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EXECUTIVE ORDER 11640

Further Providing for the Stabilization of the Economy

On August 15, 1971, I issued Executive Order No. 11615 providing for the stabilization of prices, rents, wages, and salaries, for a period of 90 days from the date of that Order. That Order also established the Cost of Living Council and charged it with the primary responsibility for administering the stabilization program, and for recommending to me additional policies and mechanisms to permit an orderly transition from the 90-day general prices, rents, wages, and salaries freeze imposed by Executive Order No. 11615 to a more flexible and selective system of economic restraints.

Subsequently, I received recommendations from the Cost of Living Council, and determined that the intent of the Economic Stabilization Act of 1970 (P.L. 91–379; 84 Stat. 799), as amended, could more effectively be carried out and the goals I specified in my speech to the Nation on October 7, 1971, could more effectively be achieved, on and after October 15, 1971 by substituting Executive Order No. 11627 for Executive Order No. 11615, as amended. Notwithstanding this substitution, the findings which I made in the preamble of Executive Order No. 11615 of August 15, 1971, were, after careful reconsideration, reaffirmed.

On December 22, 1971, I signed the Economic Stabilization Act Amendments of 1971 (P.L. 92–210; 85 Stat. 743) into law. To reflect the changes made by such Amendments in the Economic Stabilization Act of 1970 and to reaffirm the existing delegation of authority to the Council, this Order is substituted for Executive Order No. 11627, as amended. I hereby reaffirm the goals I specified in my speech to the Nation of October 7, 1971, and the findings which I made in the preamble of Executive Order No. 11615 of August 15, 1971.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, particularly the Economic Stabilization Act of 1970, as amended, it is hereby ordered as follows:

SECTION 1. (a) The Pay Board and Price Commission established by sections 7 and 8 of Executive Order No. 11627 of October 15, 1971, are hereby continued and shall act as agencies of the United States, and the Chairman of each of these bodies, acting in accordance with the majority vote of its members, shall, pursuant to the goals established by the Cost of Living Council, take such steps as may be necessary, and authorized by or pursuant to this Order, to stabilize prices, rents, wages, and salaries. Subject to action already taken under Executive Order No. 11627 and pending action under this Order, and except as otherwise

provided in section 203 of the Economic Stabilization Act of 1970, as amended, Executive Order No. 11639 of January 11, 1972, and the President's memorandum concerning administrative pay adjustments of January 11, 1972, prices, rents, wages, and salaries are stabilized effective as of August 16, 1971, at levels not greater than the highest of those pertaining to a substantial volume of actual transactions by each individual, business, firm, or other entity of any kind during the 30-day period ending August 14, 1971, for like or similar commodities or services. If no transactions occurred in that period, the ceiling will be the highest price, rent, salary, or wage in the nearest preceding 30-day period in which transactions did occur. No person shall charge, assess, or receive, or knowingly pay or offer to pay, directly or indirectly, in any transaction, prices or rents in any form higher than those permitted hereunder, and no person shall, directly or indirectly, pay or agree to pay, in any transaction, wages or salaries in any form, or to use any means to obtain payment of wages and salaries in any form, higher than those permitted hereunder, whether by retroactive increase or otherwise.

(b) Each person engaged in the business of selling or providing commodities or services shall maintain available for public inspection a record of the highest prices or rents charged for such or similar commodities or services during the 30-day period ending August 14, 1971.

(c) The provisions of sections 1 and 2 of this Order shall not apply to the prices charged for raw agricultural products.

SEC. 2. (a) The Cost of Living Council (hereinafter referred to as the Council), established by section 2 of Executive Order No. 11615 of August 15, 1971, is hereby continued and shall continue to act as an agency of the United States.

(b) The Council shall be composed of the following members: The Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of Housing and Urban Development, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Emergency Preparedness, the Special Assistant to the President for Consumer Affairs, and such others as the President may, from time to time, designate. The Secretary of the Treasury shall serve as Chairman of the Council and the Chairman of the Council of Economic Advisers shall serve as Vice Chairman. The Chairman of the Board of Governors of the Federal Reserve System shall serve as adviser to the Council.

(c) There shall be a Director of the Cost of Living Council who shall be appointed by the President, be a member of the Council, be a full-time official of the United States, be the Council's Chief Executive Officer, and shall be compensated at the rate prescribed for level III of the Executive Schedule by Section 5314 of Title 5 of the United States Code.

SEC. 3. (a) Except as otherwise provided herein, all of the powers and duties conferred upon the President by the Economic Stabilization Act of 1970, as amended, shall continue to be delegated to the Council, including, without limitation, the power to stabilize interest rates and corporate dividends and similar transfers at levels consistent with orderly economic growth and the power and duty to make the determinations and take the actions required or permitted by the Act.

(b) The Council shall develop and recommend to the President policies, mechanisms and procedures to achieve and maintain stability of prices and costs in a growing economy. To this end it shall consult with representatives of agriculture, industry, labor, State and local governments, consumers and the public, through the National Commission on Productivity and otherwise.

(c) In all of its actions the Council shall be guided by the need to maintain consistency of price and wage policies with fiscal, monetary, international, and other economic policies of the United States.

(d) The Council shall inform the public, agriculture, industry, and labor concerning the need for controlling inflation and shall encourage and promote voluntary action to that end.

(e) The Council shall prepare the section of the Economic Report and the quarterly reports required by section 216 of the Economic Stabilization Act of 1970, as amended.

SEC. 4. (a) The Council, in carrying out the provisions of this Order, may continue to (i) prescribe definitions for any terms used herein, (ii) make exceptions or grant exemptions, (iii) issue regulations and orders, (iv) provide for the establishment of committees and other comparable groups, and (v) take such other actions as it determines to be necessary or appropriate to carry out the purposes of this Order. More particularly, the Council, working through appropriate delegations to the Chairman of the Pay Board and the Chairman of the Price Commission, may (1) notwithstanding the provisions of subsection (a) of section 1 of this Order, prescribe base periods for determining maximum levels for prices, rents, wages, and salaries other than the base period specified in subsection (a) of section 1 of this Order, and (2) otherwise increase or decrease, subject to section 203 of the Economic Stabilization Act of 1970, as amended, the maximum levels for prices, rents, wages, and salaries prescribed by subsection (a) of section 1 of this Order.

(b) The Council may redelegate to any agency, instrumentality, or official of the United States any authority under this Order, and may, in administering this Order, utilize the services of any other agencies, Federal or State, as may be available and appropriate.

(c) On request of the Chairman of the Council, each executive department or agency is authorized and directed, consistent with law, to furnish the Council with any available information which the Council may require in the performance of its functions.

SEC. 5. The Council may require the maintenance of appropriate records or other evidence which are necessary in carrying out the provisions of this Order, and may require any person to maintain and produce for examination such records or other evidence, in such form as it shall require, concerning prices, rents, wages, and salaries and all related matters. The Council may make such exemptions or exceptions from any requirement otherwise imposed as are consistent with the purposes of this Order. Any type of record or evidence required under regulations issued under this Order shall be retained for such period as the Council may prescribe.

SEC. 6. The expenses of the Council shall be paid from such funds as may be available therefore, under legislation, from the Department of the Treasury or otherwise.

SEC. 7. (a) There is hereby continued the "Pay Board" (hereinafter referred to as the Board).

(b) The Board shall be composed of fifteen members. The members shall be appointed by the President by and with the advice and consent of the Senate; except that the foregoing requirement with respect to Senate confirmation does not apply to any member of the Board (other than the Chairman) who was serving, pursuant to appointment by the President, on December 22, 1971, and who continues to serve pursuant to such appointment, after such time. The Board shall include five labor representatives, five business representatives, and five representatives of the general public. The members of the Board shall serve at the pleasure of the President, and the President shall designate one of the members representing the public to serve as Chairman. Any person serving in the Office of Chairman on December 22, 1971, may continue to serve in such capacity on an interim basis without regard to the requirement with respect to Senate confirmation until the expiration of 60 days after December 22, 1971. The Chairman shall serve full-time and be an official of the United States and shall be compensated at the rate prescribed for Level III of the Executive Schedule by Section 5314 of Title 5 of the United States Code. Each other member shall receive compensation at a rate equal to the per diem equivalent of the rate prescribed for Level IV of the Executive Schedule by Section 5314 of Title 5 of the United States Code, when actually engaged in the performance of his duties as such member. The Chairman shall designate an Executive Director of the Board who shall be compensated at the rate prescribed for Level V of the Executive Schedule by Section 5316 of Title 5 of the United States Code, and who shall serve under the direction of the Chairman of the Board and perform such duties as the Chairman may specify. The Board shall conduct its proceedings in such manner as will be conducive to the proper dispatch of its business and to the ends of justice.

(c) The Board shall perform such functions with respect to the stabilization of wages and salaries as the Council delegates to the Board. Legal authority shall be in the Chairman of the Board, who shall act only in accordance with the majority vote of its members, shall perform such functions with respect to the stabilization of wages and salaries as the Council may delegate to him, including the development and establishment of criteria and standards for the stabilization of wages and salaries which shall be applied in the administration of this Order, as may be delegated to him by the Council.

SEC. 8. (a) There is hereby continued the "Price Commission" (hereinafter referred to as the Commission).

(b) The Commission shall be composed of seven members. The members shall be representative of the general public and shall be appointed by the President by and with the advice and consent of the Senate except that the foregoing requirement with respect to Senate confirma-

tion does not apply to any member of the Commission (other than the Chairman) who was serving, pursuant to appointment by the President, on December 22, 1971, and who continues to serve pursuant to such appointment, after such time. The members of the Commission shall serve at the pleasure of the President, and the President shall designate one of the members to serve as Chairman. Any person serving in the Office of Chairman on December 22, 1971, may continue to serve in such capacity on an interim basis without regard to the requirement with respect to Senate confirmation until the expiration of 60 days after December 22, 1971. The Chairman shall serve full-time and be an official of the United States and shall be compensated at the rate prescribed for Level III of the Executive Schedule by Section 5314 of Title 5 of the United States Code. Each other member shall receive compensation at a rate equal to the per diem equivalent of the rate prescribed for Level IV of the Executive Schedule by Section 5315 of Title 5 of the United States Code, when actually engaged in the performance of his duties as such member. The Chairman shall designate an Executive Director of the Board who shall be compensated at the rate prescribed for Level V of the Executive Schedule by Section 5316 of Title 5 of the United States Code, and who shall serve under the direction of the Chairman of the Commission and perform such duties as the Chairman may specify. The Commission shall conduct its proceedings in such manner as will be conducive to the proper dispatch of its business and to the ends of justice.

(c) The Commission shall perform such functions with respect to the stabilization of prices and rents as the Council delegates to the Commission. The Chairman of the Commission, who shall act only in accordance with the majority vote of its members, shall perform such functions with respect to the stabilization of prices and rents as the Council may delegate to him, including the development and establishment of criteria and standards for the stabilization of prices and rents which shall be applied in the administration of this Order, as may be delegated to him by the Council.

SEC. 9. (a) The Committee on Interest and Dividends established by section 9 of Executive Order No. 11627 is hereby continued. The Committee shall be composed of the Chairman of the Board of Governors of the Federal Reserve System, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Chairman of the Federal Deposit Insurance Corporation, the Chairman of the Federal Home Loan Bank Board, and such others as the President may, from time to time, designate. The Chairman of the Board of Governors of the Federal Reserve System shall serve as Chairman of the Committee.

(b) This Committee shall, subject to review by the Council, formulate and execute a program for obtaining voluntary restraints on interest rates and dividends.

SEC. 10. (a) The Committee on the Health Services Industry established by section 10 of Executive Order No. 11627 is hereby continued. The Committee shall be composed of such members as the President may from time to time appoint. The members shall be generally representative

of medical professions and related occupations, hospitals, the insurance industry, other supporting industries, consumer interests, and the public. The President shall designate the Chairman of the Committee.

(b) This Committee shall provide advice concerning special considerations that tend to contribute to inflation in the health services industry. This Committee shall also assist the Board and Commission in the performance of their functions by making technical analyses of specific matters referred to it by the Board or Commission.

SEC. 11. (a) The Committee on State and Local Government Cooperation established by section 11 of Executive Order No. 11627 is hereby continued. The Committee shall be composed of such representatives of State and local governments and subdivisions thereof, representatives of State and local employees, and such others as the President may, from time to time, appoint. The President shall designate the Chairman of the Committee.

(b) This Committee shall provide advice concerning special considerations involved in the stabilization of prices, rents, wages, and salaries pursuant to this Order as they relate to State and local governments, and subdivisions and employees thereof. This Committee shall also assist the Board and Commission in the performance of their functions by making technical analyses of specific matters referred to it by the Board or Commission.

SEC. 12. (a) The Rent Advisory Board established by section 11A of Executive Order No. 11627, as amended, is hereby continued. The Rent Advisory Board shall be composed of such members as the President may from time to time appoint. The President shall designate the Chairman of the Rent Advisory Board.

(b) The Rent Advisory Board shall provide advice concerning special considerations involved in the stabilization of rents. It shall also assist the Commission in the performance of its functions by making technical analyses of specific matters referred to it by the Commission.

SEC. 13. On request of the Chairman of the Council, Federal departments and agencies shall provide such assistance in carrying out the provisions of this Order as is permitted by law.

SEC. 14. All orders, regulations, circulars, or other directives issued and all other actions taken pursuant to Executive Order No. 11615, as amended, and Executive Order No. 11627, as amended, and in effect on the date of this Order, are hereby confirmed and ratified, and shall remain in full force and effect, as if issued under this Order, unless and until altered, amended, or revoked by the Council or by such competent authority as the Council may specify.

SEC. 15. (a) The Construction Industry Stabilization Committee established by section 1 of Executive Order No. 11588 of March 29, 1971, and the craft dispute boards authorized by section 2 of that Order, are hereby continued, except as modified by the provisions of the Economic Stabilization Act of 1970, as amended.

(b) The Chairman of the Pay Board, acting in accordance with the majority vote of its members, shall continue to perform all functions vested in the Secretary of Labor by Executive Order No. 11588, with respect to (1) the certification of determinations that a proposed wage or salary increase is not acceptable pursuant to section 5 of that Order, (2) the approval of rules and regulations issued by the Construction Industry Stabilization Committee pursuant to section 10 of that Order, and (3) the issuance of rules and regulations pursuant to section 10 of that Order.

(c) The revocation of subsection (d) of section 5 and section 6 of Executive Order No. 11588 contained in subsection (c) of section 14 of Executive Order No. 11627 shall remain in effect.

(d) Section 8 of Executive Order No. 11588 is hereby revoked and the Interagency Committee on Construction established by that section is therefore abolished.

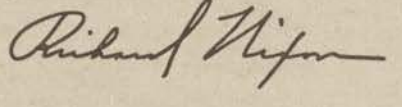
SEC. 16. (a) Whoever willfully violates this Order or any order or regulation issued under authority of this Order shall be subject to a fine of not more than $5,000 for each such violation. Whoever violates this Order or any order or regulation issued under authority of this Order shall be subject to a civil penalty of not more than $2,500 for each such violation.

(b) The Council may in its discretion request the Department of Justice to bring actions for injunctions authorized under Section 209 of the Economic Stabilization Act of 1970, as amended, whenever it appears to the Council that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any regulation or order issued pursuant to this Order. The relief sought may include a mandatory injunction commanding any person to comply with any such order or regulation and restitution of moneys received in violation of any such order or regulation.

(c) The Chairman of the Cost of Living Council, the Chairman of the Pay Board, the Chairman of the Price Commission, or the Secretary of the Treasury, respectively, or the duly authorized agent of any of them, shall have authority, for any purpose related to the Economic Stabilization Act of 1970, as amended, to sign and issue subpoenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths, all in accordance with the provisions of Section 206 of the Economic Stabilization Act of 1970, as amended.

SEC. 17. Executive Order No. 11627 of October 15, 1971, Executive Order No. 11630 of October 30, 1971, and Executive Order No. 11632 of November 22, 1971, are hereby superseded.

SEC. 18. This Order shall be effective as of December 22, 1971.



THE WHITE HOUSE,
January 26, 1972.

[FR Doc.72-1357 Filed 1-26-72; 4:34 pm]

Rules and Regulations

Title 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR BARLEY CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, the following counties have been designated for barley crop insurance for the 1973 crop year.

ARIZONA

Maricopa.
Pinal.
Yuma.

CALIFORNIA

Modoc.

COLORADO

Boulder.
Larimer.
Logan.
Morgan.
Sedgwick.
Washington.
Weld.

IDAHO

Ada.
Bannock.
Benewah.
Bingham.
Bonneville.
Camas.
Canyon.
Caribou.
Cassia.
Franklin.
Fremont.
Gooding.
Idaho.
Jefferson.
Jerome.
Kootenai.
Latah.
Lewis.
Lincoln.
Madison.
Minidoka.
Nez Perce.
Oneida.
Owyhee.
Power.
Teton.
Twin Falls.

MARYLAND

Caroline.
Kent.
Queen Annes.

MINNESOTA

Becker.
Chippewa.
Clay.
Grant.
Kittson.
Mahnomen.
Marshall.
Norman.
Otter Tail.
Pennington.
Polk.
Pope.
Red Lake.
Roseau.
Stevens.
Swift.
Traverse.
Wilkin.

MONTANA

Big Horn.
Blaine.
Carbon.
Cascade.
Chouteau.
Daniels.
Fallon.
Fergus.
Glacier.
Golden Valley.
Hill.
Judith Basin.
Liberty.
Musselshell.
Phillips.
Pondera.
Prairie.
Richland.
Roosevelt.
Rosebud.
Sheridan.
Stillwater.
Teton.
Toole.
Valley.
Wheatland.
Yellowstone.

NORTH DAKOTA

Barnes.
Benson.
Bottineau.
Burke.
Burleigh.
Cass.
Cavalier.
Dickey.
Divide.
Dunn.
Eddy.
Emmons.
Foster.
Golden Valley.
Grand Forks.
Grant.
Griggs.
Hettinger.
Kidder.
La Moure.
Logan.
McHenry.
McKenzie.
McLean.
Mercer.
Mountrail.
Nelson.
Oliver.
Pembina.
Pierce.
Ramsey.
Ransom.
Renville.
Richland.
Rolette.
Sargent.
Sheridan.
Stark.
Steele.
Stutsman.
Towner.
Traill.
Walsh.
Ward.
Wells.
Williams.

OREGON

Gilliam.
Jefferson.
Klamath.
Linn.
Malheur.
Morrow.
Sherman.
Umatilla.
Union.
Wallowa.
Wasco.
Wheeler.

PENNSYLVANIA

Adams.
Chester.
Cumberland.
Dauphin.
Franklin.
Lebanon.
York.

SOUTH DAKOTA

Beadle.
Brookings.
Brown.
Clark.
Codington.
Day.
Deuel.
Edmunds.
Faulk.
Grant.
Hamlin.
Kingsbury.
McPherson.
Marshall.
Miner.
Roberts.
Spink.

UTAH

Cache.
Davis.
Salt Lake.
Utah.
Weber.

WASHINGTON

Adams.
Asotin.
Benton.
Columbia.
Douglas.
Franklin.
Garfield.
Grant.
Klickitat.
Lincoln.
Spokane.
Walla Walla.
Whitman.
Yakima.

WYOMING

Big Horn.
Goshen.
Park.
Washakie.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.72-1205 Filed 1-26-72;8:49 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR WHEAT CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, the following counties have been designated for wheat crop insurance for the 1973 crop year.

ARKANSAS

Chicot.
Clay.
Craighead.
Crittenden.
Cross.
Desha.
Greene.
Jackson.
Mississippi.
Phillips.
Poinsett.
St. Francis.

CALIFORNIA

Modoc.

COLORADO

Adams.
Arapahoe.
Boulder.
Cheyenne.
Elbert.
Kit Carson.
Larimer.
Lincoln.
Logan.
Morgan.
Phillips.
Sedgwick.
Washington.
Weld.
Yuma.

IDAHO

Ada.
Bannock.
Benewah.
Bingham.
Bonneville.
Camas.
Canyon.
Caribou.
Cassia.
Franklin.
Fremont.
Gooding.
Idaho.
Jefferson.
Jerome.
Kootenai.
Latah.
Lewis.
Lincoln.
Madison.
Minidoka.
Nez Perce.
Oneida.
Owyhee.
Power.
Teton.
Twin Falls.

ILLINOIS

Adams.
Bond.
Brown.
Cass.
Champaign.
Christian.
Clark.
Clinton.
Coles.
Crawford.
Cumberland.
DeWitt.
Douglas.
Edgar.
Effingham.
Fayette.
Fulton.
Greene.
Hancock.
Iroquois.
Jasper.
Jefferson.
Jersey.
Kankakee.
Logan.
McDonough.
McLean.
Macon.
Macoupin.
Madison.
Mason.
Menard.
Monroe.
Montgomery.
Morgan.
Moultrie.
Piatt.
Pike.
St. Clair.
Sangamon.
Schuyler.
Scott.
Shelby.
Tazewell.
Vermilion
Washington.
Wayne.

INDIANA

Adams.
Allen.
Bartholomew.
Benton.

INDIANA—Continued

Blackford.
Boone.
Carroll.
Cass.
Clay.
Clinton.
Decatur.
DeKalb.
Delaware.
Elkhart.
Fayette.
Fountain.
Fulton.
Gibson.
Grant.
Hamilton.
Hancock.
Hendricks.
Henry.
Howard.
Huntington.
Jackson.
Jasper.
Jay.
Johnson.
Knox.
Kosciusko.
Lagrange.
Madison.
Marion.
Marshall.
Miami.
Montgomery.
Morgan.
Newton.
Noble.
Parke.
Pulaski.
Putnam.
Randolph.
Ripley.
Rush.
Shelby.
Sullivan.
Tippecanoe.
Tipton.
Union.
Vermillion.
Vigo.
Wabash.
Warren.
Wayne.
Wells.
White.
Whitley.

