevent proper functioning of signal and communication lines; or

(f) Prevent railroad employees from visually inspecting moving equipment from their normal duty stations.

§ 213.39 Removal of objects and correction of hazardous conditions.

If an object or hazardous condition within 10 feet of the center line of track impedes the safe passage of equipment or prevents railroad employees from safely performing their duties, the owner of the track shall remove the object or correct the hazardous condition or give appropriate warning notification.

Subpart C—Track Geometry

§ 213.51 Scope.

This subpart prescribes requirements for the gage, alinement, and surface of track, and the elevation of outer rails and speed limitations for curved track.

§ 213.53 Gage.

(a) Gage is measured between the heads of the rails at right angles to the rails in a plane five-eighths of an inch below the top of the rail head. Standard gage is 4 feet 8½ inches.

(b) Gage must be within the limits prescribed in the following table:

Class of track	The gage of tangent track must be—		The gage of curved track must be—		The gage of frogs and track crossing must be—	
	At least—	But not more than—	At least—	But not more than—	At least—	But not more than—
1	4′ 8″	4′ 9¾″	4′ 8″	4′ 9¾″	4′ 8¼″	4′ 9¼″
2 and 3	4′ 8″	4′ 9½″	4′ 8″	4′ 9½″	4′ 8¼″	4′ 9″
4	4′ 8″	4′ 9¼″	4′ 8″	4′ 9¼″	4′ 8¼″	4′ 8¾″
5	4′ 8″	4′ 9″	4′ 8″	4′ 9¼″	4′ 8¼″	4′ 8¾″
6	4′ 8″	4′ 8¾″	4′ 8″	4′ 9″	4′ 8¼″	4′ 8¾″

(c) Any variation in gage must be uniform and may not be more than one-quarter inch in 31 feet.

§ 213.55 Alinement.

The actual position of track in the plane established by the two rails may not deviate from uniformity more than the amount prescribed in the following table:

Class of track	Tangent track: The deviation of the mid-offset from 62-foot line [1] may not be more than—	Curved track: The deviation of the mid-ordinate from 62-foot chord [2] may not be more than—
1	4″	4″
2	2″	2″
3	1½″	1½″
4	1¼″	1¼″
5	⅝″	⅝″
6	⅜″	⅜″

[1] The ends of the line must be at points on the gage side of the line rail, five-eighths of an inch below the top of the railhead. Either rail may be used as the line rail, however, the same rail must be used for the full length of that tangential segment of track.

[2] The ends of the chord must be at points on the gage side of the outer rail, five-eighths of an inch below the top of the railhead.

§ 213.57 Curves; elevation and speed limitations.

(a) Except as provided in § 213.63, the outside rail of a curve may not be lower than the inside rail or have more than 6 inches of elevation.

(b) The maximum allowable operating speed for each curve is determined by the following formula:

$$V_{max} = \sqrt{\frac{E_a + 3}{0.0007d}}$$

where

V_{max} = Maximum allowable operating speed (miles per hour).

E_a = Actual elevation of the outside rail (inches).

d = Degree of curvature (degrees).

Appendix A to this part is a table of maximum allowable operating speed computed in accordance with this formula for various elevations and degrees of curvature.

§ 213.59 Elevation of curved track; runoff.

(a) If a curve is elevated, the full elevation must be provided throughout the curve, unless physical conditions do not permit. If elevation runoff occurs in a curve, the actual minimum elevation must be used in computing the maximum allowable operating speed for that curve under § 213.57(b).

(b) Elevation runoff must be at a uniform rate, within the limits of track surface deviation prescribed in § 213.63, and it must extend at least the full length of the spirals. If physical conditions do not permit a spiral long enough to accommodate the minimum length of runoff, part of the runoff may be on tangent track.

§ 213.61 Classes 3 through 6 curved track; data and markings.

(a) Each owner of track to which this part applies shall maintain a record of each curve in its classes 3 through 6 track. The record must contain the following information:

(1) Location.

(2) Degree of curvature.

(3) Actual elevation.

(4) Description of elevation runoff.

(5) Maximum allowable operating speed.

(b) Each owner of track to which this part applies shall mark, by monument, metal tag, or other permanent means, the maximum and minimum points in the elevation transition on each curve in its classes 3 through 6 track.

§ 213.63 Track surface.

Each owner of track to which this part applies shall maintain the surface of its track within the limits prescribed in the following table:

Track surface	Class of track					
	1	2	3	4	5	6
The runoff in any 31 feet of rail at the end of a raise may not be more than	2½″	2″	1¾″	1½″	1″	½″
The deviation from uniform profile on either rail at the midordinate of a 62-foot chord may not be more than	2½″	2″	1¾″	1½″	1″	½″
Deviation from designated elevation on spirals may not be more than	1¼″	1⅛″	1″	⅞″	¾″	½″
Variation in cross level [1] on spirals in any 31 feet may not be more than	1¾″	1½″	1″	⅞″	¾″	½″
Deviation from zero cross level [1] at any point on tangent or from designated elevation on curves between spirals may not be more than	2¼″	1¾″	1½″	1¼″	1″	½″
The difference in cross level [1] between any two points less than 62 feet apart on tangents and curves between spirals may not be more than	2¼″	1¾″	1½″	1¼″	1″	⅝″

[1] To determine cross level, measure the difference in elevation of the top surfaces of the two rails at right angles to the alinement of the track. The measuring instrument must be accurate to one-sixteenth inch.

Subpart D—Track Structure

§ 213.101 Scope.

This subpart prescribes minimum requirements for ballast, cross ties, track assembly fittings, and the physical condition of rails.

§ 213.103 Ballast; general.

Unless it is otherwise structurally supported, all track must be supported by material which will—

(a) Transmit and distribute the load of the track and railroad rolling equipment to the subgrade;

(b) Restrain the track laterally, longitudinally, and vertically under dynamic loads imposed by railroad rolling equipment and thermal stress exerted by the rails;

(c) Provide adequate drainage for the track; and

(d) Maintain proper track cross-level, surface, and alinement.

§ 213.105 Ballast section; crushed rock or crushed slag.

(a) When conventional jointed rails and crushed rock or crushed slag are used, the ballast section must comply with the following table:

Class of track	The average width of the ballast shoulder beyond the ends of 8-foot [1] cross ties, measured from the bottom of the ends of the ties, over any 8 consecutive cross ties must be at least—	The average percent of total crib volume occupied by ballast over any 8 consecutive cross ties must be at least—
	Inches	
1 and 2	6	50
3	7	60
4	10	70
5	15	80
6	19	90

[1] If cross ties more than 8 feet long are used, the minimum average width of the ballast shoulder may be reduced by one half of the length over 8 feet, but the width of the ballast section may not be less than the length of the tie.

(b) When continuous welded rail and crushed rock or crushed slag ballast are used, the ballast section must have a shoulder width of at least 10 inches extending horizontally from the ends of the cross ties from a point 6 inches above the bottom of the cross ties. Cribs must be filled with ballast to at least 90 percent of their volume.

(c) Regardless of the type of rail used, when crushed rock or crushed slag ballast is used the depth of ballast under the cross ties must be at least 5 inches.

(d) If track is disturbed, a person designated under § 213.7(b) shall examine the track to determine whether or not the ballast is sufficiently compacted to perform the functions described in § 213.103. If the person making the examination considers it to be necessary in the interest of safety, operating speed over the disturbed segment of track must be reduced to a speed that he considers safe.

§ 213.107 Ballast section; other than crushed rock or crushed slag.

If a material other than crushed rock or crushed slag is used for ballast, the section must be increased as necessary to meet the functional requirements of § 213.103.

§ 213.109 Cross ties.