KANSAS

Allen.
Anderson.
Atchison.
Barber.
Barton.
Bourbon.
Brown.
Butler.
Chase.
Chautauqua.
Cherokee.
Cheyenne.
Clark.
Clay.
Cloud.
Coffey.
Comanche.
Cowley.
Crawford.
Decatur.
Dickinson.
Doniphan.
Douglas.
Edwards.
Elk.
Ellis.
Ellsworth.
Finney.
Ford.
Franklin.
Geary.
Gove.
Graham.
Grant.
Gray.
Greeley.
Greenwood.
Hamilton.
Harper.
Harvey.
Haskell.
Hodgeman.
Jackson.
Jefferson.
Jewell.
Johnson.
Kearny.
Kingman.
Kiowa.
Labette.
Lane.
Lincoln.
Linn.
Logan.
Lyon.
McPherson.
Marion.
Marshall.
Meade.
Miami.
Mitchell.
Montgomery.
Morris.
Nemaha.
Neosho.
Ness.
Norton.
Osage.
Osborne.
Ottawa.
Pawnee.
Phillips.
Pottawatomie.
Pratt.
Rawlins.
Reno.
Republic.
Rice.
Riley.
Rooks.
Rush.
Russell.
Saline.
Scott.
Sedgwick.
Seward.
Shawnee.
Sheridan.
Sherman.
Smith.
Stafford.
Stanton.
Stevens.
Sumner.
Thomas.
Trego.
Wabaunsee.
Wallace.
Washington.
Wichita.
Wilson.
Woodson.

KENTUCKY

Christian.

MARYLAND

Caroline.
Kent.
Queen Annes.

MICHIGAN

Bay.
Branch.
Calhoun.
Cass.
Clinton.
Eaton.
Gratiot.
Hillsdale.
Huron.
Ingham.
Ionia.
Jackson.
Kalamazoo.
Lenawee.
Livingston.
Monroe.
Saginaw.
St. Clair.
St. Joseph.
Sanilac.
Shiawassee.
Tuscola.
Washtenaw.

MINNESOTA

Becker.
Big Stone.
Blue Earth.
Chippewa.
Clay.
Dakota.
Douglas.
Faribault.
Freeborn.
Grant.
Kandiyohi.
Kittson.
Lac qui Parle.
Le Sueur.
Mahnoman.
Marshall.
Norman.
Otter Tail.
Pennington.
Polk.
Red Lake.
Redwood.
Renville.
Roseau.
Stevens.
Swift.
Traverse.
Waseca.
Wilkin.
Yellow Medicine.

MISSISSIPPI

Bolivar.
Coahoma.
De Soto.
Humphreys.
Issaquena.
Quitman.
Sharkey.
Sunflower.
Tallahatchie.
Tunica.
Washington.
Yazoo.

MISSOURI

Adair.
Andrew.
Audrain.
Barton.
Bates.
Boone.
Buchanan.
Butler.
Caldwell.
Callaway.
Cape Girardeau.
Carroll.
Cass.
Chariton.
Clark.
Clinton.
Cooper.
Dade.
Daviess.
DeKalb.
Dunklin.
Franklin.
Gentry.
Grundy.
Harrison.
Henry.
Holt.
Howard.
Jackson.
Jasper.
Johnson.
Knox.
Lafayette.
Lawrence.
Lewis.
Lincoln.
Linn.
Livingston.
Macon.
Marion.
Mississippi.
Monroe.
Montgomery.
New Madrid.
Nodaway.
Pemiscot.
Pettis.
Pike.
Platte.
Ralls.
Randolph.
Ray.
St. Charles.
Saline.
Scotland.
Scott.
Shelby.
Stoddard.
Sullivan.
Vernon.

MONTANA

Blaine.
Big Horn.
Carbon.
Cascade.
Chouteau.
Custer.
Daniels.
Dawson.
Fallon.
Fergus.
Glacier.
Golden Valley.
Hill.
Judith Basin.
Liberty.
McCone.
Musselshell.
Petroleum.
Phillips.
Pondera.
Prairie.
Richland.
Roosevelt.
Rosebud.
Sheridan.
Stillwater.
Teton.
Toole.
Treasure.
Valley.
Wheatland.
Wibaux.
Yellowstone.

NEBRASKA

Adams.
Banner.
Box Butte.
Butler.
Cass.
Chase.
Cheyenne.
Clay.
Dawes.
Deuel.
Dodge.
Fillmore.
Franklin.
Frontier.
Furnas.
Gage.
Garden.
Gosper.
Hall.
Hamilton.
Harlan.
Hayes.
Hitchcock.
Jefferson.
Johnson.
Kearney.
Keith.
Kimball.
Lancaster.
Lincoln.
Merrick.
Morrill.
Nance.
Nemaha.
Nuckolls.
Otoe.
Pawnee.
Perkins.
Phelps.
Polk.
Red Willow.
Richardson.
Saline.
Saunders.
Scotts Bluff.
Seward.
Sheridan.
Thayer.
Washington.
Webster.
York.

NEW MEXICO

Curry.

NORTH DAKOTA

Adams.
Barnes.
Benson.
Bottineau.
Bowman.
Burke.
Burleigh.
Cass.
Cavalier.
Dickey.
Divide.
Dunn.
Eddy.
Emmons.
Foster.
Golden Valley.
Grand Forks.
Grant.
Griggs.
Hettinger.
Kidder.
La Moure.
Logan.
McHenry.
McIntosh.
McKenzie.
McLean.
Mercer.
Morton.
Mountrail.
Nelson.
Oliver.
Pembina.
Pierce.
Ramsey.
Ransom.
Renville.
Richland.
Rolette.
Sargent.
Sheridan.
Sioux.
Slope.
Stark.
Steele.
Stutsman.
Towner.
Traill.
Walsh.
Ward.
Wells.
Williams.

OHIO

Allen.
Ashland.
Auglaize.
Butler.
Champaign.
Clark.
Clinton.
Crawford.
Darke.
Defiance.
Delaware.
Erie.
Fairfield.
Fayette.
Franklin.
Fulton.
Greene.
Hancock.
Hardin.
Henry.
Highland.
Huron.
Knox.
Licking.
Logan.
Lucas.
Madison.
Marion.
Medina.
Mercer.
Miami.
Montgomery.
Morrow.
Ottawa.
Paulding.
Pickaway.
Preble.
Putnam.
Richland.
Sandusky.
Seneca.
Shelby.
Union.
Van Wert.
Wayne.
Williams.
Wood.
Wyandot.

OKLAHOMA

Alfalfa.
Beaver.
Beckham.
Blaine.
Caddo.
Canadian.
Comanche.
Cotton.

OKLAHOMA—Continued

Craig.	Logan.
Custer.	Major.
Delaware.	Mayes.
Dewey.	Noble.
Ellis.	Nowata.
Garfield.	Osage.
Grady.	Ottawa.
Grant.	Pawnee.
Greer.	Payne.
Harmon.	Texas.
Harper.	Tillman.
Jackson.	Washington.
Kay.	Washita.
Kingfisher.	Woods.
Kiowa.	Woodward.

OREGON

Baker.	Sherman.
Gilliam.	Umatilla.
Jefferson.	Union.
Klamath.	Wallowa.
Linn.	Wasco.
Malheur.	Wheeler.
Morrow.	

PENNSYLVANIA

Adams.	Lancaster.
Chester.	Lebanon.
Cumberland.	Perry.
Dauphin.	York.
Franklin.	

SOUTH DAKOTA

Aurora.	Hughes.
Beadle.	Hutchinson.
Bennett.	Hyde.
Bon Homme.	Jones.
Brown.	Kingsbury.
Campbell.	Lyman.
Clark.	McPherson.
Codington.	Marshall.
Corson.	Mellette.
Day.	Miner.
Deuel.	Perkins.
Dewey.	Potter.
Douglas.	Roberts.
Edmunds.	Spink.
Faulk.	Stanley.
Grant.	Sully.
Haakon.	Tripp.
Hamlin.	Walworth.
Hand.	

TENNESSEE

Dyer.	Obion.
Lake.	Robertson.
Lauderdale.	

TEXAS

Baylor.	Hansford.
Carson.	Hartley.
Castro.	Hutchinson.
Collin.	Jones.
Cooke.	Knox.
Dallam.	Lipscomb.
Deaf Smith.	Moore.
Denton.	Ochiltree.
Fannin.	Oldham.
Floyd.	Parmer.
Foard.	Randall.
Gray.	Sherman.
Grayson.	Swisher.
Hale.	Wilbarger.

UTAH

Box Elder.	Salt Lake.
Cache.	Utah.
Davis.	Weber.

WASHINGTON

Adams.	Klickitat.
Asotin.	Lincoln.
Benton.	Okanogan.
Columbia.	Spokane.
Douglas.	Walla Walla.
Franklin.	Whitman.
Garfield.	Yakima.
Grant.	

WYOMING

Goshen.	Platte.
Laramie.	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.72-1204 Filed 1-26-72;8:49 am]

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

[Navel Orange Reg. 253]

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

Limitation of Handling

§ 907.553 Navel Orange Regulation 253.

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the Act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on January 25, 1972.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period January 28 through February 3, 1972, are hereby fixed as follows:

(i) District 1: 913,000 cartons.

(ii) District 2: 187,000 cartons.

(iii) District 3: Unlimited.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: January 26, 1972.

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

[FR Doc.72-1337 Filed 1-26-72;11:35 am]

PART 959—ONIONS GROWN IN SOUTH TEXAS

Limitation of Shipments

Notice of rule making with respect to a proposed limitation of shipments regulation to be made effective under Marketing Agreement No. 143 and Order No. 959 (7 CFR Part 959), both as amended, regulating the handling of onions grown in designated counties in South Texas, was published in the FEDERAL REGISTER, November 20, 1971 (36 F.R. 22165). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The notice afforded interested persons an opportunity to file data, views, or arguments pertaining thereto not later than 30 days after publication. Within the period specified, written comments were filed with the Hearing Clerk by Oliver H. Miller, Director of Research, McKee Baking Co., Collegedale, Tenn.

Mr. Miller took exception to the prohibition of packaging or loading onions on Sundays, and proposed that such activities be limited to any 6 days of a week, to eliminate any personal, philosophical, or religious conflict. This exception has been carefully considered and is denied because the Sunday holidays are needed to avoid heavy shipments of onions on Mondays which in the

past have resulted in depressed prices to producers.

Statement of consideration. The recommendations of the committee reflect its appraisal of the expected volume and composition of the 1972 crop of South Texas onions and of the marketing prospects for the shipping season which is expected to being on or about March 1.

The grade and size requirements herein are recommended to prevent culls and poor quality onions, as well as undesirable sizes, from being distributed in fresh market channels. This should provide consumers with desirable onions, at reasonable prices and at the same time result in higher returns to producers for the better grades and preferred sizes and enhance the reputation of South Texas onions.

The container requirement should prevent the use of off-size or deceptive containers which could adversely affect the reputation and returns of South Texas onions. However, it would not preclude the use of containers customarily packed for the retail trade. It would not preclude the use of containers which have been the subject of experimental shipments during past seasons, and it would not preclude the use of containers required for the export market.

The prohibition on packaging and loading onions on Sunday is recommended to provide more orderly marketing by tailoring shipments from the production area more closely to the ability of receiving markets to accept marketings at reasonable prices.

The regulation is as follows:

§ 959.312 Limitation of shipments.

During the period beginning March 1, 1972, through May 15, 1972, no handler may: Package or load onions on Sundays; or handle any lot of onions grown in the production area, except red onions, unless such onions meet the grade requirements of paragraph (a) of this section, one of the applicable size requirements of paragraph (b) of this section, the container requirements of paragraph (c) of this section, and the inspection requirements of paragraph (f) of this section, or unless such onions are handled in accordance with the provisions of paragraph (d) or (e) of this section.

(a) *Minimum grade.* Not to exceed 20 percent defects of U.S. No. 1 grade. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Application of tolerances in U.S. Grade Standards shall apply to in-grade lots.

(b) *Size requirements.* (1) "Small"—1 to 2¼ inches in diameter, and limited to whites only;

(2) "Repacker"—1¾ to 3 inches in diameter, with 60 percent or more 2 inches in diameter or larger;

(3) 2 to 3½ inches in diameter; or

(4) "Jumbo"—3 inches or larger in diameter.

(c) *Container requirements.* (1) 25-pound bags, with not to exceed in any lot an average net weight of 27½ pounds per bag, and with outside dimensions not larger than 29 inches by 31 inches; or

(2) 50-pound bags, with not to exceed in any lot an average net weight of 55 pounds per bag, and with outside dimensions not larger than 33 inches by 38½ inches.

(3) These container requirements shall not be applicable to onions sold to Federal agencies.

(d) *Minimum quantity exemption.* Any handler may handle, only as individual shipments and other than for resale, not more than 100 pounds of onions per day, in the aggregate, without regard to the requirements of this section or to the inspection and assessment requirements of this part.

(e) *Special purpose shipments and culls.* (1) Onions may be handled in containers customarily packed for the retail trade and in other designated special purpose containers as follows:

(i) Each handler desiring to make such shipments shall first apply to the committee for and obtain a Certificate of Privilege to make such shipments.

(ii) After obtaining an approved Certificate of Privilege, each handler may handle onions packed in 2-, 3-, or 5-pound containers customarily packed for the retail trade, 20-kilogram bags, or 50-pound cartons, if they meet the grade and size requirements of paragraphs (a) and (b) of this section and if they are handled in accordance with the reporting requirements established in subparagraph (2) of this paragraph on such shipments: *Provided,* That shipments of 2-, 3- and 5-pound containers shall not exceed 10 percent of handler's total weekly onion shipments, and provided further that shipments of 50-pound cartons shall not exceed 10 percent of a handler's total weekly onion shipments of all onions allowed to be marketed under this section.

(iii) The average gross weight per lot of onions packed in master containers shall not exceed 115 percent of the designated net contents.

(iv) The average net weight per lot of 50-pound cartons shall not exceed 55 pounds.

(v) The average net weight per lot of 20-kilogram bags shall not exceed 22 kilograms per bag, and with outside dimensions not larger than 32 inches by 36 inches.

(vi) 20-kilogram bags shall be conspicuously labeled with the words "For Export Only" and shipments shall be only to points outside of the 48 contiguous States of the United States, the District of Columbia, Canada, or Mexico.

(2) *Reporting requirements for shipments in designated special purpose containers.* Each handler who handles such shipments of onions in containers customarily packed for the retail trade and in other designated special purpose containers, shall report thereon to the committee, the inspection certificate numbers, the grade and size of onions packed, and the size of the containers in which such onions were handled.

Such reports, in accordance with § 959.80, shall be furnished to the committee in such manner, on such forms and at such times as it may prescribe. Also, each handler of such shipments of onions shall maintain records of such marketings, pursuant to § 959.80(c). Such records shall be subject to review and audit by the committee to verify reports thereon.

(3) *Onions failing to meet requirements.* Onions failing to meet the grade, size, and container requirements of this section, and not exempted under paragraph (d) of this section, may be handled only pursuant to § 959.126. Culls may be handled pursuant to § 959.126-(a)(1). Shipments for relief or charity may be handled without regard to inspection and assessment requirements.

(f) *Inspection.* (1) No handler may handle any onions regulated hereunder (except pursuant to paragraphs (d) or (e)(3) of this section) unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of onions for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which a valid inspection certificate is applicable and a copy of such inspection certificate or committee document, upon request, is surrendered to authorities designated by the committee.

(3) For purposes of operation under this part each inspection certificate or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(g) *Definitions.* The term "U.S. No. 1" shall have the same meaning as set forth in the U.S. Standards for Grades of Bermuda-Granex-Grano Type Onions (§§ 51.3195–51.3209 of this title), or in the U.S. Standards for Grades of Onions other than Bermuda-Granex-Grano and Creole types) (§§ 51.2830–51.2854 of this title), whichever is applicable to the particular variety.

All terms used in this section shall have the same meaning as when used in Marketing Agreement No. 143, as amended, and this part.

Dated January 24, 1972, to become effective March 1, 1972.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.72-1201 Filed 1-26-72;8:49 am]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order Nos. 104 and 106; Dockets Nos. AO-298-A18 and AO-210-A30]

PART 1104—MILK IN RED RIVER VALLEY

PART 1106—MILK IN OKLAHOMA METROPOLITAN MARKETING AREAS

Order Amending Orders

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the respective marketing areas.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending each of the aforesaid orders effective not later than February 1, 1972. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the respective marketing area.

The provisions of this order amending the aforesaid orders are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued on December 10, 1971 (36 F.R. 23821), and the decision of the Assistant Secretary containing all amending provisions of this order was issued January 14, 1972. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good causes exists for making this order amending each of the aforesaid orders effective February 1, 1972, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in sec. 8c(9) of the Act) or more than 50 percent of the milk, which is marketed within each of the respective marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending each of the specified orders is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended; and

(3) The issuance of the order amending each of the specified orders is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the respective marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Red River Valley and Oklahoma metropolitan marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the aforesaid orders, as amended, and as hereby further amended, as follows:

A. In Part 1104 the following changes are made:

1. Section 1104.6 is revised to read as follows:

§ 1104.6 Producer.

(a) "Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act or a person described pursuant to paragraph (b) of this section, who produces milk approved for fluid consumption by a duly constituted health authority, which milk is:

(1) Received at a pool plant; or

(2) Diverted by a handler for his account from a pool plant to a nonpool plant, subject to the provisions of § 1104.14.

(b) This definition shall not include:

(1) Any person with respect to milk produced by him that is diverted to a pool plant from another order plant if the other order designates such person as a producer under that order and the handler under the other order diverting such milk and the operator of the pool plant each have requested Class II classification of such milk in their reports of receipts and utilization filed with the respective market administrator; or

(2) Any person with respect to milk produced by him that is diverted to another order plant if such person is designated as a producer under the other order with respect to such milk.

2. Section 1104.7 is revised to read as follows:

§ 1104.7 Distributing plant.

"Distributing plant" means all the buildings, premises, and facilities of a plant:

(a) Approved by a duly constituted health authority for the handling of milk approved for fluid consumption;

(b) In which fluid milk products are processed or packaged; and

(c) From which fluid milk products are disposed of on routes.

3. Section 1104.8 is revised to read as follows:

§ 1104.8 Supply plant.

"Supply plant" means a plant from which fluid milk products are transferred to a distributing plant(s) during the month.

4. Section 1104.9 is revised to read as follows:

§ 1104.9 Pool plant.

"Pool plant" means any plant (other than a plant operated by a producer-handler or one exempt pursuant to § 1104.61) described in paragraph (a) or (b) of this section:

(a) A distributing plant from which during the month:

(1) Fluid milk products (except filled milk) are disposed of on routes in an amount not less than 50 percent of the total quantity of fluid milk products (except filled milk) received at the plant or diverted to a nonpool plant by the plant operator under the limitations of § 1104.14; and

(2) Fluid milk products (except filled milk) are disposed of on routes in the marketing area in an amount not less than 15 percent of the total route disposition of the plant.

(b) A supply plant from which fluid milk products (except filled milk) are transferred during the month to a plant(s) described in paragraph (a) of this section in an amount not less than 50 percent of milk received at the supply plant from dairy farmers who would be eligible as producers under § 1104.6 if such plant qualifies pursuant to this paragraph and milk of such dairy farmers diverted from such plant by the plant operator. Any plant that qualifies under this paragraph during each of the months of September through December shall continue so qualified in each of the following months of January through

August until any month of such period in which less than 20 percent of the plant receipts and diverted milk specified previously herein is transferred to plants described in paragraph (a) of this section. A plant not meeting such 20 percent requirement in any month of such January–August period shall be qualified under this paragraph in any remaining month of the year only if transfers of fluid milk products (except filled milk) from the plant during the month to plant(s) described in paragraph (a) of this section are at least 50 percent of the plant receipts and diverted milk specified previously herein.

§ 1104.11 [Amended]

5. In § 1104.11(c) change "§ 1104.63" to read "§ 1104.14."

6. Section 1104.14 is revised to read as follows:

§ 1104.14 Producer milk.

"Producer milk" means skim milk and butterfat in milk from producers that is:

(a) Received by the operator of a pool plant at such pool plant from producers;

(b) Received by the operator of a pool plant at such pool plant from a cooperative association handler pursuant to § 1104.11(e);

(c) Diverted by the operator of a pool plant from such pool plant to a nonpool plant subject to the conditions of paragraph (f) of this section;

(d) Received from producers by a cooperative association handler pursuant to § 1104.11(e) in an amount in excess of the quantity delivered by such cooperative association to pool plants pursuant to paragraph (b) of this section; or

(e) Diverted by a cooperative association for its account from the pool plant of another handler to a nonpool plant subject to the conditions of paragraph (f) of this section;

(f) Milk diverted from a pool plant to a nonpool plant shall be subject to the following conditions:

(1) A cooperative association may divert from pool plants to nonpool plants for its account, subject to the conditions of subparagraph (3) of this paragraph, a total quantity of milk not in excess of total milk of its member-producers received at all pool plants during the month. Diversions in excess of such quantity shall not be eligible under this section and the diverting cooperative shall specify the dairy farmers whose diverted milk is not so eligible. If the cooperative association fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such cooperative association;

(2) The operator of a pool plant other than a cooperative association may divert from his pool plant to a nonpool plant for his account, subject to the conditions of subparagraph (3) of this paragraph, milk of producers not members of a cooperative association diverting milk pursuant to subparagraph (1) of this paragraph, in a total quantity not in excess of the milk of producers not members of such cooperative association received at such pool plant(s) during the month. Milk diverted in excess of such quantity shall not be eligible under this section and the diverting handler shall specify the dairy farmers whose diverted milk is not so eligible. If a handler fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such handler;

(3) Milk of a producer shall not be eligible for diversion from a pool plant under this section if during the month less than 15 percent of the total milk of such person as a producer is received at a pool plant;

(4) Milk qualified as producer milk that is diverted by a handler to a nonpool plant pursuant to this section shall be accounted for as received by the diverting handler at the location of the nonpool plant.

§ 1104.32 [Amended]

7. In § 1104.32(b) the phrase "to another pool plant or" is deleted.

8. Revise § 1104.41(b)(6)(i) to read as follows:

§ 1104.41 Classes of utilization.

* * * * *

(b) * * *

(6) * * *

(i) Two percent of milk received directly from producers at a pool plant or diverted from such pool plant by the plant operator; and

* * * * *

§ 1104.43 [Amended]

9. In § 1104.43(a) change "§ 1104.14(a)(2)" to read "§ 1104.14(b)."

10. In § 1104.44 revise the text of paragraph (a) preceding subparagraph (1) of such paragraph, the text of paragraph (e) preceding subparagraph (1) of such paragraph, and subparagraph (2) and (3) of paragraph (e) to read as follows:

§ 1104.44 Transfers.

* * * * *

(a) At the utilization mutually indicated in writing to the market administrator by the operators of both plants on or before the seventh day after the end of the month in which the transaction occurred, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

* * * * *

(e) As follows, if transferred or diverted to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

* * * * *

(2) If transferred or diverted in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

* * * * *

§ 1104.52 [Amended]

11. In § 1104.52(a) the word "pool" preceding the word "plant" is deleted.

§ 1104.61 [Amended]

12. In § 1104.61(c) the provision ", except during the months of January through August if such plant retains automatic pooling status under this part" is deleted.

§ 1104.62 [Amended]

13. In § 1104.62(a)(1)(ii) change "§ 1104.8" to read "§ 1104.9(b)."

§ 1104.63 [Revoked]

14. Section 1104.63 is revoked in its entirety.

15. Section 1104.74 is revised to read as follows:

§ 1104.74 Location differentials to producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1104.80 for producer milk received at a pool plant, the uniform price computed pursuant to § 1104.71 shall be reduced according to the location of the pool plant at the rate set forth in § 1104.52(a);

(b) For the purpose of computations pursuant to §§ 1104.82 and 1104.83, the weighted average price shall be adjusted at the rate set forth in § 1104.52(a) applicable at the location of the nonpool plant from which the milk was received; and

(c) In making payments to producers pursuant to § 1104.80 for producer milk diverted from a pool plant to a nonpool plant, the uniform price computed pursuant to § 1104.71 shall be reduced according to the location of the nonpool plant at which the milk is received at the rate set forth in § 1104.52(a).

§ 1104.86 [Amended]

16. In § 1104.86(a) change "§ 1104.14(a)(2)" to read "§ 1104.14(b)."

B. In Part 1106 the following changes are made:

1. Section 1106.7 is revised to read as follows:

§ 1106.7 Distributing plant.

"Distributing plant" means all the buildings, premises, and facilities of a plant:

(a) Approved by a duly constituted health authority for the handling of milk approved for fluid consumption;

(b) In which fluid milk products are processed or packaged; and

(c) From which fluid milk products are disposed of on routes.

2. Section 1106.8 is revised to read as follows:

§ 1106.8 Supply plant.

"Supply plant" means a plant from which fluid milk products are transferred

to a distributing plant(s) during the month.

3. Section 1106.9 is revised to read as follows:

§ 1106.9 Pool plant.

"Pool plant" means any plant (other than a plant operated by a producer-handler or one exempt pursuant to § 1106.61) described in paragraph (a), (b), or (c) of this section;

(a) A distributing plant from which during the month:

(1) Fluid milk products (except filled milk) are disposed of on routes in an amount not less than 50 percent of the total quantity of fluid milk products (except filled milk) received at the plant or diverted to a nonpool plant by the plant operator under the limitations of § 1106.13; and

(2) Fluid milk products (except filled milk) are disposed of on routes in the marketing area in an amount not less than 15 percent of the total route disposition of the plant.

(b) A supply plant from which fluid milk products (except filled milk) are transferred during the month to a plant(s) described in paragraph (a) of this section in an amount not less than 50 percent of milk received at the supply plant from dairy farmers who would be eligible as producers under § 1106.12 if such plant qualifies pursuant to this paragraph and milk of such dairy farmers diverted from such plant by the plant operator. Any plant that qualifies under this paragraph during each of the months of September through December shall continue so qualified in each of the following months of January through August until any month of such period in which less than 20 percent of the plant receipts and diverted milk specified previously herein is transferred to plants described in paragraph (a) of this section. A plant not meeting such 20 percent requirement in any month of such January–August period shall be qualified under this paragraph in any remaining month of the year only if transfers of fluid milk products (except filled milk) from the plant during the month to plant(s) described in paragraph (a) of this section are at least 50 percent of the plant receipts and diverted milk specified previously herein.

(c) A plant(s) operated by a cooperative association and located not more than 50 miles from the City Hall of Tulsa or Oklahoma City, Okla., at which milk is received from dairy farmers producing milk approved by a duly constituted health authority for fluid consumption if the total of fluid milk products described in subparagraphs (1) and (2) of this paragraph received at plants described pursuant to paragraph (a) of this section is not less than 50 percent of total milk of member producers during the month:

(1) Fluid milk products (except filled milk) transferred from such cooperative association plant(s); and

(2) Milk of member producers received from such producers.

§ 1106.11 [Amended]

4. In § 1106.11 paragraph (c) is revised to read as follows:

(c) A cooperative association with respect to the milk of its member producers delivered to the pool plant of another handler in a tank truck owned or operated by such cooperative association for the account of such cooperative association. Such milk shall be considered to have been received by such cooperative association at the location of the plant to which it is delivered; or

5. Section 1106.12 is revised to read as follows:

§ 1106.12 Producer.

(a) "Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act or a person described pursuant to paragraph (b) of this section, who produces milk approved for fluid consumption by a duly constituted health authority, which is:

(1) Received at a pool plant; or

(2) Diverted by a handler for his account from a pool plant to a nonpool plant subject to the provisions of § 1106.13.

(b) This definition shall not include:

(1) Any person with respect to milk produced by him that is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and the handler under the other order diverting such milk and the operator of the pool plant each request Class II classification of such milk in their reports of receipts and utilization filed with the respective market administrator; or

(2) Any person with respect to milk produced by him that is diverted to an other order plant if such person is designated as a producer under the other order with respect to such milk.

6. Section 1106.13 is revised to read as follows:

§ 1106.13 Producer milk.

"Producer milk" means skim milk and butterfat in milk from producers that is:

(a) Received by the operator of a pool plant at such pool plant from producers;

(b) Diverted by the operator of a pool plant from such pool plant to a nonpool plant subject to the conditions of paragraph (e) of this section;

(c) Received from producers by a cooperative association handler pursuant to § 1106.11(c); or

(d) Diverted by a cooperative association for its account from the pool plant of another handler to a nonpool plant subject to the conditions of paragraph (e) of this section.

(e) Milk diverted from a pool plant to a nonpool plant shall be subject to the following conditions:

(1) A cooperative association may divert from pool plants to nonpool plants for its account, subject to the conditions of subparagraph (3) of this paragraph, a total quantity of milk not in excess of total milk of its member-producers received at all pool plants during the month. Diversions in excess of such quantity shall not be eligible under this section and the diverting cooperative shall specify the dairy farmers whose diverted milk is not so eligible. If the cooperative association fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such cooperative association;

(2) The operator of a pool plant other than a cooperative association may divert from his pool plant to a nonpool plant for his account, subject to the conditions of subparagraph (3) of this paragraph, milk of producers not members of a cooperative association diverting milk pursuant to subparagraph (1) of this paragraph, in a total quantity not in excess of the milk of producers not members of such cooperative association received at such pool plant(s) during the month. Milk diverted in excess of such quantity shall not be eligible under this section and the diverting handler shall specify the dairy farmers whose diverted milk is not so eligible. If a handler fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such handler;

(3) Milk of a producer shall not be eligible for diversion from a pool plant under this section if during the month less than 15 percent of the total milk of such person as a producer is received at a pool plant;

(4) Milk qualified as producer milk that is diverted by a handler to a nonpool plant pursuant to this section shall be accounted for as received by the diverting handler at the location of the nonpool plant.

7. In § 1106.44 revise the text of paragraph (a) preceding subparagraph (1) of such paragraph and subparagraph (2) of paragraph (e) to read as follows:

§ 1106.44 Transfers.

* * * * *

(a) At the utilization mutually indicated in writing to the market administrator by both handlers on or before the seventh day after the end of the month in which the transaction occurred, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

* * * * *

(e) * * *

(2) If transferred or diverted in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

* * * * *

§ 1106.53 [Amended]

8. In § 1106.53(a) the word "pool" preceding the word "plant" is deleted.

§ 1106.61 [Amended]

9. In § 1106.61(c) the provision ", except during the months of January through August if such plant retains automatic pooling status under this part" is deleted.

§ 1106.62 [Amended]

10. In § 1106.62(a)(1)(ii) change "§ 1106.8" to read "§ 1106.9(b)."

11. Section 1106.81 is revised to read as follows:

§ 1106.81 Location differential to producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1106.80 for producer milk received at a pool plant, the uniform price computed pursuant to § 1106.72 shall be reduced according to the location of the pool plant at the rate set forth in § 1106.53(a);

(b) For the purpose of computations pursuant to §§ 1106.84 and 1106.85, the uniform price shall be adjusted at the rate set forth in § 1106.53(a) applicable at the location of the nonpool plant from which the milk was received; and

(c) In making payments to producers pursuant to § 1106.80 for producer milk diverted from a pool plant to a nonpool plant, the uniform price computed pursuant to § 1106.72 shall be reduced according to the location of the nonpool plant at which the milk is received at the rate set forth in § 1106.53(a).

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

Effective date: February 1, 1972.

Signed at Washington, D.C., on January 21, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-1202 Filed 1-26-72;8:49 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

[Docket No. 72-505]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f). Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, paragraph (e)(1) relating to the State of Texas, is amended to read:

(e) * * *

(1) *Texas.* That portion of the State of Texas comprised of all of Atascosa, Bee, Bexar, Cameron, De Witt, Duval, Goliad, Gonzales, Hidalgo, Jackson, Karnes, Starr, Victoria, Webb, Willacy, and Wilson Counties.

2. In § 76.2, the reference to the State of New Hampshire in paragraph (f) is deleted, and paragraph (g) is amended by adding thereto the name of the State of New Hampshire.

(Secs. 4–7, 23 Stat. 32, as amended; sec. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126 134b, 134f; 29 F.R. 16210, as amended; 36 F.R. 20707)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine all of Atascosa, Bee, Bexar, Cameron, DeWitt, Duval, Goliad, Gonzales, Hidalgo, Jackson, Karnes, Starr, Victoria, Webb, Willacy, and Wilson Counties in Texas because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the counties quarantined.

The amendments delete New Hampshire from the list of hog cholera eradication States in § 76.2(f), and the special provisions pertaining to the interstate movement of swine and swine products from or to such eradication States are no longer applicable to New Hampshire. Further, the amendments add New Hampshire to the list of the hog cholera free States in § 76.2(g), and the special provisions pertaining to the interstate movement of swine and swine products from or to such free States are applicable to New Hampshire.

Insofar as the amendments impose certain further restrictions necessary to prevent the Interstate spread of hog cholera, they must be made effective immediately to accomplish their purpose in the public interest. Insofar as they relieve restrictions, they should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rule making procedure would make additional relevant informaton available to this Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 21st day of January 1972.

G. H. WISE,
Acting Administrator,
Animal and Plant Health Service.

[FR Doc.72-1238 Filed 1-26-72;8:52 am]

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

SUBCHAPTER A—MEAT INSPECTION REGULATIONS

SHIPMENT OF CERTAIN INEDIBLE PRODUCTS

Miscellaneous Amendments to Subchapter

On August 4, 1971, there was published in the FEDERAL REGISTER (36 F.R. 14335) in accordance with the administrative procedure provisions in 5 U.S.C. 553, a notice of proposed rule making under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) to amend the regulations governing Federal meat inspection (9 CFR Chapter III, Subchapter A) for the purpose of permitting the shipment under the Act of certain inedible products under seal and other restrictions in lieu of denaturing. Interested persons were given 60 days in which to submit data, views, or arguments regarding the proposed amendments.

Twenty-four letters of comment favorable to the proposal and one in opposition were received. Eleven of the favorable comments were from "collectors" of inedible products who advocated that the proposed procedures be extended to their business. It was also requested that permission be given for the storage of such articles in public warehouses after such shipment.

After consideration of the comments and other relevant information, it has been decided to issue the proposed amendments, with certain changes, but without extending the amendments to allow shipments of the undenatured, inedible products to be made by "collectors" or to permit the undenatured, inedible articles to be shipped under the Act for storage in public warehouses. It is considered that, at least for the present time, these extensions should not be made because of the additional problems that they would present with respect to maintaining necessary controls over the inedible products. After the amendments have been put into effect and there is opportunity to evaluate their operation, consideration may be given to further amendment of the regulations to extend the new procedures to certain categories of "collectors" and to permit shipment of the undenatured, inedible articles for storage in public warehouses.

PART 301—DEFINITIONS

1. Section 301.2 is amended by adding a new paragraph (iii) to read:

§ 301.2 **Definitions.**

* * * * *

(iii) *Regional Director.* The official[1] in charge of the program within each of the following regions:

Northeastern Region—The States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia; and the District of Columbia.

Southeastern Region—The States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee; the Commonwealth of Puerto Rico; and the Virgin Islands of the United States.

North Central Region—The States of Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

Southwestern Region—The States of Arkansas, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

Western Region—The States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming; and Guam.

PART 320—RECORDS, REGISTRATION, AND REPORTS

2. In § 320.1(b), a new subparagraph (3) is added to read:

§ 320.1 **Records required to be kept.**

* * * * *

(b) * * *

(3) A record of seal numbers required to be kept by consignees of inedible products shipped under unofficial seals under § 325.11 (c) or (f) of this subchapter, and a record of new consignees of inedible products diverted under § 325.11(f) of this subchapter.

PART 325—TRANSPORTATION

3. Section 325.11 is amended by adding a new paragraph (f) to read as follows:

§ 325.11 **Inedible articles: Denaturing and other means of identification; certificates; exceptions.**

* * * * *

(f) Except for inedible rendered animal fats and lungs or lung lobes, inedible products (including condemned products only if condemned for causes specified in § 314.11 of this subchapter) which were prepared at any official establishment, or at any State inspected establishment in any State not listed in § 331.2 of this subchapter, and which have the physical characteristics of a product fit for human food, may be transported from an official establishment or in commerce, without denaturing as required by this subchapter, if the following conditions are met:

(1) The shipper must have obtained a numbered permit for such activity from the appropriate Regional Director, as identified in § 301.2 of this subchapter. Such permit may be obtained upon written application to the appropriate Regional Director and his determination that the proposed transportation would be authorized under this paragraph (f). The application shall state the name and address of the applicant, a description of the type of his business operations, and the purpose of making such application.

(2) Such inedible products may be transported under this paragraph (f) only if consigned to a manufacturer in the United States of articles other than for human food and if the product is for use solely by the consignee for manufacturing articles not for human food. Such products may not be transported in commerce to any consignee other than the one to which they were originally shipped unless prior notice of the diversion is given to the appropriate Regional Director and a record identifying the new consignee is maintained by the shipper as required by § 320.1 of this subchapter.

(3) When transported from an official establishment or in commerce under this paragraph (f), the outside container of such inedible products shall be marked conspicuously with the words "Inedible—Not Intended for Human Food" in letters not less than 2 inches high, in the case of containers such as cartons, drums, tierces, barrels, and half barrels, and not less than 4 inches high in the case of tank cars and trucks used to transport such products not in other containers.

(4) Such inedible products shall be transported from an official establishment or in commerce under this paragraph (f) only in railroad cars, trucks, or containers which bear unofficial seals applied by the shipper, which shall include the identification number assigned to the permit holder and an individual seal serial number assigned by the shipper; and the product so transported shall be accompanied by an invoice or bill of lading specifying the permit holder's identification number. The consignee in the United States must retain a record of the identification and serial numbers shown on the seals in his records as prescribed in Part 320 of this subchapter.

(5) Any diversion, or effort to divert, undenatured, inedible product contrary to the provisions of this paragraph (f) or other violation of the provisions of this section may result in the revocation of the permit for shipment of inedible products under this paragraph (f), at the discretion of the Administrator.

* * * * *

In § 325.11(a), the phrase "paragraph (c), (d), or (e)" is deleted and the phrase "paragraph (c), (d), (e), or (f)" is substituted therefor.

The foregoing amendments relieve restrictions upon the distribution of certain inedible meat products. The amendments differ from those proposed in the notice of rule making. The differences are due to changes in the interests of clarification of the requirements of the regulations or more effective control of the inedible products or to reflect organizational changes. It does not appear that further public participation in rulemaking proceedings with respect to the amendments would make additional information available to the Department. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such further public rule making proceedings on the amendments are impracticable and unnecessary and good cause is found for making the amendments effective less than 30 days after their publication in the FEDERAL REGISTER.

These amendments shall become effective upon publication in the FEDERAL REGISTER (1–27–72).

NOTE: The reporting and recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D.C., on January 19, 1972.

G. R. GRANGE,
Acting Administrator.

[FR Doc.72-1275 Filed 1-26-72;8:52 am]

[1] The addresses of the Regional Directors are as follows:
Northeastern Region—Seventh Floor, 1421 Cherry Street, Philadelphia, PA 19102.
Southeastern Region—Room 216, 1718 Peachtree Road NW., Atlanta, GA 30309.
North Central Region—Room 419, U.S. Courthouse Building, East First and Walnut Streets, Des Moines, IA 50309.
Southwestern Region—Room 5–F41, 1100 Commerce Street, Dallas, TX 75201.
Western Region—Room 822, Appraisers Building, 630 Sansome Street, San Francisco, CA 94111.

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 72–SW–1, Amdt. 39–1383]

PART 39—AIRWORTHINESS DIRECTIVES

Mitchell Automatic Pilot Instruments

There have been fatigue failures of the control wheel shaft of certain Cessna airplanes modified by the installation of some Mitchell Industries, Inc. automatic pilot instruments. In one instance, shortly after takeoff, loss of aileron control was experienced. After a fatigue failure, the modified control wheel shaft can come out of its mounting bearing, causing loss of elevator and aileron control. The Mitchell automatic pilot instrument has been installed in several Cessna aircraft models. An Airworthiness Directive is being issued to require an inspection and modification of these Cessna model airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

MITCHELL INDUSTRIES, INC., doing business as EDO-AIRE MITCHELL. Applies to Mitchell automatic pilot instruments installed in various Cessna aircraft in accordance with the following Supplemental Type Certificates:

Autopilot model	STC No.	Aircraft make and model
AK086	SA20SW	Cessna 210B and C.
AK086R	SA20SW	Cessna 210B and C.
AK086E	SA20SW	Cessna 210B and C.
AK088	SA27SW	Cessna 182E and F.
AK088R	SA27SW	Cessna 182E and F.
AK088E	SA27SW	Cessna 182E and F.
AK110	SA101SW	Cessna 182E, F and G.
AK110E	SA101SW	Cessna 182E, F and G.
AK110E-3	SA101SW	Cessna 182E, F and G.
AK112	SA89SW	Cessna 210B and C.
AK120	SA149SW	Cessna 210-5, 210-5A, 206, P206, and U206.
AK120E	SA149SW	
AK120E-3	SA149SW	
AK126	SA330SW	Cessna 210D and E.
AK126E	SA330SW	Cessna 210D and E.
AK126E-3	SA330SW	Cessna 210D and E.
AK154	SA489SW	Cessna 182H.
AK154E	SA489SW	Cessna 182H.
AK154E-3	SA489SW	Cessna 182H.
AK155	SA491SW	Cessna 337.
AK155E	SA491SW	Cessna 337.
AK155E-3	SA491SW	Cessna 337.

Compliance required within the next ten (10) hours' time in service after the effective date of this AD, unless already accomplished.

To prevent fatigue failure of the control wheel shaft with possible resultant loss of aileron and elevator control, accomplish the following:

Remove the Mitchell automatic pilot instrument servo, inspect the control wheel shaft, take corrective action as necessary, and reassemble in accordance with Edo-Aire Mitchell Service Bulletin No. MB-6 dated October 29, 1971, or later FAA approved revision, or any other method approved by the Chief, Engineering and Manufacturing Branch, Southwest Region, Federal Aviation Administration, Fort Worth, Tex.

NOTE: The Mitchell automatic pilot instrument servo may be reinstalled in accordance with Edo-Aire Mitchell Service Letter ML-32 dated December 22, 1971, or later FAA approved revision, or any other method approved by the Chief, Engineering and Manufacturing Branch, Southwest Region, Federal Aviation Administration, Fort Worth, Tex.

The bulletin and letter mentioned herein may be obtained from Edo-Aire Mitchell, Post Office Box 610, Mineral Wells, TX 76087.

This amendment becomes effective January 31, 1972.

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

Issued in Fort Worth, Tex., on January 18, 1972.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.72-1091 Filed 1-26-72;8:45 am]

[Airworthiness Docket No. 71-WE-15-AD, Amdt. 39-1384]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-8 Series Airplanes

Amendment 39-1358 (36 F.R. 23549), AD 71-25-9, requires certain inspections and rework on the main landing gear retract cylinder attach pins on McDonnell Douglas Model DC-8 airplanes. After issuing Amendment 39-1358, the agency received a complaint from one airline that the Amendment had been changed from the NPRM and that this change would require undue rework on their part, as they had already reworked many airplanes in accordance with the NPRM.

It was not the agency's intention to make the application of PR 1436G sealant around the boss lips a mandatory item; but only as a suggested modification to the procedures specified in the NPRM. Therefore, the AD is being amended to clarify the wording of paragraph (c).

Since this amendment provides a clarification only, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1358 (36 F.R. 23549), AD 71-25-9, is amended by revising the second sentence of Paragraph (c) to read:

It is recommended that a bead of PR 1436G sealant or equivalent be applied around the boss lip, where the retract pin protrudes, to seal out moisture.

This amendment becomes effective January 29, 1972.

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

Issued in Los Angeles, Calif., on January 18, 1972.

ROBERT O. BLANCHARD,
Acting Director, FAA Western Region.

[FR Doc.72-1167 Filed 1-26-72;8:46 am]

[Docket No. 71-EA-157; Amdt. 39-1382]

PART 39—AIRWORTHINESS DIRECTIVE

Sikorsky Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Sikorsky S-61 type helicopters.

There have been reports of cracks found in members of the primary control systems of HH-3F helicopters operated by the U.S. Coast Guard. These parts were all 7075-T6 or 7079-T6 aluminum alloy forgings. An examination of the failed parts revealed that the cracks were due to stress corrosion. These helicopters are the military counterpart of the Sikorsky S-61 and have many control system components in common with S-61 aircraft.

Since this deficiency can exist in helicopters of similar civilian type design, an airworthiness directive is being issued requiring an inspection and replacement where necessary of the specified parts. Since the foregoing deficiency could cause loss of flight control upon failure of the part, cause exists for expeditious adoption of the rule and thus notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

SIKORSKY AIRCRAFT. Applies to S-61 Type Helicopters Certificated in all categories. To prevent failures of flight control system components accomplish the following:

(a) Within the next 30 days after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 30 days from the last inspection, perform inspections of 7075-T6 and 7079-T6 aluminum alloy forgings of the flight control systems in accordance with section 2 Accomplishment Instructions, Part IA(1) of Sikorsky Service Bulletin No. 61B40-5A or later FAA-approved revisions, or an alternate method approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region. If a crack is found, remove the component from service prior to further flight.