(a) Cross ties may be made of any material to which rails can be securely fastened. The material must be capable of holding the rails to gage within the limits prescribed in § 213.53(b) and distributing the load from the rails to the ballast section.

(b) If timber cross ties are used, the number and size of cross ties required are as follows:

Class of track	The size of cross ties must be at least—	And the average number of cross ties per 39-foot length of track in any five consecutive 39-foot lengths must be—
1	6″ x 8″ x 8′	16
	or	
	6″ x 6″ x 8′	17
2	6″ x 8″ x 8′	17
	or	
	6″ x 6″ x 8′	18
3	6″ x 8″ x 8′	19
	or	
	6″ x 6″ x 8′	20
4	7″ x 8″ x 8′	20
	or	
	6″ x 8″ x 8′	21
5	7″ x 9″ x 8′6″	20
	or	
	7″ x 8″ x 8′	21
	or	
	6″ x 8″ x 8′	22
6	7″ x 9″ x 8′6″	23
	or	
	7″ x 8″ x 8′	24

(c) The space between adjacent cross ties may not vary more than the width of one cross tie.

(d) Except in an emergency or for a temporary installation of not more than 6 months' duration, cross ties may not be interlaced to take the place of switch ties.

§ 213.111 Defective ties.

(a) A timber cross tie is considered to be defective when it is—

(1) Broken through;

(2) Split to the extent it will not hold spikes or will allow the ballast to work through;

(3) So deteriorated that the tie plate or base of rail can move laterally more than one-half inch relative to the cross tie;

(4) Cut by the tie plate through more than 40 percent of its thickness; or

(5) Not spiked as required by § 213.127.

(b) Track that meets the requirements of § 213.109(b) for a particular class is considered to continue to meet those requirements as long as the number of defective timber cross ties in any 39 feet of track does not exceed the limits prescribed in the following table:

Class of track	Type of track	Of the number of cross ties required in any 39-foot length of track by § 213.109(b), the number of defective cross ties may not be more than any of the following:		
		Total	Adjacent	Under a joint
1	Tangent	13	3	1
	Curved	13		
2, 3	Tangent	19	2	1
	Curved	10		
4, 5, 6	Tangent	8	0	0
	Curved	6		

§ 213.113 Defective rails.

(a) If an owner of track to which this part applies learns, through inspection or otherwise, that a rail in that track contains any of the defects listed in the following table, a person designated under § 213.7(b) shall determine whether or not the track may continue in use. If he determines that the track

may continue in use, operating speed over the defective rail may not be more than that prescribed in the table until the defective rail is replaced:

Defect	*Until defective rail replaced, operating speed over that rail may not be more than—*
Transverse fissure [1]	10 m.p.h.
Compound fissure [1]	
Horizontal split head [1]	
Vertical split head [1]	
Split web [1]	
Piped rail [1]	
Bolt hole crack	
Head web separation	
Broken base [1]	
Detail fracture [1]	10 m.p.h., unless fully bolted angle bars are applied to the defective rail, in which case operating speed may not be more than 50 m.p.h. or the maximum allowable operating speed otherwise prescribed in § 213.9 for the class of track concerned, whichever is lower.
Engine burn fracture [1]	
Ordinary break [1]	
Broken or defective weld	
Damaged rail [1]	

(b) If a rail evidences any of the conditions listed in the following table, the remedial action prescribed in the table must be taken:

Condition	Remedial action: If a person designated under § 213.7 determines that condition requires rail to be replaced	Remedial action: If a person designated under § 213.7(b) determines that condition does not require rail to be replaced
Shelly spots [1]	Schedule the rail for replacement.	Inspect the rail for internal defects at intervals of not more than every 6 months.
Head checks [1]		
Engine burn (but not fracture)		
Mill defect		
Flaking [1]	do	Inspect the rail as prescribed in § 213.231(c).
Slivered		
Corrugated		
Corroded		

[1] As defined in the American Railway Engineering Association Manual for Railway Engineering, Volume 1, Chapter 4, Part 3, page 7, Document date 1962.

§ 213.115 Rail end mismatch.

Any mismatch of rails at joints may not be more than that prescribed by the following table:

Class of track	Any mismatch of rails at joints may not be more than the following—: On the tread of the rail ends	On the gage side of the rail ends
1	1/4"	1/4"
2	3/16"	1/4"
3	1/8"	1/4"
4, 5	1/8"	1/8"
6	1/16"	1/16"

[1] As defined in the American Railway Engineering Association Manual for Railway Engineering, Volume 1, Chapter 4, Part 3, page 7, document date 1962.

§ 213.117 Rail end batter.

(a) Rail end batter is the depth of depression at one-half inch from the rail end. It is measured by placing an 18-inch straight edge on the tread on the rail end, without bridging the joint, and measuring the distance between the bottom of the straight edge and the top of the rail at one-half inch from the rail end.

(b) Rail end batter may not be more than that prescribed by the following table:

Class of track	*Rail end batter may not be more than—(inch)*
1	3/8
2	1/4
3	1/4
4	3/16
5	1/8
6	1/16

§ 213.119 Continuous welded rail.

(a) When continuous welded rail is being installed, it must be installed at, or adjusted for, a rail temperature that will not result in compressive or tensile forces that may produce lateral displacement of the track or pulling apart of rail ends or welds.

(b) After continuous welded rail has been installed it should not be disturbed at rail temperatures higher than its installation or adjusted installation temperature.

§ 213.121 Rail joints.

(a) Each rail joint, insulated joint, and compromise joint must be of the proper design and dimensions for the rail on which it is applied.

(b) If a joint bar on any class of truck, other than class 1, is cracked, broken, or because of wear allows vertical movement of either rail when all bolts are tight, it must be replaced.

(c) If a joint bar is cracked or broken between the middle two bolt holes it must be replaced.

(d) In the case of conventional jointed track, each rail must be bolted with at least two bolts at each joint.

(e) In the case of continuous welded rail track, each rail must be bolted with at least three bolts at each joint, unless it has been drilled for only two bolts in which case it must be bolted with two bolts at each joint.

(f) Each joint bar must be held in position by track bolts tightened to a tension of not more than 30,000 pounds or less than 5,000 pounds per bolt, to allow the joint bar to firmly support the abutting rail ends and to allow longitudinal movement of the rail in the joint to accommodate expansion and contraction due to temperature variations. When out-of-face, no-slip, joint-to-rail contact exists by design, the requirements of this paragraph do not apply. Those locations are considered to be continuous welded rail track and must meet all the requirements for continuous welded rail track prescribed in this part.

(g) No rail or angle bar having a torch-cut or burned bolt hole may be used in track.

§ 213.123 Tie plates.

(a) Tie plates of the proper design must be used under the running rails on all timber bridge ties and switch ties.

(b) In classes 1 and 2 track, there must be tie plates under the running rails on at least eight of any 10 consecutive ties on curves in which the degree of curvature is more than 2°. In classes 3 through 6 track there must be tie plates under the running rails on at least eight of any 10 consecutive ties.

(c) Tie plates having shoulders must be placed so that no part of the shoulder is under the base of the rail.

§ 213.125 Rail anchoring.

Longitudinal rail movement caused by temperature changes must be effectively controlled. If rail anchors which bear on the sides of ties are used for this purpose, they must be on the same side of the tie on both rails.

§ 213.127 Track spikes.

(a) When conventional track is used with timber ties and cut track spikes, the rails must be spiked to the ties with at least one line-holding spike on the gage side and one line-holding spike on the field side. The total number of track spikes per rail per tie, including plate-holding spikes, must be at least the number prescribed in the following table:

Class of track	Minimum number of track spikes per rail per tie, including plate-holding spikes: Tangent track and curved track with not more than 2° of curvature	Curved track with more than 2° but not more than 4° of curvature	Curved track with more than 4° but not more than 6° of curvature	Curved track with more than 6° of curvature
1	2	2	2	2
2	2	2	3	3
3	2	3	3	4
4, 5	2	3	4	
6	3			

(b) A tie that does not meet the requirements of paragraph (a) of this section is considered to be defective for the purposes of § 213.111.