(b) Within the next 75 days after the effective date of this AD, unless already accomplished, perform an inspection of control system components P/N S6140-62118, S6140-62115, and S6140-20004 in accordance with section 2, Accomplishment Instructions, Part IIB of Sikorsky Service Bulletin No. 61B40-5A or later FAA-approved revisions or an alternate method approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region. If a crack is found, remove the component from service prior to further flight.

This amendment is effective February 1, 1972.

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

Issued in Jamaica, N.Y., on January 17, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.72-1169 Filed 1-26-72;8:46 am]

[Airspace Docket No. 71-SW-56]

PART 73—SPECIAL USE AIRSPACE

Designation of Temporary Restricted Area

On November 30, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 22772) stating that the Federal Aviation Administration was considering an amendment to Part 73 of the Federal Aviation Regulations that would designate a temporary restricted area in the vicinity of Killeen, Tex., to be utilized for a 6-day period, for the Joint Training Exercise Gallant Hand 72.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Several adverse comments were received objecting to restrictions to private operators during times the restricted area is in use. Meetings with users were held in San Angelo, Brownwood, and Temple, Tex., to resolve the individual problem areas. The result was to reconfigure the area to one of lesser size to provide the needed relief. The description of the restricted area contained herein is mutually acceptable to the military and civilian operators. Subsequent to publication of the notice it was noted that the original dates established would conflict with the Easter holiday. Action is taken herein to alter the effective dates "from March 26, 1972, to March 31, 1972" to "from March 23, 1972, to March 28, 1972." Since these changes are minor in nature and lessen the burden on the public, additional notice and public procedure are deemed unnecessary. The U.S. Air Force has stated that all reasonable precautions have been taken and will be taken to preclude damage to persons and/or property on the surface within the designated temporary restricted area.

In view of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 2, 1972, as hereinafter set forth.

Section 73.63 (37 F.R. 2371) is amended by adding the following:

Name: R-6314 Killeen, Tex.

Boundaries. Beginning at lat. 31°06'06" N., long. 97°32'42" W.; to lat. 31°13'45" N., long. 97°32'35" W.; to lat. 31°19'37" N., long. 97°-40'32" W.; to lat 31°20'48" N., long. 97°40'-32" W.; to lat. 31°22'33" N., long. 97°42'45" W.; to lat. 32°00'00" N., long. 97°50'00" W.; to lat. 32°10'00" N., long. 98°32'00" W.; to lat. 32°10'00" N., long. 99°30'00" W.; to lat. 31°20'00" N., long. 99°55'00" W.; to lat. 30°-44'00" N., long. 98°02'00" W.; to lat. 30°50'-00" N., long. 97°44'00" W.; to point of beginning, excluding that airspace within a 3-nautical-mile radius of lat. 31°11'00" N., long. 99°19'27" W.; from surface to 2,500 feet above the surface, excluding that airspace west of a line from lat. 32°04'00" N., long. 99°33'00" W.; to lat. 31°02'30" N., long. 98°-58'00" W.; above FL 280; excluding that airspace east of a line from lat. 30°44'00" N., long 98°00'00" W.; to lat. 31°05'00" N., long. 97°47'00" W.; lat. 31°40'00" N., long. 97°45'-00" W.; above FL 200, and excluding that airspace from lat 31°00'00" N., long. 97°37'00" W.; to lat. 31°03'54" N., long. 97°42'05" W.; to lat. 31°09'03" N., long. 97°41'18" W.; to lat. 31°06'06" N., long. 97°32'42" W.; from the surface to 4,000 feet MSL.

Designated altitudes: Surface to 35,000 feet MSL.

Time of designation: Continuous from 0001 c.s.t. March 23, 1972, to 2359 c.s.t. March 28, 1972.

Controlling agency: Federal Aviation Administration, Houston ARTC Center.

Using agency: U.S. Air Force, Tactical Command/USAF Readiness Command (TAC/USAFREDCOM) Langley Air Force Base, Va.

(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 January 20, 1972.

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

[FR Doc.72-1170 Filed 1-26-72;8:46 am]

[Docket No. 11674; Amdt. No. 793]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets for the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5609).

SIAPs are available for examination at the rules docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20591, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAPs, effective February 24, 1972:

Dunkirk, N.Y.—Dunkirk Municipal Airport; VOR Runway 24, Amdt. 3; Revised.
Mount Vernon, Ohio—Mount Vernon Airport; VOR-A, Amdt. 3; Revised.
Orange, Mass.—Orange Municipal Airport; VOR-A, Amdt. 3; Revised.
Blacksburg, Va.—VPI Airport; VOR/DME Runway 8, Amdt. 3; Revised.

2. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAPs, effective February 24, 1972:

Blacksburg, Va.—VPI Airport; NDB Runway 8, Amdt. 2; Revised.
Grand Junction, Colo.—Walker Field; NDB Runway 11, Amdt. 8; Revised.
Orange, Mass.—Orange Municipal Airport; NDB-A, Amdt. 1; Revised.

3. Section 97.29 is amended by establishing, revising or canceling the following ILS SIAPs, effective February 24, 1972:

Grand Junction, Colo.—Walker Field; ILS Runway 11, Amdt. 1; Revised.
Salt Lake City, Utah—Salt Lake City International Airport; ILS Runway 34L, Amdt. 27; Revised.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958, 49 U.S.C. 1438, 1354, 1421, 1510; sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c), 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on January 19, 1972.

WILLIAM G. SHREVE, Jr.,
Acting Director, Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610), approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.72-1089 Filed 1-26-72;8:45 am]

Title 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

SUBCHAPTER A—BUREAU OF ACCOUNTS

PART 223—SURETY COMPANIES DOING BUSINESS WITH THE UNITED STATES

Adoption of Schedule of User Fees for Treasury Services

In the FEDERAL REGISTER of December 2, 1971, there was published at page 22985 a notice of proposed rule making to amend the regulations at 31 CFR Part 223 (Treasury Department Circular No. 297 Revised) governing surety companies doing business with the United States.

The amendments were proposed to establish a schedule of fees to recover costs related to financial and legal services performed for, and special benefits conferred upon, such companies by the Department's Fiscal Service in connection with its maintenance and publication of the annual listing of companies certificated by the Secretary of the Treasury as acceptable sureties or reinsurers only on Federal bonds (Treasury Department Circular 570), and with its maintenance and circulation of the annual listing of admitted reinsurers (except on excess risks running to the United States) of certificated companies. Interested persons were given 30 days within which to submit written comments on the proposed amendments, and such comments have been duly considered.

Circular 570 constitutes a reliable determination that each company named therein is approved by the Secretary for the securing of bonds required by Federal law. The list of admitted reinsurers constitutes Treasury recognition that each company named therein is acceptable as a reinsurer of certificated companies (except on excess risks running to the United States). Accordingly, the cost of making such determinations and of the circular and the list may properly be recovered by means of the imposition of a schedule of user fees, in accordance with 31 U.S.C. 483a. Furthermore, the establishment of user charges is not inconsistent with the Economic Stabilization Program, in view of the provision covering charges by the Federal Government in 6 CFR 101.34(a).

Because of the need to asure as equal treatment as possible of all surety companies dealing with the Fiscal Service in the new calendar year, the Department finds in accord with 5 U.S.C. 553(d)(3), that there is good cause not to postpone the effective date of the amendments. Accordingly, the proposed amendments are hereby adopted, effective upon publication in the FEDERAL REGISTER, subject to the following changes:

1. The first sentence of § 223.19 is revised by changing, from "January 1, 1972," to "January 20, 1972," the date on which the imposition of fees will begin.

2. The second sentence of § 223.19 is revised by changing the payee of the check or other instrument in payment of fees from the "Treasurer of the United States" to the "Bureau of Accounts, Treasury Department."

Dated: January 12, 1972.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

1. A new section heading is added to the table of sections to read:

§ 223.19 Schedule of fees.

2. Section 223.2 is amended by adding a new final sentence to read:

§ 223.2 Application for certificate of authority.

* * * A fee of $550 shall be transmitted with the application as prescribed in § 223.19(a).

3. Section 223.3 is amended by revising the final sentence to read:

§ 223.3 Issuance of certificates of authority.

* * * A new certificate of authority shall be issued annually on the first day of July, so long as the company remains qualified under the law and the regulations in this part, and transmits to the Assistant Comptroller (Chief Auditor) by March 1 each year the fee of $365 as prescribed in § 223.19(c).

4. Section 223.12 is amended by revising the introductory text of paragraphs (a) and (b), and by adding a new final sentence to paragraph (c). As amended, § 223.12 reads in pertinent part:

§ 223.12 Recognition as reinsurer.

(a) *Application by U.S. company.* Any company organized under the laws of the United States or of any State thereof, wishing to apply for recognition as an admitted reinsurer (except on excess risks running to the United States) of surety companies doing business with the United States, shall file the following data with the Assistant Comptroller (Chief Auditor) and shall transmit therewith the fee of $50 prescribed by § 223.19(b):

(1) A certified copy of its charter or articles of incorporation, and

* * * * *

(b) *Application by a U.S. branch.* A U.S. branch of an alien company applying for such recognition shall file the following data with the Assistant Comptroller (Chief Auditor) and shall transmit therewith the fee of $50 prescribed by § 223.19(b):

(1) The submissions listed in subparagraphs (1) through (5) of paragraph (a) of this section, except that the financial statement of such branch shall show that it has net assets of not less than $250,000 over and above all liabilities, and

* * * * *

(c) *Financial reports.* * * * A fee of $25 shall be transmitted with the foregoing data, as prescribed in § 223.19(d).

5. A new § 223.19 is added to read:

§ 223.19 Schedule of fees.

Fees shall be imposed and collected for the following services performed by the Treasury Department, whether the action requested is granted or denied, effective with requests submitted as of January 20, 1972. The payee of the check or other instrument shall be the Bureau of Accounts, Treasury Department.

(a) For examining a company's application for a certificate of authority as an acceptable surety on Federal bonds or as an acceptable reinsuring company on such bonds: $550 (see § 223.2).

(b) For examining a company's application for recognition as an admitted reinsurer (except on excess risks running to the United States) of surety companies doing business with the United States: $50 (see § 223.12 (a) and (b)).

(c) For determining the continuing qualifications for annual renewal of a company's certificate of authority: $365 (see § 223.3).

(d) For determining the continuing qualifications for annual renewal of a company's authority as an admitted reinsurer: $25 (see § 223.12(c)).

[FR Doc 72-1059 Filed 1-20-72;11:51 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

2,2-Dichlorovinyl Dimethyl Phosphate

A petition (PP 1F1132) was filed by Shell Chemical Co., Division of Shell Oil Co., Suite 1103, 1700 K Street NW., Washington, DC 20006, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act as amended (21 U.S.C. 346a), proposing establishment of a tolerance for residues of the insecticide 2,2-dichlorovinyl dimethyl phosphate in or on nonperishable bulk stored raw agricultural commodities at 0.5 part per million resulting from dispersion of the insecticide from resin strips used in bulk storage areas.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424). Subsequently, Part 420, Chapter III, Title 21 was redesignated Part 180 and transferred to Subchapter E, Chapter I, Title 40 (36 F.R. 22369).

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

1. The pesticide is useful for the purpose for which the tolerance is being established.

2. The proposed usage is not reasonably expected to result in residues of the pesticide in eggs, meat, milk, and poultry. The usage is classified in the category specified in § 180.6(a)(3).

3. 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 transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.235 is amended by revising the paragraph "0.5 part per million from postharvest * * *", as follows:

§ 180.235 2,2-Dichlorovinyl dimethyl phosphate; tolerances for residues.

* * * * *

0.5 part per million from postharvest application in or on nonperishable bulk

stored raw agricultural commodities and in or on nonperishable packaged or bagged raw agricultural commodities that contain 6 percent fat or less.

* * * * *

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, Room 3175, South Agriculture Building, 12th Street and Independence Avenue SW., 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 (1-27-72).

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

Dated: January 18, 1972.

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

[FR Doc.72-1196 Filed 1-26-72;8:48 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 4—Department of Agriculture

PART 4-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

PART 4-5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

Miscellaneous Amendments

These amendments involve matters relating to agency management and to contracts and include rules interpreting and implementing existing regulations of other Federal agencies which are not subject to the notice and public procedure requirements for rule making under 5 U.S.C. 553. It is in the public interest that these provisions be made effective immediately. Accordingly, in accordance with the Secretary's Statement of Policy (36 F.R. 13804) it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest.

(44 U.S.C. 103, 501, 502)

§§ 4-4.5048—4-4.5071 [Deleted]

1. Sections 4-4.5048 and 4-4.5071 are deleted in their entirety.

2. The table of contents for Part 4-5 is amended as follows:

a. The following new entry is added:

4-5.5400-1 Definitions.

b. The following entries are revised:

4-5.5401-5 Supervision over Federal printing and binding.
4-5.5403 Distribution of publications.

3. Section 4-5.5400 is amended to read as follows:

§ 4-5.5400 Scope.

The purpose of this subpart is to outline methods for procurement of Federal printing and various supplies from the Government Printing Office or one of the Government Printing Office Regional Printing Procurement Offices. These items are divided into three categories: (a) Federal printing; (b) blank paper and blank envelopes, and miscellaneous supplies, including inks, glues, etc.; and (c) distribution of publications.

4. A new § 4-5.5400-1 is added as follows:

§ 4-5.5400-1 Definitions.

As used throughout this subpart, the following terms shall have the meanings set forth below:

(a) "Federal printing" means all printing, binding, and blank book work, including any items requiring the processes of composition, platemaking, presswork, and binding, irrespective of the place of production or procurement origin or ultimate end-use.

(b) "Government Printing Office Regional Printing Procurement Offices" means any office established by the Public Printer which shall procure Federal printing needs which are determined to be commercially procurable and which originate or are for distribution within its region.

(c) "Field printing" includes all Federal printing that is intended for local and area use and distribution. Maps and informational brochures are examples of this type printing.

(d) "Departmental printing" includes all Federal printing that is intended for public distribution on a national or agency wide basis. Smokey Bear information is an example of this type printing.

5. Section 4-5.5401 is revised to read as follows:

§ 4-5.5401 Printing and binding items.

(a) *Federal printing.* All printing (field) shall be procured through a Government Printing Office Regional Procurement Office by use of Standard Form-1, Printing and Binding Requisition, in accordance with those procedures outlined in the Agency Procedural Handbook for Commercial Procurement of Printing Services (P305.1, May 1971) and the Printing and Binding Regulations published by the Joint Committee on Printing (April 1971, No. 21). All Federal printing (departmental) procured from the Government Printing Office, Washington, D.C., shall be obtained through the Office of Information by use of Form AD-78, Request for Printing and Binding.

(b) *Exceptions to printing and binding items.* In 18 Comp. Gen. 565, the following items are specifically cited as not falling within the provision of "printing and binding:"

Pads, ruled and unruled.
Pads, calendar.
Pads, columnar.
Cards, guide, monthly.
Sheets, backing (punched but not printed).
Fillers, looseleaf binder.
Indices, looseleaf binder.
Indices, tab, alphabetical.
Sheets, ledger.
Labels, gummed.
Labels, dispensing set.
Labels, poison.
Paper, graph.
Paper, cross section.
Paper, profile.
Cloth, ruled tracing.
Cards, index, library.
Dials, watchmen's clocks.
And other similar paper articles.

Section 4-5.5401-1 is amended to read as follows:

§ 4-5.5401-1 Authority.

Under the provisions of the act of October 22, 1968 (44 U.S.C. 501), all Federal printing for agencies shall be done at the Government Printing Office or one of the Government Printing Office Regional Procurement Offices except classes of work the Joint Committee on Printing considers to be urgent or necessary to have done elsewhere. However, the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 756) provides that the General Supply Fund of the General Services Administration shall be available for purchase from or through the Public Printer of standard forms or blank book work for stores depots issue. (A blank book is any book requiring printing, binding, or ruling operations, for its manufacture, and the primary purpose of which is for writing, sketching, or making entries. Generally, it must have covers, however light, and be stitched by wire or thread to be considered a "book." If the pages are merely held together with an adhesive, it is usually a "pad" and not a "book.") The Printing and Binding Regulations of the Joint Committee on Printing provide that standard forms approved by the Bureau of the Budget or the General Accounting Office shall be obtained from the General Services Administration, unless otherwise authorized by the Joint Committee on Printing. With the approval of the Joint Committee on Printing, the Public Printer may arrange for such printing, binding, and blank book work as he is not able or equipped to do at the Government Printing Office to be done elsewhere under contract. (Act of October 22, 1968, 44 U.S.C. 502.)

7. Section 4-5.5401-3 is revised to read as follows:

§ 4-5.5401-3 Waiver.

Under the provisions of the act of October 22, 1968 (44 U.S.C. 504), the

Joint Committee on Printing may permit the Public Printer to return to any agency of the Government any written requisition for Federal printing as in his opinion he is neither able nor suitably equipped to execute or which may be more economically, or in the best interest of the Government, procured elsewhere. No agency requisitioning printing from the Government Printing Office or one of the Government Printing Office Regional Procurement Offices shall anticipate the release of any requisition for direct procurement, until so advised by the Public Printer. (See 3 AR 295)

8. Section 4–5.5401–5 is amended to read as follows:

§ 4–5.5401–5 Supervision over Federal printing and binding.

Administrative supervision over all Federal printing and binding rests with the Director of Information. (See 3 AR 290)

9. Section 4–5.5402–1 is amended to read as follows:

§ 4–5.5402–1 Authority.

Under the provisions of the act of October 22, 1968 (44 U.S.C. 1121), the Public Printer is authorized to procure, under direction of the Joint Committee on Printing, and furnish on requisition paper and envelopes (except envelopes printed during course of manufacture) in common use by two or more departments, establishments, or services of the Government in the District of Columbia. Reimbursement is to be made to the Public Printer from appropriations available for such purposes. The act of October 22, 1968 (44 U.S.C. 314), provides the same authority with respect to inks, glues, and other miscellaneous supplies.

10. Section 4–5.5403 is amended to read as follows:

§ 4–5.5403 Distribution of publications.

The Superintendent of Documents, Government Printing Office, maintains stocks of various publications for sale to Federal agencies and to the general public. (44 U.S.C. 1702, 1705) Such publications may be acquired for Washington or field delivery by forwarding Form AD–38 to the Superintendent of Documents, Government Printing Office, Washington, D.C.

Effective date. Upon publication in the FEDERAL REGISTER (1–27–72).

Done at Washington, D.C., this 21st day of January 1972.

T. M. BALDAUF,
Director of Plant and Operations.

[FR Doc.72–1203 Filed 1–26–72;8:49 am]

Chapter 8—Veterans Administration

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 8 is amended as follows:

PART 8–1—GENERAL

1. Section 8–1.603 is revised to read as follows:

§ 8–1.603 Treatment to be accorded firms or individuals in debarred, suspended, or ineligible status.

The Director, Supply Service, may authorize procurement from a firm or individual debarred or suspended by the Veterans Administration when requested by a contracting officer and when considered essential in the public interest under the circumstances permitted by FPR 1–1.603.

PART 8–2—PROCUREMENT BY FORMAL ADVERTISING

2. Section 8–2.204 is revised to read as follows:

§ 8–2.204 Records of invitations for bids and records of bids.

A single register will be established and maintained by the issuing office on a fiscal year basis, for all solicitations by invitations for bid or requests for proposal number, date of issue, date of opening, commodity or service involved and disposition; i.e., contract number or purchase order number or, when applicable, no award.

PART 8–3—PROCUREMENT BY NEGOTIATION

3. In § 8–3.207, paragraph (b)(5) and (c) are amended to read as follows:

§ 8–3.207 Medicines or medical supplies.

* * * * *

(b) *Drugs and chemicals.* The following contracting officers are authorized to negotiate contracts for the purchase of drugs and chemicals:

* * * * *

(5) One senior contracting officer and one contracting officer, Marketing Division for Drugs and Chemicals when so designated by the marketing division chief.

(c) *Prosthetic appliances.* (1) The following contracting officers are authorized to negotiate contracts for the purchase of prosthetic appliances defined as wheelchairs, hearing aids and batteries, artificial limbs, canes and stump socks:

(i) Director, Supply Service.

(ii) Chief, Purchase and Contract Division.

(2) The following contracting officers are authorized to negotiate contracts for the purchase of the appliances specified in subparagraph (1) of this paragraph provided the dollar value of the item(s) to be purchased, singly or collectively, does not exceed $25,000:

(i) Manager, Veterans Administration Marketing Center.

(ii) Chief, Marketing Division for Administrative Medical Supplies and Equipment.

(iii) One senior contracting officer, Marketing Division for Administrative Medical Supplies and Equipment when so designated by the marketing division chief.

* * * * *

PART 8–7—CONTRACT CLAUSES

§ 8–7.150–1 [Revoked]

4. Section 8–7.150–1, *Shipping rate adjustment,* is revoked.

5. Section 8–7.150–6 is revised to read as follows:

§ 8–7.150–6 Frozen processed foods.

(a) The following clause will be included in all solicitations for the purchase of frozen processed foods, issued by the Veterans Administration Marketing Division for Subsistence:

FROZEN PROCESSED FOODS

The products delivered under this contract shall be in excellent condition, shall not show evidence of defrosting, refreezing, or freezer burn and shall be transported and delivered to the consignee at a temperature of 0° Fahrenheit or lower.

(b) The following clause will be included in all solicitations for the purchase of frozen processed foods, issued by a field station:

FROZEN PROCESSED FOODS

The products delivered under this contract shall be in excellent condition, shall not show evidence of defrosting, refreezing, or freezer burn and shall be transported and delivered to the consignee at a temperature of 10° Fahrenheit or lower.

(c) Field stations, when utilizing VA Form 07–2138, Order for Supplies and Services, to procure items of this nature in the open market, will amend the terms and conditions on the reverse thereof to include the clause shown in paragraph (b) of this section.

PART 8–12—LABOR

6. In Part 8–12, a new Subpart 8–12.3 is added to read as follows:

Subpart 8–12.3—Contract Work Hours and Safety Standards Act (Other Than Construction Contracts)

§ 8–12.304 Variations and tolerances.