§ 213.129 Track shims.

(a) If track does not meet the geometric standards in Subpart C of this part and working of ballast is not possible due to weather or other natural conditions, prebored track shims may be installed to correct the deficiencies. If shims are used, they must be removed and track resurfaced as soon as weather and other natural conditions permit.

(b) When shims are used they must be—

(1) At least the size of the tie plate;
(2) Inserted directly on top of the tie, beneath the rail and tie plate;
(3) Spiked directly to the tie with spikes which penetrate the tie at least 4 inches.

(c) When a rail is shimmed more than 1 inch, it must be securely braced on at least every third tie for the full length of the shimming.

(d) When a rail is shimmed more than 2 inches a combination of shims and 2-inch or 4-inch planks, as the case may be, must be used with the shims on top of the planks.

§ 213.131 Planks used in shimming.

(a) Planks used in shimming must be at least as wide as the tie plates, but in no case less than 5½ inches wide. Whenever possible they must extend the full length of the tie. If a plank is shorter than the tie, it must be at least 3 feet long and its outer end must be flush with the end of the tie.

(b) When planks are used in shimming on uneven ties, or if the two rails being shimmed heave unevenly, additional shims may be placed between the ties and planks under the rails to compensate for the unevenness.

(c) Planks must be nailed to the ties with at least four 8-inch wire spikes. Before spiking the rails or shim braces, planks must be bored with ⅝-inch holes.

§ 213.133 Turnouts and track crossings generally.

(a) Each bolt, nut, pin, and other fastening in turnouts and track crossings must be in place, tight, and in sound condition, and each switch, frog, and guard rail must be kept free of obstructions that may interfere with the passage of wheels.

(b) Classes 3 through 6 track must be equipped with rail anchors through and on each side of track crossings and turnouts, to restrain rail movement affecting the position of switch points and frogs.

(c) Each flangeway at turnouts and track crossings must be at least 1½ inches wide.

§ 213.135 Switches.

(a) Each stock rail must be securely seated in switch plates, but care must be used to avoid canting the rail or overtightening the rail braces.

(b) Each switch point must fit its stock rails properly, with the switch stand in either of its closed positions to allow wheels to pass the switch point. Lateral and vertical movement of a stock rail in the switch plates or of a switch plate on a tie must not adversely affect the fit of the switch point to the stock rail.

(c) Each switch must be maintained so that the outer edge of the wheel tread cannot contact the gage side of the stock rail.

(d) The heel of each switch rail must be secured by fastenings designed for that purpose and the bolts in each heel must be kept tight.

(e) Each switch stand and connecting rod must be securely fastened and operable without excessive lost motion.

(f) Each throw lever must be maintained so that it cannot be operated with the lock or keeper in place.

(g) Each switch position indicator must be clearly visible at all times.

(h) Unusually chipped or worn switch points must be repaired or replaced. Metal flow must be removed to insure proper closure.

§ 213.137 Frogs.

(a) The flangeway depth measured from a plane across the wheel-bearing area of a frog on class 1 track may not be less than 1⅜ inches, or less than 1½ inches on classes 2 through 6 track.

(b) If a frog point is chipped, broken, or worn more than three-eighths inch down and be 6 inches back, operating speed over that frog may not be more than 10 miles per hour.

(c) If the tread portion of a frog casting is worn down more than three-eighths inch below the original contour, operating speed over that frog may not be more than 10 miles per hour.

§ 213.139 Spring rail frogs.

(a) The outer edge of a wheel tread may not contact the gage side of a spring wing rail.