In the performance of any contract entered into pursuant to the provisions

of 38 U.S.C. 620 to provide nursing home care of veterans (§ 8–12.901), no contractor or subcontractor under such contract shall be deemed in violation of section 102 of the Contract Work Hours and Safety Standards Act by virtue of failure to pay the overtime wages required by such section for work in excess of 8 hours in any calendar day or 40 hours in the workweek to any individual employed by an establishment which is an institution (other than a hospital) primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises, if such individual receives compensation for employment in excess of 48 hours in any workweek at a rate not less than 1½ times the regular rate at which he is employed, computed in accordance with the requirements of the Fair Labor Standards Act of 1938, as amended.

(Sec. 205(c), 63 Stat. 389, as amended, 40 U.S.C. 486(c); sec. 210(c), 72 Stat. 1114, 38 U.S.C. 210(c))

These regulations are effective February 28, 1972.

Approved: January 20, 1972.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.72-1219 Filed 1-26-72;8:50 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 72-57]

PART 93—LAND TRANSPORTATION RADIO SERVICES

Memorandum Opinion and Order Regarding Railroad Radio Service

In the matter of amendment of Part 93 of the Commission's rules concerning frequency allocations and tone modulation in the Railroad Radio Service, RM Nos. 1101 and 1548.

1. The Commission has under consideration two petitions for rule changes in the Railroad Radio Service submitted by the Association of American Railroads (AAR). In RM–1548, petitioner requests that tone modulation on a secondary basis to voice operations be regularly permitted on railroad frequencies in the 160 MHz band and on certain 450 MHz band frequencies for the remote control of locomotives and cab indicators.[1] The other petition, RM–1101, requests allocation of the "splinter" frequencies 157.450 and 159.480 MHz to the Railroad Radio Service to be used on a nationwide basis for radio remote control of "slave" locomotives.

2. At the time petitioner submitted RM–1548, the Commission's rules contained only limited provisions[2] for the use of tone modulation by railroad licensees. However, by rule changes adopted on August 18, 1971, in Docket 19086, the operations of nonvoice radio systems on voice frequencies in the land mobile radio services were expanded and are now generally permitted subject to the requirement that they not interfere with voice operations.[3] In adopting the new rule provisions, the Commission took cognizance of the railroads' nonvoice communications needs and, with regard to a proposal for a primary voice requirement for such operations, stated as follows:

> While this requirement would no doubt help to preserve voice systems on land mobile frequencies, it would also, as stated by the Association of American Railroads, "appear to prohibit the obtaining of licenses under this rule for controlling the movement of locomotives and trains . . ." Therefore we are deleting the proposed primary voice requirement to permit the operations described for railroad . . . and other purposes where the use of voice transmissions would not be necessary.

3. Since the amendments adopted in Docket 19086 include authorization for nonvoice operations substantially as requested by the AAR, its petition in this regard is granted. We are also adopting modifications to the Railroad Radio Service rules which conform that rule part to the new provisions for expanded nonvoice operations and which will serve to remove any ambiguities concerning these operations relating to general authority for tone modulation, frequencies available, and exemption from station identification requirements.

4. Additionally, the two pairs of frequencies in the 450–460 MHz band now reserved exclusively for slave locomotive control will be made available on a secondary basis for the additional functions requested by the petitioners since, according to AAR, this would be "extremely helpful" to railroads "* * * without interfering in any way" with slave locomotive control. The petitioner also asked that we relax the frequency tolerance standard for base stations operating on the above-mentioned two frequency pairs. Petitioner wants to use the mobile transmitter frequency tolerance standard for remote control operations in yard and terminal areas by base stations noting that, "Because of the small number of base stations available for this service, it would be desirable to use in this operation the same type of transmitting equipment used in mobile installations." The Commission agrees and § 93.102(a) of our rules will be amended to permit frequency tolerance of .0005 percent for base stations operating on these two frequency pairs for remote control purposes in railroad yards and terminal areas.

5. The AAR's other petition, RM–1101, requests additional frequency allocations for "slave" locomotive control. Slave locomotives are usually positioned about one-third from the rear of a particularly lengthy train. Their purpose is to assist the lead locomotive by providing auxiliary starting, pulling, and breaking action which reduces the danger of a break-in-two, eases shock and strain on the lead locomotives, and contributes to faster and safer emergency stops. Radio remote control equipment utilized for the control of slave locomotives uses frequency modulation of the radio frequency carrier by audio tones. Repeat-back by the slave locomotive showing compliance, and "fail-safe" provisions which neutralize the slave locomotive controls if timely signal is not received from the lead locomotive, are featured in the system.

6. The Commission has recognized the slave locomotive control requirements and has allocated two frequency pairs in the 450 MHz band for this purpose.[4] AAR contends, however, that 450 MHz frequencies cannot completely provide for a nationwide system particularly in some areas where mountains and rugged terrain are encountered "due to loss of signals around curves in mountainous country and at other times when the lead locomotives and the slave locomotives are not in visual line-of-sight range." As a result, petitioner believes that radio control of slave locomotives should be developed in the 150–160 MHz band which does not present as great a "line-of-sight" limitation as 450 MHz, and it points to developmental operation of a 160 MHz slave control system by the Southern Railway system which demonstrates that "uses of these frequencies with transmitters in the 30–60 watt range is feasible if mobile relay stations are installed to provide coverage in tunnels." However, AAR contends that even in the 160 MHz band, "because of the near saturation of frequencies by the railroads in the major metropolitan railroad terminal areas, no frequency allocated to the Railroad Radio Service is currently available for this type of use nationwide by all of the U.S. railroads." It is for this reason that AAR is requesting the allocation of two additional frequencies to the Railroad Radio Service to be specifically used for nationwide slave locomotive control.

7. The two frequencies sought by petitioner are the band edge "splinter" frequencies 157.450 and 159.480 MHz which are now assigned in the land mobile services only for developmental operations. The frequency 157.450 MHz is between the Automobile Emergency Radio Service and the Maritime Mobile Service and can provide a 25 kHz channel which is satisfactory for use with equipment designed

[1] Involved, as suggested by AAR, are rule amendments of § 93.352(a) to make the 160 MHz railroad service frequencies available for remote control purposes; amendment of § 93.352(c) to make available for this purpose also two pairs of 450–460 MHz frequencies now reserved solely for slave locomotive control. AAR also asked for authority to employ continuous transmit mode of operation when necessary but this request was withdrawn by letter dated Sept. 26, 1971.

[2] Footnote 2 to Rule § 93.352(c) and see also Rule § 93.357(c) (2) and (3).

[3] See new Rule § 93.103(b) adopted by report and order, Docket 19086 (FCC 71–854; 36 F.R. 16914) as modified by Memorandum Opinion and Order adopted Oct. 28, 1971 (FCC 71–1104; 36 F.R. 21199).

[4] Section 93.352(c), adopted Feb. 7, 1968, second report and order, Docket 13847 (11 FCC 2d 648).

for 30 kHz spaced channels. The frequency 159.480 MHz provides a 15 kHz channel between the Forestry-Conservation and Motor Carrier Radio Services. Use of this frequency could involve adjacent channel interference problems which could only be controlled by case-by-case consideration of railroad uses and forestry and motor carrier requirements, including appropriate power and antenna height limitations on base stations on adjacent frequencies. The two frequencies would be initially used, according to petitioner, for operational tests to evaluate various techniques that have been developed for remote control of slave locomotives and "to permit simultaneous east-west or north-south use of the type of equipment now available over the same railroad system." Eventually, AAR estimates "at least five discrete frequencies," not now available to railroads, may "become necessary if all of the trains entering and leaving the larger metropolitan railroad terminal areas, such as Chicago, within communication range of each other" were to be equipped for slave locomotive operations.

8. Petitioner's arguments for additional frequencies have been carefully considered but do not convince us that the requested allocation is warranted. We can see that the 450 MHz frequencies which have already been allocated for slave locomotive control will not provide nationwide capability. However, there is a solution other than the allocation of additional frequencies. As AAR has stated, the frequency shortage, which the petitioner claims precludes the handling of both normal communications and slave locomotive control on the same frequencies, exists primarily in the major rail terminals and not in the rural, mountainous areas. Consequently, it is feasible for railroads to utilize the 450 MHz allocation for slave locomotive control in terminal areas where the propagation characteristics of the band can be utilized to advantage and where these frequencies are particularly well suited because, among other things, they are less subject to man-made noise and provide better reflection of radio signals. In short, if the railroads pursue development of the 450 MHz frequencies, their foreseeable requirements for radio remote control of slave locomotives in congested areas would be substantially met. In the rural, remote areas, the railroads can use their existing frequency complement in the 160 MHz band for slave locomotive control in the same manner as they have proposed to do on the two 150 MHz frequencies they have requested. Further, as already noted, the Commission's rules have been recently amended to permit the regular use of tone modulation on Railroad Radio Service frequencies and this covers slave locomotive control operations. We are also adopting herein such additional rule modifications as are necessary to clarify that this is one of the specific uses now permitted on railroad frequencies. As to frequency coordination for the use of the same frequencies in the same area with different types of emissions, the railroads are unique in that they formulate and self-regulate their own frequency assignment plans. They should be able to adjust their plans to accommodate these multiple uses.

9. For the foregoing reasons, the Commission is unable to justify allocation of additional frequencies to the Railroad Radio Service for slave locomotive control and it is concluded that the rule making action requested in RM–1101 should be denied.

10. In consideration of the foregoing, the Commission determines, with respect to the petitions submitted for rule making by the Association of American Railroads, that RM–1548, relating to the use of tone modulation, should be and is granted, and that RM–1101, relating to the allocation of frequencies for slave locomotive control, should be and is deneed. The Commission further finds that it is in the public interest to clarify the rules so as to remove any uncertainty as to whether or not the control operations discussed herein are permitted.

11. In adopting the amendments herein, we have omitted the customary notice of proposed rule making and public procedure as unnecessary. Some of these amendments are interpretive in nature, others are of minor importance, and the remaining relax requirements. Further, all of these amendments affect primarily railroad licensees which the petitioner represents. Under these circumstances, it is unlikely that prior notice for the purpose of eliciting comments would be useful. Accordingly, we have concluded that compliance with 5 U.S.C. 553 is not required.

12. Authority for these rule amendments is contained in section 4(i) and 303(r) of the Communications Act of 1934, as amended. Accordingly, *It is ordered*, That, effective March 3, 1972, Part 93 of the Commission's rules is amended as shown below. *It is further ordered*, That this proceeding is terminated.

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

Adopted: January 19, 1972.

Released: January 21, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[5]

[SEAL] BEN F. WAPLE, *Secretary.*

Part 93 of the Commission's rules is amended as follows:

1. In § 93.102(a), the chart is amended by deletion of footnote 2 from the percent ".0005" under the column headed "3 Watts or Less" and the text of footnote 2 is revised as follows:

§ 93.102 Frequency stability.

(a) * * *

Frequency range (MHz)	All fixed and base stations	All mobile stations	
		Over 3 watts	3 watts or less
	Percent	*Percent*	*Percent*
Below 25	0.01	0.01	0.02
25 to 50	.002	.002	.005
50 to 450	[1] .0005	.0005	.005
450 to 470	[2] .00025	.0005	.0005
470 to	.0005	.0005	.005
Above 950	(3)	(3)	(3)

* * * * *

[2] A frequency tolerance of 0.0005 percent is permitted in the Railroad Radio Service for base stations operating in the frequencies 452.925, 952.950, 457.925, and 457.950 MHz used for remote control purposes in railroad yard and terminal areas.

* * * * *

2. Section 93.152(e) is amended to read as follows:

§ 93.152 Station identification.

* * * * *

(e) A station which is transmitting for telemetering purposes or for the activation of devices which are employed solely as a means of attracting attention, or for remote control purposes, or is retransmitting by self-actuating means a radio signal received from another radio station or stations, may be granted an exemption from the requirements of paragraph (a) of this section in a specific instance upon a showing of need for such exemption.

3. In § 93.353(c), footnote 2 is amended to read as follows:

§ 93.352 Frequencies below 952 MHz available for base and mobile stations.

* * * * *

(c) * * *

[2] These frequencies may be assigned primarily for stations used for purposes of controlling slave locomotives. Additionally, these frequencies may be assigned on a secondary basis for remote control of all types of locomotives and for remote control of cab indicators within railroad yard or terminal areas subject to causing no harmful interference to transmissions for control of slave locomotives (A1, A2, F1, or F2 emissions may be authorized).

NOTE: Slave locomotives are those placed within a train to assist the lead locomotive by providing, among other functions, auxiliary starting, pulling, and braking actions. Cab indicators are devices within a locomotive which give visual signals to the operator of the locomotive.

* * * * *

4. Section 93.357(c)(2) is amended to read as follows:

§ 93.357 Scope of service.

* * * * *

(c) * * *

(2) Transmission of tone signals for signaling purposes or for remote control of locomotives, including slave locomotives and radio controlled cab indicators, subject to the provisions of § 93.103(b).

NOTE: See § 93.352(c), footnote 2, for identification of the terms "slave locomotive" and "cab indicators."

* * * * *

[FR Doc.72–1141 Filed 1–26–72;8:45 am]

[5] Commissioners Bartley and H. Rex Lee absent; Commissioner Johnson concurring in the result.

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 28—PUBLIC ACCESS, USE AND RECREATION

Crab Orchard National Wildlife Refuge, Ill.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (1–27–72).

§ 28.28 Special regulations, public access, use and recreation; for individual wildlife refuge areas.

ILLINOIS

CRAB ORCHARD NATIONAL WILDLIFE REFUGE

Public use is permitted on the Crab Orchard National Wildlife Refuge subject to the following special conditions:

(1) Swimming is permitted only at beach areas as designated by signs.

(2) All types of flotation devices, other than U.S. Coast Guard approved lifesaving devices, are prohibited on refuge waters.

(3) Foodstuffs, drink containers (cans, bottles, cartons), pets or fires are prohibited at designated beach areas and on the rock area immediately below Crab Orchard Lake Spillway.

(4) The Carterville Beach, Hogan Point, Lookout Point, Crab Orchard Beach, Bulliner Point, Playport Boat Dock, Sailboat Basin, Crab Orchard Spillway and Spillway parking lot and picnic areas are closed to unauthorized use from 9 p.m., local time, until 5 a.m., local time, daily.

(5) Horseback riding is prohibited except on designated horseback riding trails.

(6) Sailboats or sailing craft are not permitted on Devils Kitchen and Little Grassy Lakes.

(7) Sailboats underway between sunset and sunrise must display a bright white light visible all around the horizon for a distance of 2 miles.

(8) Alcoholic liquor may not be transported, carried, or possessed on any boat propelled by sail or mechanical power, except in the original package and with the seal unbroken, while the craft is in operation on refuge waters.

(9) No marine head (toilet) on any boat or watercraft operated upon refuge waters may be so constructed and operated as to discharge any sewage into the waters directly or indirectly.

(10) The drinking or possession of alcoholic liquor by persons under 21 years of age is prohibited on the refuge area.

(11) No person shall transport, carry, possess or have any alcoholic liquor in or upon or about any motor vehicle except in the original package and with the seal unbroken, while on the refuge area.

L. A. MEHRHOFF, Jr.,
Project Manager, Crab Orchard National Wildlife Refuge, R.R. No. 2, Carterville, Ill. 62918.

JANUARY 20, 1972.

[FR Doc.72–1212 Filed 1–26–72;8:50 am]

Title 6—ECONOMIC STABILIZATION

Chapter I—Cost of Living Council

PART 101—COVERAGE, EXEMPTIONS AND CLASSIFICATION OF ECONOMIC UNITS

Part 101—Coverage, Exemptions and Classification of Economic Units was added to a new Title 6 and a new Chapter I of the Code of Federal Regulations on November 13, 1971 (36 F.R. 21788). Part 101 was subsequently amended on November 17, 1971 (36 F.R. 21952) and on December 16, 1971 (36 F.R. 23974).

The purpose of these amendments is to amend, modify, revise, and republish regulations previously issued by the Cost of Living Council, to make certain changes to reflect the 1971 amendments to the Economic Stabilization Act, to reflect Cost of Living Council decisions, to supersede the present provisions of Part 101, and to repromulgate Part 101 as amended, modified, and revised.

Subpart A is amended to include § 101.2 *Definitions*, formerly under Subpart E, which is now reserved. Minor language changes in the definitions of "annual sales or revenues," "Council," "exception," "exemption," "Pay Board," "Price Commission," and "security" have been made to conform to the stated purpose of the regulations. New definitions have been added for "Act," "nonprofit organizations," and for "State and local governments" to provide additional guidance.

As a result of the 1971 amendments of the Act, a new definition has been added for "mass transportation system." Also as a result of such amendments, the definition of "Pay adjustment" has been modified to exclude employer contributions to certain pension and profit sharing plans, group insurance plans, and disability and health plans, unless unreasonably inconsistent with the general wage and salary standard.

Subpart B is amended in § 101.11 to include mass transportation systems, not otherwise regulated, as price category I firms, in accordance with § 215 of the Economic Stabilization Act, of 1970 as amended. Section 101.16 has been amended to modify the prenotification requirements: In paragraph (b) for all price adjustments below the base price as determined under subpart F of chapter III of this title; in paragraph (c) for price adjustments by certain utilities, subject to conditions and procedures in § 300.16 of this title; in paragraph (d) for price adjustments by certain insurance firms subject to conditions and procedures in § 300.20 of this title; in paragraph (e) for price adjustments by certain providers of health services subject to conditions and procedures in §§ 300.18 and 300.19 of this title; in paragraph (f) for price adjustments by certain real estate lessors subject to conditions and procedures in part 301 of this title; and in paragraph (g) for price adjustments by certain multi-industry firms subject to conditions and procedures prescribed by the Price Commission. Section 101.17 has been added to modify the reporting requirements of the utilities referred to in § 101.16(c). *"Reclassification,"* which was formerly § 101.17 has been renumbered to § 101.19 but is otherwise unchanged.

Subpart C is amended in § 101.28 to provide for the modification of prenotification requirements of pay adjustments of certain State and local government employees and of reporting requirements when certification is provided to the Pay Board that such pay adjustments are not in excess of 5.5 percent. *"Reclassification,"* which was formerly § 101.27, has been renumbered to § 101.29 but is otherwise unchanged.

Modifications of the prenotification and reporting requirements in Subparts B and C have been made to facilitate the administration of the Act and the regulations and to implement the purposes of the Act and the economic stabilization program. In most cases, alternate procedures and requirements have been established under Price Commission and Pay Board regulations.

Subpart D, in addition to being amended, has been arranged to describe exemptions more clearly. New exemptions have been added to reflect decisions of the Cost of Living Council. These new exemptions and their section numbers are: Certain insurance premiums (§ 101.33(b)); certain charges and fees of the Federal and State and local governments (§ 101.34(a)); tuition fees of private, nonprofit educational organizations (§ 101.34(b)); transactions in gold (§ 101.34(g)); brokerage fees charged for the sale of securities on a securities exchange (§ 101.34(i)); mint oil and maple syrup or sugar (§ 101.36); and dehydrated fruits (§ 101.36).

Among the factors considered in making an exemption are: (1) The objectives and requirements of the Act and the economic stabilization program; (2) whether the economic sector is characterized by a large number of sellers and frequent price fluctuations, with a minimum of inflationary pressure; (3) whether international transactions are involved or whether, in some special situations such as insurance, domestic firms would be at a disadvantage with respect to international competition because of economic controls on price increases; (4)

whether there is a clear basis for establishing a fair and equitable price because of the nature of the product and the selling process; (5) whether prices are self-assessed or characterized by a strong element of mutuality; (6) whether other controls have been established by law or by other regulatory authorities; (7) whether other nonexempt sectors will serve as an effective restraint on an exempt sector; and (8) considerations of administration and enforcement, including the ability to effectively enforce the controls in sectors with significant inflationary impact.

Subpart F is amended to extend certain special provisions for prenotification of pay adjustments between November 14, 1971 and January 1, 1972 to January 31, 1972 (§ 101.101(a)). Certain special provisions for prenotification of price adjustments between November 14, 1971 to January 1, 1972, have been deleted because of expiration. Certain sections have been added as a result of the 1971 amendments of the Act: Section 101.102, to reflect section 203(c) relating to certain retroactive and deferred pay adjustments provided prior to August 15, unless unreasonably inconsistent with the general wage and salary standard; § 101.103 to reflect section 203(f) relating to pay adjustments required under the Fair Labor Standards Act; certain wage determinations made by an agency in the executive branch, and certain employee incentive plans.

Subpart G has been added to incorporate in the regulations those sanctions provided for in section 208 of the Economic Stabilization Act of 1970, as amended.

Because the purpose of these regulations is to repromulgate Part 101, as amended, modified and revised, to provide immediate guidance and information as to Cost of Living Council decisions and to implement Executive Order No. 11640 and the 1971 amendments of the Act, the Cost of Living Council finds that their publication in accordance with usual rule making procedures is impracticable and that good cause exists for making these regulations effective in less than 30 days.

These amendments shall become effective when filed with the FEDERAL REGISTER.

DONALD RUMSFELD,
Director,
Cost of Living Council.

Subpart A—General

Sec.
101.1 Purpose and scope.
101.2 Definitions.

Subpart B—Price Adjustments—Classification and Procedures

101.11 Price Category I firms; prenotification and reporting requirements.
101.13 Price Category II firms; reporting requirements.
101.15 Price Category III firms; monitoring and spot checks.
101.16 Modification of prenotification requirements.
101.17 Modification of reporting requirements.
101.19 Reclassification.

Subpart C—Pay Adjustments—Classification and Procedures

101.21 Category I pay adjustments; construction pay adjustments; prenotification requirements.
101.23 Category II pay adjustments; reporting requirements.
101.25 Category III pay adjustments; monitoring and spot checks.
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Subpart D—Exemptions—Items not Included in Coverage

101.31 General.
101.32 Raw agricultural products, raw seafood products, and raw sugar price adjustments.
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Subpart E—[Reserved]

Subpart F—Special Provisions

101.101 Special provisions applicable from November 14, 1971 to January 31, 1972.
101.102 Special provisions applicable to retroactive and deferred pay adjustments provided prior to August 15, 1971.
101.103 Pay adjustments required under the Fair Labor Standards Act, wage determinations made by an agency in the executive branch and certain employee incentive plans.

Subpart G—Sanctions

101.201 Sanctions; criminal fine and civil penalty.
101.202 Injunctions and other relief.

AUTHORITY: The provisions of this Part 101 issued under Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Public Law 92-210, 85 Stat. 743; and Executive Order No. 11640.