(b) The toe of each wing rail must be solidly tamped and fully and tightly bolted. Each worn thimble or shoulder bolt must be replaced.

(c) Each frog with a bolt hole defect or head-web separation must be replaced.

(d) Each spring must have a tension sufficient to hold the wing rail against the point rail.

(e) The clearance between the holddown housing and the horn may not be more than one-quarter inch.

§ 213.141 Self-guarded frogs.

(a) The raised guard on a self-guarded frog may not be worn more than three-eighths inch.

(b) Frog points may not be worn more than three-eighths inch below either tread surface.

(c) If repairs are made to a self-guarded frog without removing it from service, the guarding face must be restored before rebuilding the point.

§ 213.143 Frog guard rails and guard faces; gage.

The guard check and guard face gages in frogs must be within the limits prescribed in the following table:

Class of track	Guard check gage: The distance between the gage line of a frog to the guard line [1] of its guard rail or guarding face, measured across the track at right angles to the gage line,[2] may not be less than—	Guard face gage: The distance between guard lines,[1] measured across the track at right angles to the gage line,[2] may not be more than—
1	4′ 6¼″	4′ 5¼″
2	4′ 6⅜″	4′ 5⅜″
3, 4, 5, 6	4′ 6½″	4′ 5″

[1] A line along that side of the flangeway which is nearer to the center of the track and at the same elevation as the gage line.
[2] A line five-eighths inch below the top of the center line of the head of the running rail, or corresponding location of the tread portion of the track structure.

Subpart E—Track Appliances and Track Related Devices

§ 213.201 Scope.

This subpart prescribes minimum requirements for track appliances and track related devices, including derails, switch point protectors, bumping posts, wheel stops, equipment defect detectors, track obstruction detectors, and expansion joints.

§ 213.203 Operation of track appliances and track related devices generally.

(a) Each track appliance and track related device must operate properly and perform its intended function.

(b) An owner of track to which this part applies who learns, through inspection or otherwise, that a derail, switch point protector, bumping post, equipment defect detector, or track obstruction detector is inoperable or does not operate properly, shall repair or replace it as soon as necessary to avoid any actual operating hazard. If the owner considers it necessary in the interest of safety, he shall reduce operating speed or stop operations over the track served by that appliance until the repair or replacement is completed.

§ 213.205 Derails.

(a) Each derail must be clearly visible. When in a locked position a derail must be free of any lost motion which would allow it to be operated without removing the lock.

(b) When the lever or a remotely controlled derail is operated and latched it must actuate the derail.

§ 213.207 Switch heaters.

The operation of a switch heater must not interfere with the proper operation of the switch or otherwise jeopardize the safety of railroad equipment.

Subpart F—Inspection

§ 213.231 Scope.

This subpart prescribes requirements for the frequency and manner of inspecting track to detect deviations from the standards prescribed in this part.

§ 213.233 Track inspections.

(a) All track must be inspected in accordance with the schedule prescribed in paragraph (c) of this section by a person designated under § 213.7(b).

(b) Each inspection must be made on foot or by riding over the track in motor vehicle or track vehicle at a speed that allows the person making the inspection to visually inspect the track structure for compliance with this part. If a vehicle is used, the speed of the vehicle may not be more than 5 miles per hour when passing over track crossings, highway crossings, or switches.

(c) Each track inspection must be made in accordance with the following schedule:

Class of track	Type of track	Required frequency
1, 2, 3	Main track and sidings.	*Weekly*, or *before use*, if the track is used less than once a week, or *twice weekly*, if the track carries passenger trains or more than 10 million gross tons of traffic during the preceding calendar year.
1, 2, 3	Other than main track and sidings.	Monthly.
4, 5		Twice weekly.
6		Three times weekly.

(d) If the person making the inspection finds a deviation from the requirements of this part, he shall immediately initiate remedial action.

§ 213.235 Switch and track crossing inspections.