Subpart A—General

§ 101.1 Purpose and scope.

(a) The purpose of this part is to establish the economic units and transactions which are covered by, or are exempt from, the controls, standards, and criteria established for the post-freeze economic stabilization period. The purpose is also to establish categories of economic units which must comply with the prenotification, reporting, and other procedural requirements prescribed by the Cost of Living Council.

(b) This part applies to all price adjustments and to all pay adjustments which occur during the post-freeze economic stabilization period, except those which are specifically exempt under this part.

(c) This part does not apply to economic transactions which are not prices, rents, wages, and salaries within the meaning of the Act as amended. Examples of transactions not within the meaning of the Act are:

(1) State or local income, sales and real estate taxes;

(2) Workmen's compensation payments;

(3) Welfare payments;

(4) Child support payments; and

(5) Alimony payments.

(d) The Cost of Living Council may permit any exceptions, exemptions or reclassifications that it considers appropriate with respect to the coverage, classification, and other procedural requirements prescribed in this part. Requests for exceptions or exemptions from the coverage, classification, and other procedural requirements of this part shall be submitted in accordance with the provisions of Parts 105, 205, 305, and 401 of this title.

(e) This part applies only to economic units and transactions in the several States and the District of Columbia.

§ 101.2 Definitions.

"Act" means the Economic Stabilization Act of 1970, as amended.

"Annual sales or revenues" means the total gross receipts of a firm during its most recent fiscal year from whatever source derived.

"Council" means the Cost of Living Council established by Executive Order No. 11615 and continued under the provisions of Executive Order No. 11640.

"Employer" means a firm which employs one or more persons who receive a wage or salary.

"Exception" means a waiver directed to an individual firm in a particular case which relieves it from the requirements of a rule, regulation, or order issued pursuant to the Act.

"Exemption" means a general waiver of the requirements of all rules, regulations, and orders issued pursuant to the Act.

"Firm" means any person, corporation, association, estate, trust, partnership, joint-venture, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal and State and local governments.

"Mass transportation system" means a public benefit corporation, with annual sales or revenues in excess of $10 million, which is charged by law or contract with the responsibility of operating a mass transportation facility or facilities which:

(a) Serves a Standard Metropolitan Statistical Area (SMSA); and

(b) Constitutes the sole or a principal means of public transportation for that area.

A facility or facilities includes a rapid rail transit, subway, elevated, bus system but does not include school buses or other conveyances used primarily for sight-seeing or chartered for private use.

"Non-profit organization" or one which is "not operated for profit" is a firm which is defined as a nonprofit organization in section 501(c) and is exempt under section 501(a) of the Internal Revenue Code of 1954, amended.

"Pay adjustment" means a change in wages and salaries which includes all forms of direct or indirect remuneration or inducement to employees by their employers for personal services, which

are reasonably subject to valuation, including but not limited to: Vacation and holiday payments; bonus; layoff and severance pay plans; supplemental unemployment benefits; night shift, overtime, production; and incentive pay; employer contributions for insurance plans (but not including public plans, e.g. old age, survivors, health, and disability insurance under the Social Security system, Railroad Retirement Acts, Federal Insurance Contributions Act, Federal Unemployment Tax Acts, Civil Service Retirement Acts and the Carriers and Employees Tax Act); savings, pension, profit sharing, annuity funds, and other deferred compensation and welfare benefits; payments in kind, job perquisites; housing allowances; uniform and other work clothing allowances (but not including employer-required uniforms and work clothing whether or not for safety purposes); cost-of-living allowances; commission rates, stock options, and other fringe benefits; and benefits which result in more pay per hour or other unit of work or production (e.g., by shortening the workday without a proportionate decrease in pay). Notwithstanding the foregoing definition of pay adjustment, contributions by any employer for:

(a) Any pension, profit sharing, or annuity and savings plan which meets the requirements of section 401(a), 404(a)(2), or 403(b) of the Internal Revenue Code of 1954;

(b) Any group insurance plan; or

(c) Any disability and health plan;

are not to be included in wages and salaries unless such contributions are determined by the Pay Board to be unreasonably inconsistent with the standards issued pursuant to section 203(b) of the Act.

"Pay Board" means the Board established pursuant to section 7 of Executive Order No. 11627.

"Prenotification" means notice submitted to the Price Commission or Pay Board relating to a proposed price adjustment or pay adjustment.

"Price adjustment" means an increase in the unit price of property or services or a decrease in the quality of substantially the same property or services.

"Price Commission" means the Commission established pursuant to section 8 of Executive Order No. 11627.

"Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

"State and local governments" means the several States and the District of Columbia, a municipality or other political subdivision, authority, commission, board, district, public corporation or other agency or instrumentality of the several States and the District of Columbia and any board, commission, agency, or other instrumentality of a local government.

Subpart B—Price Adjustments—Classification and Procedures

§ 101.11 Price category I firms; prenotification and reporting requirements.

(a) A price category I firm is a firm with annual sales or revenues of $100 million or more, or a firm that operates or controls a mass transportation system the fares of which are not otherwise regulated.

(b) Each price category I firm shall submit a prenotification to the Price Commission of each proposed price adjustment in accordance with regulations issued by the Price Commission.

(c) No proposed price adjustment shall be put into effect by any price category I firm unless such price adjustment has been approved or permitted to take effect in accordance with regulations issued by the Price Commission.

(d) Each price category I firm shall submit quarterly reports to the Price Commission with information on prices, costs, and profits in accordance with regulations issued by the Price Commission.

§ 101.13 Price category II firms; reporting requirements.

(a) A price category II firm is a firm with annual sales or revenues from $50 million to $100 million.

(b) Each price category II firm shall submit quarterly reports to the Price Commission with information on prices, costs, and profits in accordance with regulations issued by the Price Commission.

§ 101.15 Price category III firms; monitoring and spot checks.

(a) A price category III firm is a firm with annual sales or revenues of less than $50 million.

(b) The price adjustments of price category III firms are not subject to prenotification or reporting. However, they are subject to monitoring and spot checks, as are price adjustments by firms in other categories.

§ 101.16 Modification of prenotification requirements.

Notwithstanding the provisions of § 101.11 the following price adjustments by price category I firms need not be prenotified:

(a) Price adjustments based upon the increased cost of raw or partially processed products subject to the conditions and procedures prescribed in § 300.51 (f) through (i) of this title.

(b) Price adjustments below the base price as determined under Subpart F of chapter III of this title subject to the conditions and procedures prescribed therein.

(c) Price adjustments proposed or established by those utilities subject to the conditions and procedures prescribed in § 300.16 of this title.

(d) Price adjustments with respect to insurance premiums affecting less than $1 million in aggregate annualized premiums under the existing rate or when the annual sales or revenues of the firm are less than $250 million, by those firms subject to the conditions and procedures prescribed in § 300.20 of this title.

(e) Price adjustments for institutional and noninstitutional providers of health services subject to the conditions and procedures prescribed in §§ 300.18 and 300.19 of this title.

(f) Price adjustments by firms leasing or offering to lease any residence or other real property subject to the conditions and procedures prescribed in Part 301 of this title.

(g) Subject to conditions and procedures prescribed by the Price Commission price adjustments proposed or established by a multi-industry firm with respect to goods or services when the annual sales or revenues of the firm of such goods and services are less than $100 million within any two-digit Standard Industrial Classification as published in the 1967 Standard Industrial Classification Manual by the Office of Management and Budget (formerly the Bureau of the Budget).

§ 101.17 Modification of reporting requirements.

Notwithstanding the provisions of §§ 101.11 and 101.13, quarterly reports to the Price Commission need not be submitted to the Price Commission by a utility subject to the conditions and procedures prescribed in § 300.16 of this title: *Provided, however,* That any such utility which has not submitted quarterly reports pursuant to this section shall submit to the Price Commission such certification as may be required by regulations issued by the Price Commission.

§ 101.19 Reclassification.

With the advice of the Price Commission, the Director of the Cost of Living Council has authority to reclassify firms from one price category to another when he deems such action necessary or advisable to effectuate the purposes of the Act and regulations issued pursuant thereto.

Subpart C—Pay Adjustments—Classification and Procedures

§ 101.21 Category I pay adjustments; construction pay adjustments; prenotification requirements.

(a) A category I pay adjustment means a pay adjustment which applies to or affects 5,000 or more employees or which applies to or affects employees who are engaged in construction as defined by section 11 of Executive Order No. 11588.

(b) Prenotification of each proposed category I pay adjustment shall be submitted to the Pay Board in accordance with regulations issued by the Pay Board.

(c) No proposed category I pay adjustment shall be put into effect unless such pay adjustment has been approved or permitted to take effect in accordance with regulations issued by the Pay Board.

§ 101.23 Category II pay adjustments; reporting requirements.

(a) A category II pay adjustment means a pay adjustment which applies to or affects from 1,000 to 5,000 employees.

(b) Each category II pay adjustment shall be reported to the Pay Board in accordance with regulations issued by the Pay Board.

§ 101.25 Category III pay adjustments; monitoring and spot checks.

(a) A category III pay adjustment means a pay adjustment which applies to or affects less than 1,000 employees.

(b) Category III pay adjustments are not subject to prenotification and reporting. However, they are subject to monitoring and spot checks as are pay adjustments by firms in other categories.

§ 101.28 Pay adjustments of State and local government employees.

Notwithstanding the provisions of § 101.21 prenotification of category I pay adjustments which affect the employees of State and local governments need not be submitted to the Pay Board in accordance with the provisions of § 101.21. Such pay adjustments are, however, subject to the reporting requirements of § 101.21 prenotification of category I pay ments and other pay adjustments affecting the employees of State and local governments which would otherwise be subject to § 101.23, need not be submitted to the Pay Board when certification is submitted at the beginning of such government's fiscal year and each 6 months thereafter to the Pay Board in accordance with regulations issued by the Pay Board that such pay adjustments are not in excess of 5.5 percent. Approval, however, must be granted by the Pay Board for any pay adjustment in excess of 5.5 percent which affects the employees of State and local governments.

§ 101.29 Reclassification.

With the advice of the Pay Board, the Director of the Cost of Living Council has authority to reclassify pay adjustments from one category to another when he deems such action necessary or advisable to effectuate the purposes of the Act and regulations issued pursuant thereto.

Subpart D—Exemptions—Items not Included in Coverage

§ 101.31 General.

Price adjustments and pay adjustments with regard to the property, services, wages, and salaries set forth in this subpart are exempt from and not included in the coverage of this title.

§ 101.32 Raw agricultural products, raw seafood products, and raw sugar price adjustments.

(a) *Raw agricultural products.* Agricultural products which retain their original physical form and have not been processed. Processed agricultural products are products which have been canned, frozen, slaughtered, milled, or otherwise changed in their physical form. Packaging is not considered a processing activity. Examples:

Exempt	*Nonexempt*
Live cattle, calves, hogs, sheep, and lambs.	Carcasses and meat cuts.
Live poultry	Dressed broilers and turkeys.
Raw milk	Pasteurized milk and processed products such as butter, cheese, ice cream.
Shell eggs, packaged or loose.	Frozen, dried, or liquid eggs.
Sheared or pulled wool.	Wool products.
Raw honeycomb honey.	Processed and blended honeybutter product.
Mohair.	
Hay: Bulk, pelleted, cubed, or baled.	Dehydrated alfalfa meal or alfalfa meal pellets.
Wheat	Flour.
Feed grains including:	
Corn	Mixed feed.
Sorghum	Cracked corn.
Barley	Rolled barley.
Oats	Rolled oats.
Soybean	Soybean meal and oil.
Leaf tobacco	Cigarettes and cigars.
Baled cotton, cottonseed, cotton lint.	Cotton yarn, cottonseed oil, cottonseed meal.
Fresh potatoes, packaged or not.	Frozen french fries, dehydrated potatoes.
Unmilled rice	Milled rice.
All raw nuts—shelled and unshelled.	Roasted, salted, or otherwise processed nuts.
Fresh mushrooms.	Canned or freeze dried mushrooms.
Fresh mint.	
Fresh hops.	
Dried beans, peas, and lentils.	
Sugar beets and sugar cane.	Refined sugar.
Maple sap.	
All seeds for planting.	Seeds processed for other uses.
Raw coffee bean	Roasted coffee bean.
All fresh vegetables and melons including:	Canned and frozen vegetables.
Tomatoes.	
Lettuce.	
Sweet corn.	
Onions.	
Green beans.	
Cantaloupe.	
Cucumbers	Dill pickles.
Cabbage	Packaged slaw.
Carrots.	
Watermelons.	
Green peas.	
Asparagus.	
Pepper.	
Broccoli.	
Cauliflower.	
Spinach.	
Green lima beans.	
Honeydews.	
Escarole.	
Garlic.	
Artichokes.	
Eggplant.	
Brussel sprouts.	
Beets.	
Unpopped popcorn.	Popped popcorn.
Stumpage or trees cut from the stump.	Milled lumber.
All fresh or naturally dried fruits, packaged or not, including:	Canned fruit or juices.
Fresh oranges	Glazed citrus peel.
Grapes and raisins.	Canned grapes, wine.
Apples	Applesauce.
Peaches.	
Strawberries.	
Grapefruit.	
Pears.	
Lemons.	
Plums and prunes.	Canned prunes and prune juice.
Cherries.	
Cranberries.	
Avocados.	
Blueberries.	
Apricots.	
Tangerines.	
Olives, uncured	Canned olives.
Nectarines.	
Raspberries.	
Blackberries.	
Figs.	
Tangelos.	
Limes.	
Dates.	
Papayas.	
Bananas.	
Pomegranates.	
Currants.	
Persimmons.	
Garden plants and cut flowers.	Floral wreath.

(b) *Raw seafood products.* Raw seafood products including those which have been shelled, shucked, iced, skinned, scaled, eviscerated, or decapitated.

(c) *Raw sugar prices.* Raw sugar price adjustments which are controlled under the Sugar Act of 1948, as amended.

§ 101.33 Real estate and insurance premiums.

(a) *Real estate.*—(1) *Sales.* (i) Unimproved real estate.

(ii) Real estate with improvements completed prior to August 15, 1971.

(iii) Real estate with improvements completed on or after August 15, 1971, if—

(*a*) The sales price is determined after the completion of construction; or

(*b*) The sales price is determined before the completion of construction and the wage rates estimated by the builder at the time the price is determined are not subsequently reduced by any action of the Pay Board.

(2) *Rentals.* (i) Industrial, farm, and nonresidential commercial property.

(ii) Rental units, including houses, apartments, or any other residential rental property, on which construction is completed, and which are offered for rent for the first time, after August 15, 1971.

(iii) Rehabilitated dwellings for which the cost of rehabilitation exceeds one-third of the total value of the rehabilitated property (including the cost of rehabilitation), offered for rent in the newly rehabilitated condition for the first time after August 15, 1971.

(b) *Insurance premiums.* Premiums charged for the following lines of insurance purchased or renewed after November 13, 1971:

(1) Reinsurance of all kinds.
(2) Ocean marine insurance.
(3) Inland marine insurance on a bid basis applicable to facilities of transportation and communication.
(4) Life insurance, annuities, and endowments (including individual and group contracts of: Ordinary and term life insurance, fixed and variable annuities, and endowments of all kinds); but excluding credit life insurance of any kind.
(5) Individually negotiated and rated insurance contracts written in excess of a self-insured retention of at least $100,000.

§ 101.34 Certain price adjustments.

(a) *Federal, State, and local governments.* (1) Price adjustments for any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility, performed, furnished, provided, granted, prepared, issued, or transferred by any Federal department, agency, or other instrumentality including the Postal Service and wholly owned Government corporations as defined in the Government Corporation Control Act of 1945, as amended.

(2) Price adjustments by State and local governments for any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, facilities, materials, or similar thing of value or utility, performed, furnished, provided, granted, prepared, issued, or transferred including tuition and other charges for schools, colleges, and universities owned or operated by a State and local government; except, however, that fees or charges for health services and for utility services (including gas, electricity, telephone, telegraph, public transportation by vehicle or pipeline, but not including water or sewage disposal services) provided directly or indirectly by a State and local government are not exempt under the provisions of this section.

(b) *Tuition fees of private nonprofit educational organizations.* Tuition fees and other charges by private schools, colleges, and universities not operated for profit.

(c) *Custom products and services.* (1) The following products when custom made to individual order:
(i) Leather goods.
(ii) Wigs and toupees.
(iii) Fur apparel.
(iv) Jewelry.
(2) The following custom services when provided to individual order:
(i) Tailoring of clothing.
(ii) Framing of pictures and mirrors.
(iii) Taxidermy.

(d) *Exports, imports, and shipping rates.* (1) Exports, including products sold to a domestic purchaser who certifies that the product is for export.
(2) Imports, but only the first sale into U.S. commerce.
(3) International ocean shipping rates.

(e) *Damaged and used products.* Damaged and used products other than products which have been rebuilt, repackaged, baled, reassembled, or otherwise processed.

(f) *Government property.* (1) Abandoned or confiscated property sold by any Federal, State, or local government agency pursuant to authorization of a court.
(2) Property sold by the United States, including lease-sales.

(g) *Transactions in gold.* Transactions in gold on the domestic market under license from the Secretary of the Treasury pursuant to the Gold Reserve Act of 1934 as amended, and regulations issued pursuant thereto.

(h) *Securities and financial instruments.* (1) Securities as defined in § 101.2.
(2) Property subject to net leases as defined in 26 U.S.C. 163(d)(4)(a).
(3) Commercial paper.
(4) Commodity futures sold on an organized commodities exchange but not including the commodity (unless otherwise exempt).

(i) *Brokerage fees charged on a securities exchange.* Brokerage fees, charged for the trading of securities on a securities exchange, that are subject to the jurisdiction of the Securities and Exchange Commission, when the Securities and Exchange Commission has certified that such fees are consistent with the objectives of the economic stabilization program.

§ 101.35 Certain Pay Adjustments.

(a) *Federal pay adjustments.* Federal Government employees' pay adjustments which are based upon Federal law and regulations and are determined by Presidential directives, including therein pay adjustments in the compensation and allowances of members of the Armed Forces; employees of the Judicial and of the Legislative Branch of the Federal Government: *Provided, however,* This section shall not exempt pay adjustments affecting employees of the U.S. Postal Service.

(b) *Pay adjustments affecting certain U.S. citizens.* Pay adjustments which apply to or affect U.S. citizens who reside and are employed outside the United States and the District of Columbia.

(c) *Minimum wages.* Wages below the minimum wage rate established by Federal law.

§ 101.36 Miscellaneous.

(a) Royalties and other payments from the sale of copyrights, manuscripts, and like materials prepared for publication.

(b) Dues paid to a nonprofit organization.

(c) Antiques and art objects including paintings, etchings, and sculpture.

(d) Collectors' coins and stamps.

(e) Rock and stone specimens including precious stones and mounting into which precious stones are set.

(f) Handicraft objects.

(g) Mint oil and maple syrup or sugar.

(h) Dehydrated fruits.

Subpart E—[Reserved]

Subpart F—Special Provisions

§ 101.101 Special provisions applicable from November 14, 1971—January 31, 1972.

Notwithstanding the provisions of § 100.21, pay adjustments scheduled to take effect between November 14, 1971, and January 31, 1972, pursuant to existing contracts or pay practices in effect before November 14, 1971, need not be prenotified to, or approved by, the Pay Board, but must be reported to the Pay Board in accordance with its regulations and will be otherwise subject to such regulations. The provisions of this section shall not apply to pay adjustments which are subject to the provisions of Executive Order Number 11588, March 29, 1971.

§ 101.102 Special provisions applicable to retroactive and deferred pay adjustments provided prior to August 15, 1971.

(a) Nothing in this title shall limit any pay adjustment (including any insurance or other fringe benefit offered in connection with an employment contract or an established pay practice) scheduled to take effect after November 13, 1971, and to be paid pursuant to an employment contract executed, or a pay practice established, prior to August 15, 1971 to a level below that agreed or established in such contract or practice, unless the Pay Board determines the increase provided in such contract or by such practice is unreasonably inconsistent with standards issued pursuant to section 203(b) of the Act.

(b) Nothing in this title shall preclude any pay adjustment (including any insurance or other fringe benefit offered in connection with an employment contract or an established pay practice) scheduled to take effect prior to November 14, 1971, pursuant to an employment contract executed, or a pay practice established, prior to August 15, 1971 which was not paid as a result of any regulation issued pursuant to the Act, unless the Pay Board determines that the pay adjustment provided in such contract or by such practice is unreasonably inconsistent with standards issued pursuant to section 203(b) of the Act.

(c) In addition to paragraphs (b) and (c) of this section, the Pay Board shall promptly take such action as may be necessary to require the payment of any pay adjustment (including any insurance or other fringe benefit offered in connection with an employment contract or established pay practice) which has been or in the absence of this section would be, withheld under the authority of the Act, if the Pay Board determines:
(i) Such pay adjustment was provided for by law, contract or an established pay practice prior to August 15, 1971; and
(ii) Prices have been advanced, productivity increased, taxes have been raised, appropriations have been made, or funds have otherwise been raised or provided for in order to cover such increases.

§ 101.103 Pay adjustments required under the Fair Labor Standards Act, wage determinations made by an agency in the Executive Branch and certain employee incentive plans.

(a) Notwithstanding the provisions of this title, this title shall not be exercised to preclude the payment of any pay adjustment:

(1) Required under the Fair Labor Standards Act of 1938, as amended, or effected as a result of enforcement action under such Act; or

(2) Required in order to comply with wage determinations made by any agency in the executive branch of the Government pursuant to law for work:

(i) Performed under contracts with, or to be performed with financial assistance from, the United States, or the District of Columbia, or any agency or instrumentality thereof, or

(ii) Performed by aliens who are immigrants or who have been temporarily admitted to the United States pursuant to the Immigration and Nationality Act; or

(3) Paid in conjunction with existing or newly established employee incentive programs which are designed to reflect directly increases in employee productivity.

Subpart G—Sanctions

§ 101.201 Sanctions; criminal fine and civil penalty.

(a) Whoever willfully violates any order or regulation under this title shall be subject to a fine of not more than $5,000 for each violation.

(b) Whoever violates any order or regulation under this title shall be subject to a civil penalty of not more than $2,500 for each violation.

§ 101.202 Injunctions and other relief.

Whenever it appears to the Council that any firm has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any order or regulation under this title, the Council may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices. The relief sought may include a mandatory injunction commanding any person to comply with any such order or regulation and restitution of moneys received in violation of any such order or regulation.

[FR Doc.72-1315 Filed 1-26-72;9:31 am]

Chapter II—Pay Board

PART 201—STABILIZATION OF WAGES AND SALARIES

Retroactive Increases and Certain Deferred Increases

The purpose of these amendments is to include in the regulations relating to the stabilization of wages and salaries (6 CFR Part 201) provisions conforming to sections 203(c) (2) and (3) of the Economic Stabilization Act of 1970, as amended (85 Stat. 743).

Pursuant to the authority vested in the Pay Board by the Economic Stabilization Act of 1970, as amended (Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Public Law 92-210, 85 Stat. 743), Executive Order No. 11627 (36 F.R. 20139, October 16, 1971, as amended), and Cost of Living Council Order No. 3 (36 F.R. 20202, October 16, 1971), the Pay Board hereby adopts the following amendments to Part 201 in implementation of the President's economic program.

Because of the need for immediate guidance from the Pay Board with respect to the provisions contained herein, it is hereby found impracticable to issue these amendments with notice and public procedure thereon under 5 U.S.C. sec. 553(b), or subject to the effective date limitation of 5 U.S.C., sec. 553(d).

Effective date. These regulations shall be effective on the date of their publication in the FEDERAL REGISTER (1-27-72).

GEORGE H. BOLDT,
Chairman of the Pay Board.

PARAGRAPH 1. Section 201.13 is amended to read as follows:

§ 201.13 Scheduled increases in wages and salaries for services rendered on or after August 15, 1971, and before November 14, 1971.

(a) *In general.* Scheduled increases in wages and salaries for services rendered by employees on or after August 15, 1971, and before November 14, 1971, which were not paid because prohibited by the freeze, may be made retroactively if permitted by any other paragraph of this section.

(b) *Certain conditions for retroactive payment; section 203(c)(2) of the Act.* Payments of wage and salary increases (including any insurance or other fringe benefits offered in connection with employment) may be made if—

(1) Such increases were (i) agreed to in an employment contract executed, entered into, or in effect prior to August 15, 1971, or (ii) contained in a pay practice announced, reduced to writing, placed in effect, or otherwise clearly established prior to August 15, 1971;

(2) Such increases were scheduled to take effect prior to November 14, 1971;

(3) Such increases were not paid as a result of orders issued under the Act; and

(4) (i) The aggregate of such increases does not exceed seven percent (7%) and (*a*) in case of a Category II pay adjustment of a Category III pay adjustment (as defined in §§ 101.23 and 101.25 of this title), the employer certifies by letter to the appropriate district director of Internal Revenue within 20 days subsequent to payment that the requirements of this paragraph have been fulfilled or (*b*) in case of a Category I pay adjustment (as defined in § 101.21 of this title), the Board has received prenotification of such adjustment and a challenge to determine that the provisions of subparagraphs (1), (2), and (3) of this paragraph have been met or that the increase does not exceed seven percent (7%) has not been made by a party at interest or five or more members of the Board within 14 days of such prenotification or within 14 days of providing any additional proof requested by the Board, or

(ii) The aggregate of such increases does exceed seven percent (7%), and the Board has received prenotification of the proposed payment and there has not been a challenge by a party at interest or five or more members of the Board within 14 days of such prenotification, or within 14 days of providing any additional proof requested by the Board.

For the purposes of determining the percentage of the aggregate increases under this paragraph, the base compensation shall be the average cost of wages, salaries, and benefits per man hour for the appropriate employee unit affected by the increases on the day before the wage and salary increase pursuant to this paragraph was scheduled to take effect.

(c) *Certain challenges.* With respect to a challenge of proposed payments of wage and salary increases under paragraph (b)(4) of this section, the payments of such increases may be made if the Board determines that such increases are not unreasonably inconsistent with the standards published under §§ 201.10 and 201.11.

(d) *Price increases in anticipation of wage and salary increases.* Payments of wage and salary increases not otherwise payable under the provisions of § 201.15 may be made if a determination is made by the Internal Revenue Service, with right of appeal to the Pay Board in the event of an adverse determination, that the employer of the employees on whose behalf such payment is being sought raised the prices for his products or services prior to August 16, 1971, in anticipation of wage and salary increases scheduled to be paid to such employees after August 15, 1971.

(e) *Consecutive agreements or practices.* Payments of wage and salary increases may be made if a determination is made by the Internal Revenue Service, with right of appeal to the Pay Board in the event of an adverse determination, that a wage and salary agreement or pay schedule or practice adopted after August 15, 1971, succeeded an agreement, schedule or practice that expired or terminated prior to August 16, 1971, and retroactivity is demonstrated to be an established past practice of an employer and his employees or retroactivity had been agreed to prior to November 14, 1971.

(f) *Tandem relationships.* Payments of wage and salary increases may be made if a determination is made by the Internal Revenue Service, with right of appeal to the Pay Board in the event of an adverse determination, that in the case of a tandem relationship (as defined in § 201.3) the following conditions have been met—

(1) The employment contract or pay practice to which a tandem relationship is claimed was reached or in existence prior to August 16, 1971;

(2) (i) The prior employment contract of the unit to which a tandem relationship is claimed expired no more

than ninety (90) days before the expiration of the prior employment contract of the tandem-claiming unit; or

(ii) In the case of a pay practice, the effective date of the increase with respect to which a tandem relationship is claimed was, consistent with past pay practice, no more than ninety (90) days prior to the scheduled effective date of the increase for the tandem-claiming unit.

(3) The tandem relationship has been clearly established as a past pay practice for 5 years or in the immediately preceding two employment contracts; and

(4) It can be shown that retroactivity was either an established pay practice or had been agreed to prior to November 14, 1971.

(g) *Low wage employees; one-time benefits.* (1) Payments of wage and salary increases may be made if the employer determines, subject to compliance checks by the Internal Revenue Service that—

(i) An employee in an appropriate employee unit would have become eligible for a wage and salary increase but for the freeze, and that the employee's straight time hourly rate of pay prior to the freeze was $2 per hour or less.

(ii) An employee in an appropriate employee unit would have become eligible to receive a new or increased benefit under a fringe benefit plan but for the freeze, and the employee cannot otherwise (because of death, retirement, etc.) become eligible for the benefit after the freeze.

(2) The provisions of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). A, an employee-member of an appropriate employee unit in a company, died on September 16, 1971. Pursuant to a collective bargaining agreement reached before the freeze, A's employer was to have increased his contribution to the group life insurance plan applicable to such unit on September 1, 1971. Under the plan death benefits were scheduled to be increased up to $2,000 per employee based on age and length of employee service to the company. The life insurer is willing to pay the increased benefit to A's estate if the employer will retroactively pay the unit's increased contribution to the group life insurance plan. A retroactive payment may be made by the employer of the scheduled increase in group life insurance premiums for the appropriate employee unit in such a case to remedy the severe inequity to an employee such as A who, because of his death during the freeze, could not become eligible for the increased benefit after the freeze ended.

Example (2). B, an employee-member of an appropriate employee unit in a company, retired on October 31, 1971. Pursuant to a collective bargaining agreement reached before the freeze, B's employer was to have increased the lump-sum payment on or after October 1, 1971, available to employees of the unit for vacation accrued but not taken prior to retirement. A retroactive increase in the lump-sum payment of accrued vacation may be made to B who, because of his retirement during the freeze, could not become eligible for the increase benefit after the freeze.

(h) *Other criteria for retroactivity.* Payments of wage and salary increases may be made upon Pay Board approval if it is demonstrated to the Board that the proposed retroactive payments satisfy such further criteria as the Board may hereafter establish to remedy severe inequities.

PAR. 2. Section 201.16 is deleted, § 201.15 is amended and redesignated as § 201.16, and a new § 201.15 is added immediately after § 201.14. These added, amended, and redesignated provisions read as follows:

§ 201.15 Wage increases provided for prior to August 15, 1971, for which funds have been raised or provided.

(a) *In general.* Subject to the provisions of this section, any wage and salary increases (including any insurance or other fringe benefits offered in connection with employment) which have been or would be withheld under the authority granted by the Act are lawfully due and payable, if a determination is made as provided in paragraph (b) of this section that such increases were provided for by law, contract, agreement or established practice prior to August 15, 1971, and that prices have been advanced, productivity increased, taxes have been raised, appropriations have been made or funds have otherwise been raised or provided for in order to cover such increases.

(b) *Determinations*—(1) *By Category I employers.* Any person who desires to make payments of wage and salary increases described in paragraph (a) of this section may do so provided (i) he is an employer whose pay adjustments qualify as Category I pay adjustments (as defined in § 101.21 of this title), (ii) he believes the requirements of paragraph (a) of this section have been met, and (iii) he files a prenotification in the manner prescribed by the Pay Board of his intent to make such payment detailing the factual basis for qualification under paragraph (a) of this section. The payment of such an increase may begin 14 days after the prenotification is filed with the Board, or (if appropriate) 14 days after any additional proof requested by the Board has been furnished to the Board unless a challenge is made by a party at interest or five or more members of the Board. In computing the 14-day period prescribed by this section, the rules provided for in § 205.5 of this chapter will apply.

(2) *By Category II and III employers.* Any person who desires to make a payment of wage and salary increaser described in paragraph (a) of this section may do so provided (i) he is an employer whose pay adjustments qualify as either Category II or III pay adjustments (as defined in §§ 101.23 and 101.25 of this title), (ii) he believes the requirements of such paragraph (a) have been met because such wage and salary increases meet the requirements of paragraphs (c) (1), (2), and (3) of this section, and (iii) he certifies by letter to the appropriate district director of internal revenue that he has met the requirements of paragraphs (c) (1), (2), and (3) of this section. The payments of such an increase may begin 20 days before certification is made to the Revenue Service.

(3) *By the Internal Revenue Service.* A party at interest claiming authority to make or receive payment of a wage or salary increase pursuant to paragraph (a) of this section, after giving notice to the other parties at interest, may apply to the Internal Revenue Service for a determination that the requirements of paragraph (a) of this section have been met. The application to the Internal Revenue Service shall detail the manner in which one or more of each of the requirements of paragraph (c) (1), (2), and (3) of this section have been met, or that the requirements of paragraph (a) of this section have otherwise been met. When the Service makes a determination that such requirements have or have not been met the Service will provide for notice upon request to parties at interest of the determination. Payment of an increase determined to be permissible under paragraph (a) of this section shall begin within 20 days of such determination by the Service unless an appeal is taken by the Pay Board. The Service may transmit to the Pay Board for determination any application based upon a claim that the requirements of paragraph (a) of this section have been met without meeting the requirements of paragraph (c) (1), (2), and (3) of this section.

(4) *By the Board.* If the Pay Board determines with respect to (i) a challenge of an increase under subparagraph (1) of this paragraph, or (ii) an appeal from a final determination by the Internal Revenue Service with respect to an increase under subparagraph (3) of this paragraph, or (iii) a transmittal by the Internal Revenue Service with respect to an increase under subparagraph (3) of this paragraph, that such payment qualifies under paragraph (a) of this section, the increase shall be payable immediately after the Board's final decision.

(c) *Special rules.* For the purposes of this section the factual requirements of paragraph (a) of this section are deemed satisfied with respect to whether:

(1) A wage or salary increase was provided for by law, contract, agreement, or established practice prior to August 15, 1971, if—

(i) The amount of the wage or salary increase was determined and definite prior to August 15, 1971; and

(ii) A contract was executed, entered into, or became effective prior to August 15, 1971; or

(iii) A pay practice was announced, reduced to writing, placed in effect, or otherwise clearly established prior to August 15, 1971; or

(iv) A law, ordinance, or resolution, or a rule, regulation, or decision of a governmental agency having the effect of law, became effective or was finally enacted by signature of the chief executive of the governmental unit prior to August 15, 1971, or by failure of the chief executive to veto prior to August 15, 1971, or by completion of all action required for final enactment under the constitution and laws applicable to the governmental unit.

(2) Prices have been advanced, productivity increased, taxes have been raised, appropriations have been made or funds have otherwise been raised or provided for, if—

(i) New taxes were enacted or levied or existing taxes were increased prior to August 15, 1971, which provide revenue for the fiscal year in which the wage and salary increase is to take effect; or

(ii) Appropriations have been passed or a budget of a governmental unit has been adopted prior to August 15, 1971, for the fiscal year in which the wage and salary increase is to take effect, and the appropriations or budget contain funds from which the increase would be payable; or

(iii) Prices have been advanced prior to August 15, 1971; or

(iv) An employer and the employee members of the unit, or their collective bargaining agent, have taken action prior to August 15, 1971, to modify work practices either relating to the introduction of new or changed equipment methods or processes, or otherwise, which is designed to and does result in an increase in the productivity of the appropriate employee unit; or

(v) An employer has taken action prior to August 15, 1971, which has otherwise raised or provided funds to provide for the wage and salary increase..

(3) The prices advanced, productivity increased, taxes raised, appropriations made or funds otherwise raised or provided for are in order to cover a wage and salary increase, if—

(i) The advancement of prices prior to August 15, 1971, was in direct anticipation of the wage and salary increase, and no additional advance in prices is or has been required on or after August 15, 1971, in order to raise funds to cover the wage and salary increase for the balance of the fiscal year in which it takes effect; or

(ii) Action modifying work practices to increase productivity taken by an employer and the employee members of the unit, or their collective bargaining agent, was taken to provide for a wage and salary increase and the resulting increase in productivity is adequate to cover the wage and salary increase; or

(iii) The taxes were raised or levied to fund a budget containing proposed expenditures for the wage and salary increase, and the taxes raised or levied, the existing taxes and other resources of the taxing body are sufficient to cover the increases and all of the other projected expenditures of the taxing body for the fiscal year in which the increase takes effect; or

(iv) The amount of the appropriation or governmental budget item from which the wage and salary increase is payable is sufficient to cover the increase and all other projected expenditures to be made from the appropriation or budget item without any contemplated additional, supplemental, or deficiency appropriation or budget amendment during the fiscal year in which the increase takes effect, and without any contemplated transfer of funds appropriated for or intended for another purpose; or

(v) Action taken by an employer to otherwise raise or provide funds was taken in direct anticipation of a wage and salary increase, and funds of sufficient amount to cover the cost of the wage and salary increase were raised or provided on or before August 15, 1971, or would be raised or provided thereafter without further action by the employer after August 15, 1971.

§ 201.16 Unaffected wages and salaries.

Until further action of the Pay Board, those classes of wages and salaries which were held by the Cost of Living Council not to be subject to control by the freeze shall not be affected by this part. However, this section shall not exempt any contracts subject to Executive Order No. 11588 (36 F.R. 6339, March 29, 1971), relating to the stabilization of wages and prices in the construction industry, as amended by Executive Order No. 11627 (36 F.R. 20139, October 16, 1971), further providing for the stabilization of the economy, from the general wage and salary standards in this part.

[FR Doc.72-1330 Filed 1-26-72;10:54 am]

Chapter III—Price Commission

PART 300—PRICE STABILIZATION

Base Price Posting Requirements

The purpose of this amendment is to modify the base prices posting requirement by providing that retailers with revenues of less than $200,000 annually who do not operate as retailers on the premises of, or in conjunction with, a retailer with annual revenues of $200,000 or more are not subject to the posting requirements of § 300.13(b) and certain base price information requirements of § 300.13(c). For the purposes of this modification, annual revenues are to be determined without regard to the number of retailing outlets operated by the retailer.

Retailers excluded from the provisions of § 300.13(c) must, however, post a sign or signs indicating the availability of base price information and respond to written requests for base price information in accordance with § 300.13(d).

A new paragraph, § 300.13(e) is added to accomplish these modifications.

Because the purpose of these amendments is to provide immediate guidance and information as to the price stabilization rules in effect, it is hereby found that notice and public procedure thereon is impracticable and that good cause exists for making them effective less than 30 days after publication.

(Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210; Executive Order No. 11627, 36 F.R. 20139, October 16, 1971; Cost of Living Council Order No. 4, 36 F.R. 20202, October 16, 1971)

In consideration of the foregoing, Part 300 of Title 6 of the Code of Federal Regulations is amended as follows. This amendment becomes effective as of January 15, 1972.

Issued in Washington, D.C. on January 24, 1972.

C. JACKSON GRAYSON,
Chairman,
Price Commission.

(1) Section 300.13(e) is revised to read as follows:

§ 300.13 Retailers and wholesalers.

* * * * *

(e) *Small retailers—Special rule.* Paragraphs (b) and (c) of this section do not apply to retailers with revenues of less than $200,000 annually (determined without regard to the number of retailing outlets operated by the retailer) who do not operate as retailers on the premises of, or in conjunction with, a retailer with annual revenues of $200,000 or more. However, retailers not subject to paragraphs (b) and (c) of this section must post on each floor of their establishments at least one sign (minimum 22" x 28"), as specified below, announcing availability of base price information and adhere to paragraph (d) of this section:

BASE PRICE INFORMATION

Information regarding the lawful base price for any item sold by this store may be obtained by submitting a written request to the owner, manager, or operator of this store. You will receive a prompt answer by mail.

[FR Doc.72-1293 Filed 1-26-72;8:52 am]

PART 305—PRICE COMMISSION PROCEDURAL REGULATIONS

Review of Initial Commission Decisions on Matters Other Than Exceptions

The purpose of this amendment is to add Subpart G—Review of Initial Commission Decisions on Matters Other Than Exceptions to Part 305 of the Price Commission procedural regulations. Subpart G is necessary to provide a mechanism for obtaining review of Commission actions denying certain price adjustments in whole or in part and other decisions initially made by the Commission, other than for exceptions.

In consideration of the foregoing, Part 305 of Title 6 of the Code of Federal Regulations is amended by adding Subpart G, effective on January 21, 1972.

Issued in Washington, D.C. on January 25, 1972.

C. JACKSON GRAYSON, Jr.,
Chairman,
Price Commission.

1. The table of contents for Part 305 is amended by adding thereto the table of contents for Subpart G as follows:

Subpart G—Review of Initial Commission Decisions on Matters Other Than Exceptions

Sec.
305.70 Purpose and scope.
305.71 Scope of review.
305.72 Who may request reconsideration.
305.73 Where to file.
305.74 When to file.
305.75 Contents of request.

AUTHORITY: The provisions of this Subpart G issued under Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210, 85 Stat. 743; Executive Order No. 11627, 36 F.R. 20139, October 16, 1971; Cost of Living Council Order No. 4, 36 F.R. 20202, October 16, 1971.

2. Section 305.1(a) is amended by adding new subparagraph (6) as follows:

§ 305.1 Purpose and scope.

(a) This part establishes procedures for—

* * * * *

(5) Appointment of Hearing Officer; and,

(6) Obtaining reconsideration of initial decisions made by the Price Commission on matters other than exceptions.

* * * * *

3. Subpart G is added immediately following the last line of Subpart F as follows:

Subpart G—Review of Initial Commission Decisions on Matters Other Than Exceptions

§ 305.70 Purpose and scope.

(a) Requests for obtaining initial decisions by the Commission other than for exceptions are initiated pursuant to Part 300 of this title.

(b) This subpart establishes the rules of the Commission governing reconsideration of denials of such requests, in whole or in part.

§ 305.71 Scope of review.

The Commission shall reconsider its initial action if the request for reconsideration makes a prima facie showing that the Commission's initial action was erroneous in fact or in law.

(a) Where the Commission determines that the request for reconsideration failed to make a prima facie showing, the Commission may summarily reject the request for reconsideration notifying the applicant of its action and advising him that he has exhausted his administrative remedies and that he may seek judicial review under the Act.

(b) Where the Commission determines that the appellant has made a prima facie showing, it will proceed in accordance with the provisions of §§ 305.37 through 305.38.

§ 305.72 Who may request reconsideration.

Any person who meets the requirements set forth in § 305.71 may request reconsideration by the Commission.

§ 305.73 Where to file.

A request for reconsideration shall be filed with the Price Commission, 2000 M Street NW., Washington, DC 20508.

§ 305.74 When to file.

A request for reconsideration must be filed within 10 days of service of the initial decision by the Commission.

§ 305.75 Contents of request.

A request for reconsideration shall—

(a) Be in writing and signed by the appellant;

(b) Be designated clearly as a request for reconsideration;

(c) Contain a concise statement of the grounds for reconsideration and the requested relief; and

(d) Be accompanied by briefs, if any.

[FR Doc.72-1294 Filed 1-26-72;8:52 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter II—Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration), Department of Housing and Urban Development

[Docket No. R-71-143]

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

Eligibility Requirements for Insurance of Mortgages on Real Estate Held Under Lease

On page 18583 of the FEDERAL REGISTER of September 17, 1971, there was published a notice of proposed rule making to amend Parts 207 and 221 of the Department's regulations governing eligibility requirements for multifamily housing and moderate income project mortgage insurance. The amendments permit the Commissioner to insure mortgages on real estate held under a lease executed by a lessor approved by the Commissioner with a maximum term consistent with the legal authority for the execution of such lease, provided the term thereof is not less than 50 years from the execution date of the mortgage. Interested persons were given until October 18, 1971 to submit written comments or suggestions with respect to the proposal.

No objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

1. In § 207.23, paragraph (a)(4) is amended to read as follows:

§ 207.23 Eligibility of property.

(a) * * *

(4) Under a lease executed by a governmental agency, an Indian, an Indian tribe, or such other lessor as the Commissioner may approve for the maximum term consistent with the legal authority for the execution of such lease, provided that the term of any such lease shall run for a period of not less than 50 years from the date the mortgage is executed.

* * * * *

2. In § 221.544, paragraph (a)(4) is amended to read as follows:

§ 221.544 Eligibility of property.

(a) * * *

(4) Under a lease executed by a governmental agency, an Indian, an Indian tribe, or such other lessor as the Commissioner may approve for the maximum term consistent with the legal authority for the execution of such lease, provided that the term of any such lease shall run for a period of not less than 50 years from the date the mortgage is executed.

(Secs. 207 and 221, 52 Stat. 16, 68 Stat. 599; 12 U.S.C. 1713, 1715*l*)

Effective date. These regulations shall be effective 30 days from publication in the FEDERAL REGISTER.

EUGENE A. GULLEDGE,
Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner.