(a) Except as provded in paragraph (b) of this section, each switch and track crossing must be inspected on foot at least monthly.

(b) In the case of track that is used less than once a month, each switch and track crossing must be inspected on foot before it is used.

§ 213.237 Inspection of rail.

(a) In addition to the track inspections required by § 213.233, at least once a year a continuous search for internal defects must be made of all jointed and welded rails in classes 3 through 6 track, and class 2 track over which passenger trains operate.

(b) Inspection equipment must be capable of detecting defects between joint bars, in the area enclosed by joint bars, and in welds.

(c) Each defective rail must be marked with a highly visible marking on both sides of the web and base.

§ 213.239 Special inspections.

In the event of fire, flood, severe storm, or other occurrence which might have damaged track structure, a special inspection must be made of the track involved as soon as possible after the occurrence.

§ 213.241 Inspection records.

(a) Each owner of track to which this part applies shall keep a record of each track inspection and each rail inspection required to be performed on that track under this subpart.

(b) Track inspection records must be prepared on a daily basis and signed by the person making the inspection. They must specify the track inspected, date of inspection, location and nature of any deviation from the requirements of this part, and the remedial action taken. The owner shall retain a track inspection record at its division headquarters for at least 1 year after the inspection covered by that record.

(c) Rail inspection records must specify the location and nature of any internal rail defects found and the remedial action taken. The owner shall retain a rail inspection record for at least 2 years after the inspection.

(d) Each owner required to keep inspection records under this section shall make those records available for inspection and copying by the Federal Railroad Administrator or his designee during regular business hours.

APPENDIX A—MAXIMUM ALLOWABLE OPERATING SPEEDS FOR CURVED TRACK

[Elevation of outer rail (inches)]

Degree of curvature	0	½	1	1½	2	2½	3	3½	4	4½	5	5½	6
	Maximum allowable operating speed (m.p.h.)												
0°30′	93	100	107										
0°40′	80	87	93	98	103	109							
0°50′	72	78	83	88	93	97	101	106	110				
1°00′	66	71	76	80	85	89	93	96	100	104	107	110	
1°15′	59	63	68	72	76	79	83	86	89	93	96	99	101
1°30′	54	58	62	66	69	72	76	79	82	85	87	90	93
1°45′	50	54	57	61	64	67	70	73	76	78	81	83	86
2°00′	46	50	54	57	60	63	66	68	71	73	76	78	80
2°15′	44	47	50	54	56	59	62	64	67	69	71	74	76
2°30′	41	45	48	51	54	56	59	61	63	66	68	70	72
2°45′	40	43	46	48	51	54	56	58	60	62	64	66	68
3°00′	38	41	44	46	49	51	54	56	58	60	62	64	66
3°15′	36	39	42	45	47	49	51	54	56	57	59	61	63
3°30′	35	38	40	43	45	47	50	52	54	55	57	59	61
3°45′	34	37	39	41	44	46	48	50	52	54	55	57	59
4°00′	33	35	38	40	42	44	46	48	50	52	54	55	57
4°30′	31	33	36	38	40	42	44	45	47	49	50	52	54
5°00′	29	32	34	36	38	40	41	43	45	46	48	49	51
5°30′	28	30	32	34	36	38	40	41	43	44	46	47	48
6°00′	27	29	31	33	35	36	38	39	41	42	44	45	46
6°30′	26	28	30	31	33	35	36	38	39	41	42	43	45
7°00′	25	27	29	30	32	34	35	36	38	39	40	42	43
8°00′	23	25	27	28	30	31	33	34	35	37	38	39	40
9°00′	22	24	25	27	28	30	31	32	33	35	36	37	38
10°00′	21	22	24	25	27	29	29	31	32	33	34	35	36
11°00′	20	21	23	24	26	27	28	29	30	31	32	33	34
12°00′	19	20	22	23	24	26	27	28	29	30	31	32	33

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