[FR Doc.72-1229 Filed 1-26-72;8:51 am]

Chapter X—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Eligible Communities

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of eligible communities.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Orange	Fountain Valley				Jan. 28, 1972.
Do	San Diego	National City				Do.
Do	San Mateo	San Carlos				Do.
Do	El Dorado	South Lake Tahoe.				Do.
Georgia	Fulton	East Point				Do.
Illinois	Cook	Arlington Heights				Do.
Do	Stephenson	Freeport				Do.
Massachusetts	Bristol	Mansfield				Do.
Minnesota	Brown	Unincorporated areas.				Do.
New Jersey	Morris	Chatham Borough.				Do.
Do	do	Hanover Township.				Do.
Do	Somerset	Peapack and Gladstone Borough.				Do.
Do	Camden	Pennsauken Township.				Do.
Do	Warren	Phillipsburg				Do.
Ohio	Erie	Sandusky				Do.
Vermont	Bennington	Manchester				Do.
Do	Addison	Middlebury				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: January 19, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72–1143 Filed 1–26–72;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Orange	Fountain Valley				Jan. 28, 1972.
Do	San Diego	National City				Do.
Do	San Mateo	San Carlos				Do.
Do	El Dorado	South Lake Tahoe.				Do.
Georgia	Fulton	East Point				Do.
Illinois	Cook	Arlington Heights.				Do.
Do	Stephenson	Freeport				Do.
Massachusetts	Bristol	Mansfield				Do.
Minnesota	Brown	Unincorporated areas.				Do.
New Jersey	Morris	Chatham Borough.				Do.
Do	do	Hanover Township.				Do.
Do	Somerset	Peapack and Gladstone Borough.				Do.
Do	Camden	Pennsauken Township.				Do.
Do	Warren	Phillipsburg				Do.
Ohio	Erie	Sandusky				Do.
Vermont	Bennington	Manchester				Do.
Do	Addison	Middlebury				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: January 19, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72–1144 Filed 1–26–72;8:45 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 13]

FARM LOSSES

Notice of Extension of Time for Comments

Proposed amendments to the regulations under sections 341, 453, 1251, and 1252 of the Internal Revenue Code of 1954, relating to farm losses, appear in the FEDERAL REGISTER for December 28, 1971 (36 F.R. 25015).

Written comments or suggestions pertaining to the proposed amendments were required to be submitted by January 27, 1972. The time for submission of written comments or suggestions pertaining to the proposed amendments is hereby extended to March 31, 1972.

LEE H. HENKEL, Jr.
Acting Chief Counsel.

[FR Doc.72-1324 Filed 1-26-72;10:32 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 980]

[Amdt. 2]

ONION IMPORTS

Notice of Proposed Rule Making

Notice is hereby given of a proposed amendment of § 980.110 Onion import regulation (36 F.R. 13260, 14724), applicable to the importation of onions into the United States to become effective March 20, 1972, under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

Under Section 8e-1 of the Act (7 U.S.C. 608e-1), whenever two or more marketing orders are concurrently in effect regulating the same agricultural commodity produced in different areas of the United States, the importation of such commodity shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of the order which, as determined by the Secretary of Agriculture, regulates the commodity produced in the area with which the imported commodity is in most direct competition.

Onion import regulation § 980.110 (36 F.R. 13260), became effective July 20, 1971, and sets forth similar grade, size, quality, and maturity requirements as those in effect for onions handled under Marketing Order No. 958, as amended (7 CFR Part 958) regulating the shipments of onions grown in designated counties in Idaho and Eastern Oregon. Grade, size, quality, and maturity requirements become effective for the period March 1 through May 15, 1972, under Marketing Order No. 959, as amended (7 CFR Part 959), regulating the handling of onions grown in South Texas. It is anticipated that imported onions will be in most direct competition with those regulated under Marketing Order 959 on or about March 20 and the proposed changes will be necessary to bring import regulations into line with domestic regulations covering these South Texas onions.

Consideration will be given to any written data, views, or arguments pertaining to the proposed amendment which are filed in quadruplicate with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendment is as follows:

Section 980.110 Onion import regulation (36 F.R. 13260, 14724), is hereby amended to read as follows:

§ 980.110 Onion import regulation.

Pursuant to § 608e-1 of the act (7 U.S.C. 608e-1) and except as otherwise provided herein, during the period beginning March 20, 1972, and continuing through May 15, 1972, the importation of onions is prohibited unless such onions are inspected and meet the requirements of this section.

(a) Minimum grade and size requirements: (1) *Grade.* Not to exceed 20 percent defects of U.S. No. 1 grade. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Applications of tolerances in U.S. Grade Standards shall apply to in-grade lots.

(2) *Size.* White onions—1-inch minimum diameter; all other varieties of onions—1¾ inches minimum diameter.

(b) Condition: Due consideration shall be given to the time required for transportation and entry of onions into the United States. Onions with transit time from country of origin to entry into the United States of 10 or more days may be entered if they meet an average tolerance for decay of not more than 5 percent, provided they meet the other requirements of this section.

(c) Minimum quantity: Any importation which in the aggregate does not exceed 100 pounds in any day, may be imported without regard to the provisions of this section.

(d) Plant quarantine: Provisions of this section shall not supersede the restrictions or prohibitions on onions under the Plant Quarantine Act of 1912.

(e) Designation of governmental inspection service: The Federal or the Federal-State Inspection Service, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, and the Fruit and Vegetable Division, Production and Marketing Branch, Canada Department of Agriculture, are designated as governmental inspection services for certifying the grade, size, quality, and maturity of onions that are imported into the United States under the provisions of section 8e-1 of the act.

(f) Inspection and official inspection certificates: (1) An official inspection certificate certifying the onions meet the U.S. import requirements for onions under section 8e-1 (7 U.S.C. 608e-1), issued by a designated governmental inspection service and applicable to a specific lot is required on all imports of onions.

(2) Inspection and certification by the Federal or Federal-State Inspection Service will be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables, and other products (Part 51 of this title). Each lot shall be made available and accessible for inspection as provided therein. Cost of inspection and certification shall be borne by the applicant.

(3) Since inspectors may not be stationed in the immediate vicinity of some smaller ports of entry, importers of onions should make advance arrangements for inspection by ascertaining whether or not there is an inspector located at their particular port of entry. For all ports of entry where an inspection office is not located, each importer must give at least 1 day advance notice, except the requirement for "All California points" and "All other points" is at least 3 days advance notice, to the applicable office listed below prior to the time the onions will be imported.

All Texas points:
W. T. McNabb, Post Office Box 310, Austin, TX 78767 (Phone 512-385-5385).

All Arizona points:
B. O. Morgan, Post Office Box 1614, Nogales, AZ 85621 (Phone 602-287-2902).

All California points:
D. P. Thompson, 294 Wholesale Terminal Building, 784 South Central Avenue, Los Angeles, CA 90021 (Phone 213-622-8756).

All Hawaii points:
Stevenson Ching, 1428 South King Street, Honolulu, HI 96814 (Phone 808-941-3071).

New York City:
Edward J. Beller, Room 28A, Hunts Point Market, Bronx, N.Y. 10474 (Phone 212-991-7669).

New Orleans:
Pascal J. Lamarca, 5027 Federal Office Building, 701 Loyola Avenue, New Orleans, LA 70113 (Phone 504-527-6741).

All other points:
D. S. Matheson, Fruit and Vegetable Division, C&MS, USDA, Washington, D.C. 20250 (Phone 202–388–5870).

(4) Inspection certificates shall cover only the quantity of onions that is being imported at a particular port of entry by a particular importer.

(5) Each inspection certificate issued with respect to any onions to be imported into the United States shall set forth, among other things:

(i) The date and place of inspection;

(ii) The name of the shipper, or applicant;

(iii) The commodity inspected;

(iv) The quantity of the commodity covered by the certificate;

(v) The principal identifying marks on the containers;

(vi) The railroad car initials and number, the truck and trailer license number, the name of the vessel, or other identification of the shipment; and

(vii) The following statement, if the facts warrant: Meets import requirements of 7 U.S.C. 608e–1.

(g) Reconditioning prior to importation: Nothing contained in this part shall be deemed to preclude any importer from reconditioning prior to importation any shipment of onions for the purpose of making it eligible for importation.

(h) It is hereby determined that imports of onions, during the effective time of this section, are in most direct competition with onions grown in South Texas. The requirements set forth in this section are the same as those applicable to grade, size, quality, and maturity being made effective for onions grown in South Texas.

(i) Definitions: For the purpose of this section, "Onions" means all (except red) varieties of Allium cepa marketed dry, except dehydrated, canned and frozen onions, onion sets, green onions, and pickling onions. Onions commonly referred to as "braided," that is, with tops, may be imported if they meet the grade and size requirements except for top length. The term "U.S. No. 1" shall have the same meaning as set forth in the U.S. Standards for Grades of Bermuda-Granex-Grano Type Onions (§§ 51.3195–51.3209 of this title), U.S. Standards for Grades of Creole Onions (§§ 51.3955–51.3970 of this title), or in the U.S. Standards for Grades of Onions Other Than Bermuda-Granex-Grano and Creole Types (§§ 51.2830–51.2854 of this title), whichever is applicable to the particular variety. Tolerances for size shall be those in the applicable U.S. Standards. The requirements of Canada No. 1 grade are deemed comparable to the requirements of U.S. No. 1 grade. "Importation" means release from custody of the U.S. Bureau of Customs.

Dated: January 24, 1972.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.72–1239 Filed 1–26–72;8:52 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 138]

DRUGS

Proposed Official Names

The Commissioner of Food and Drugs proposes to amend § 138.2 *Drugs; official names* by deleting two official names, benazoline and poncuronium, and replacing them with the names metizoline and pancuronium, respectively, and by designating additional official names. The USAN (U.S. Adopted Names) Council has adopted the names metizoline and pancuronium, to avoid a conflict in names in the case of benazoline and to conform to the INN (International Non-Proprietary Names) name in the case of poncuronium.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 508, 76 Stat. 1789; 21 U.S.C. 358) and the administrative procedure provisions of 5 U.S.C. 552 (80 Stat. 383, as amended 81 Stat. 54) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), the Commissioner proposes that § 138.2 be amended as follows:

1. By deleting from the table the official names benazoline and poncuronium and the accompanying chemical names or descriptions and molecular formulae.

2. By alphabetically inserting in the table the following items as official names for drugs:

§ 138.2 Drugs; official names.

* * * * *

Official name	Chemical name or description	Molecular formula
Acetylcysteine	*N*-Acetyl-L-cysteine	$C_5H_9NO_3S$
Adenosine	6-Amino-9-β-D-ribofuranosyl-9*H*-purine	$C_{10}H_{13}N_5O_4$
Allobarbital	5,5-Diallylbarbituric acid	$C_{10}H_{12}N_2O_3$
Ambuphylline	Theophylline, compound with 2-amino-2-methyl-1-propanol	$C_7H_8N_4O_2.C_4H_{11}NO$
Aminacrine	9-Aminoacridine	$C_{13}H_{10}N_2$
Amphomycin	A substance produced by *Streptomyces canus*	
Anisotropine	Tropine 2-propylvalerate	$C_{18}H_{29}NO_2$
Artegraft	Arterial graft composed of a section of bovine carotid artery that has been subjected to enzymatic digestion with ficin and tanned with dialdehyde starch.	
Bialamicol	5,5′-Diallyl-α,α′-bis(diethylamino)-*m*,*m*′-bitolyl-4,4′-diol	$C_{28}H_{40}N_2O_2$
Butaperazine	1-[10-[3-(4-Methyl-1-piperazinyl)propyl]phenothiazin-2-yl]-1-butanone.	$C_{24}H_{31}N_3OS$
Calcium carbaspirin	Calcium salicylate diacetate compound with urea	$C_{18}H_{14}CaO_8.CH_4N_2O$
Carbocloral	Ethyl (2,2,2-trichloro-1-hydroxyethyl)carbamate	$C_5H_8Cl_3NO_3$
Casanthranol	A purified mixture of the anttranol glycosides derived from *Cascara sagrada*.	
Cellulase	A concentrate of cellulose-splitting enzymes derived from *Aspergillus niger* and other sources.	
Cetalkonium	Benzylhexadecyldimethylammonium ion	$C_{25}H_{46}N^+$
Chlophedianol	2-Chloro-α-[2-(dimethylamino)ethyl]benzhydrol	$C_{17}H_{20}ClNO$
Chlordantoin	5-(1-Ethylpentyl)-3-[(trichloromethyl)thio]hydantoin	$C_{11}H_{17}Cl_3N_2O_2S$
Chlorhexidine	1, 1′-Hexamethylenebis[5-(*p*-chlorophenyl) biguanide]	$C_{22}H_{30}Cl_2N_{10}$
Chlorindanol	7-Chloro-4-indanol	C_9H_9ClO
Chlorphenesin	3-(*p*-Chlorophenoxy)-1, 2-propanediol	$C_9H_{11}ClO_3$
Chlorphentermine	4-Chloro-α, α-dimethylphenethylamine	$C_{10}H_{15}ClN$
Cinnarizine	1-Cinnamyl-4-diphenylmethylpiperazine	$C_{26}H_{28}N_2$
Cloflucarban	4, 4′-Dichloro-3-(trifluoromethyl)carbanilide	$C_{14}H_9Cl_2F_3N_2O$
Cyclopenthiazide	6-Chloro-3-(cyclopentylmethyl)-3, 4-dihydro-2*H*-1, 2, 4-benzothiadiazine-7-sulfonamide 1, 1-dioxide.	$C_{13}H_{18}ClN_3O_4S_2$
Dioxybenzone	2, 2′-Dihydroxy-4-methoxybenzophenone	$C_{14}H_{12}O_4$
Epinephryl borate	Cyclic (-)-4-[1-hydroxy-2-(methylamino)ethyl] *o*-phenylene borate.	$C_9H_{12}BNO_4$
Ethylestrenol	19-Nor-17α-pregn-4-en-17β-ol	$C_{20}H_{32}O$
Floxuridine	2′-Deoxy-5-fluorouridine	$C_9H_{11}FN_2O_5$
Fluocinonide	6α, 9α-Difluoro-11β, 16α, 17α, 21-tetrahydroxypregna-1, 4-diene-3, 20-dione, cyclic 16, 17-acetal with acetone, 21-acetate.	$C_{26}H_{32}F_2O_7$
Glucosamine	2-Amino-2-deoxy-β-D-glucopyranose	$C_6H_{13}NO_5$
Hexafluorenium	Hexamethylenebis[9-fluorenyldimethylammonium ion]	$C_{36}H_{42}N_2{}^{++}$
Hydroxocobalamin	Cobinamide hydroxide phosphate, 3′-ester with 5, 6-dimethyl-1-α-D-ribofuranosylbenzimidazole, inner salt.	$C_{62}H_{89}CoN_{13}O_{15}P$
Inositol niacinate	*myo*-Inositol hexanicotinate	$C_{42}H_{36}N_6O_{12}$
Iothalamic acid	5-Acetamido-2,4,6-triiodo-*N*-methylisophthalamic acid	$C_{11}H_9I_3N_2O_4$
Iron sorbitex	A sterile, colloidal solution of a complex of trivalent iron, sorbitol, and citric acid, stabilized with dextrin and sorbitol.	
Ketamine	(±)-2-(o-Chlorophenyl)-2-(methylamino)cyclohexanone	$C_{13}H_{16}ClNO$
Levamfetamine	(−)-α-Methylphenethylamine	$C_9H_{13}N$
Lucanthone	1-[[2-(Diethylamino)ethyl]amino]-4-methylthioxanthen-9-one	$C_{20}H_{24}N_2OS$
Lypressin	8-Lysine vasopressin	$C_{46}H_{65}N_{13}O_{12}S_2$
Medrysone	11β-Hydroxy-6α-methylpregn-4-ene-3,20-dione	$C_{22}H_{32}O_3$
Mefenamic acid	*N*-(2,3-Xylyl)anthranilic acid	$C_{15}H_{15}NO_2$
Meprednisone	17α,21-Dihydroxy-16β-methylpregna-1,4-diene-3,11,20-trione	$C_{22}H_{26}O_5$
Mesoridazine	10-[2(1-Methyl-2-piperidyl)ethyl]-2-(methylsulfinyl)phenothiazine.	$C_{21}H_{26}N_2OS_2$
Metizoline	2-[(2-Methylbenzo[*b*]thien-3-yl)methyl]-2-imidazoline	$C_{13}H_{14}N_2S$
Minocycline	4,7-Bis(dimethylamino)-1,4,4a,5,5a,6,11,12a-octahydro-3,10,12,12a-tetrahydro-1,11-dioxo-2-naphthacenecarboxamide.	$C_{23}H_{27}N_3O_7$
Naloxone	(−)-17-Allyl-4,5α-epoxy-3,14-dihydroxymorphinan-6-one	$C_{19}H_{21}NO_4$
Nifuraldezone	5-Nitro-2-furaldehyde semioxamazone	$C_7H_6N_4O_5$
Oxybenzone	2-Hydroxy-4-methoxybenzophenone	$C_{14}H_{12}O_3$
Oxychlorosene	The hypochlorous acid complex of a mixture of the phenyl sulfonate derivatives of aliphatic hydrocarbons.	
Pancuronium	1,1′-(3α,17β-Dihydroxy-5α-androstan-2β,16β-ylene)bis[1-methylpiperidinium] ion diacetate.	$C_{35}H_{60}N_2O_4{}^{++}$
Phthalofyne	Mono(1-ethyl-1-methyl-2-propynyl) phthalate	$C_{14}H_{14}O_4$
Piperacetazine	10-[3-[4-(2-Hydroxyethyl)piperidino]propyl]phenothiazin-2-yl methyl ketone.	$C_{24}H_{29}N_2O_2S$
Poloxalene	Liquid nonionic surfactant polymer of the polyoxypropylene polyoxyethylene type, having a molecular weight of approximately 3000.	
Polyglycolic acid	Poly(oxycarbonylmethylene)	$(C_2H_2O_2)_n$
Polymacon	Poly(2-hydroxyethyl methacrylate)	$(C_6H_{10}O_3)_n$
Pregnenolone	3β-Hydroxypregn-5-en-20-one	$C_{21}H_{32}O_2$
Propiolactone	2-Oxetanone; β-propiolactone	$C_3H_4O_2$

Official name	Chemical name or description	Molecular formula
Pyrithione zinc	Bis[1-hydroxy-2(1*H*)-pyridinethionato]zinc	$C_{10}H_8N_2O_2S_2Zn$
Pyrrocaine	1-Pyrrolidineaceto-2′,6′-xylidide	$C_{14}H_{20}N_2O$
Quinaldine blue	1-Ethyl-2-[3-(1-ethyl-2(1*H*)-quinolylidene)propyenl] quinolinium chloride.	$C_{25}H_{23}ClN_2$
Sulisobenzone	5-Benzoyl-4-hydroxy-2-methoxybenzenesulfonic acid	$C_{14}H_{12}O_6S$
Surgibone	Bone and cartilage obtained from bovine embryos and young calves.	
Testolactone	13-Hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17oic acid -lactone	$C_{19}H_{24}O_3$
Thiphenamil	*S*[2-(Diethylamino)ethyl] diphenylthioacetate	$C_{20}H_{25}NOS$
Thonzonium	Hexadecyl[2-[(*p*-methoxybenzyl)-2-pyrimidinylamino]ethyl] dimethylammonium ion.	$C_{32}H_{56}N_4O^+$
Triclocarban	3,4,4′-Trichlorocarbanilide	$C_{13}H_9Cl_3N_2O$
Trifluperidol	4′-Fluoro-4-[4-hydroxy-4-(α,α,α-trifluoro-*m*-tolyl)piperidino] butyrophenone.	$C_{22}H_{23}F_4NO_2$
Tyloxapol	*p*-(1,1,3,3-Tetramethylbutyl)phenol polymer with formaldehyde, ether with polyethylene glycol.	

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: January 12, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-1124 Filed 1-26-72;8:45 am]

Social Security Administration

[20 CFR Part 405]

[Reg. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED

Agreements, Elections, Contracts, Nominations, and Notices

Notice of termination of provider agreement by the Secretary or of rescission of approval of coverage of services of independent laboratory or supplier of portable X-ray services.

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 552 et seq.) that the amendments to the regulations set forth in tentative form below are proposed by the Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations would require that the notice of termination of a provider agreement, given to the provider and to the public, shall state the reasons for termination, and that similar disclosure shall be made with respect to diagnostic tests furnished by independent laboratories and suppliers of portable X-ray services.

Prior to the final adoption of the proposed amendments, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, DC 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 3193, 330 Independence Avenue SW., Washington, DC 20201.

The proposed regulations are to be issued under the authority contained in sections 1102, 1861, 1866, 1871, 49 Stat. 647, as amended, 79 Stat. 325, 79 Stat. 331, 42 U.S.C. 1302, 1395 et seq.

Dated: December 27, 1971.

ROBERT M. BALL,
Comimssioner of Social Security.

Approved: January 21, 1972.

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

Subpart F of Part 405 is amended as follows:

1. The title of Subpart F is amended to read as follows: "Agreements, Elections, Contracts, Nominations, and Notices."

2. Paragraph (b) of § 405.614 is revised to read as follows:

§ 405.614 Termination by Secretary.

* * * * *

(b) *Notice of termination.* The Secretary shall give notice of termination to the provider of services at least 15 days before the effective date of termination of the provider's agreement. In addition to giving notice to the provider, the Secretary shall also give notice of such termination to the public. Each notice of termination by the Secretary shall state the reasons for the termination of the provider agreement, the effective date of the termination, and the applicability of termination (see § 405.615), as it relates to the services of the provider.

* * * * *

3. New § 405.640 is added to read as follows:

§ 405.640 Public notice of determination by the Secretary rescinding approval of coverage of services of independent laboratory or supplier of portable X-ray services.

Whenever the Secretary shall send written notice in accordance with § 405.1503 to an independent laboratory or to a supplier of portable X-ray services stating that the independent laboratory or supplier of portable X-ray services no longer meets the conditions for coverage of some or all of its services, the Secretary shall also give notice of such determination to the physicians, hospitals, and other parties having an interest in knowing the terms of the determination, and the notice shall state the reasons for the determination that services are not covered under section 1861(s)(3) of the Act, and it shall specify the effective date on which coverage of services is rescinded and, in the case of an independent laboratory, the applicability of the determination to the various categories of diagnostic tests performed (see § 405.1314).

[FR Doc.72-1234 Filed 1-26-72;8:51 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-NW-01]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Moses Lake, Wash., 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 be submitted in triplicate to the Chief, Operations, Procedures and Airspace Branch, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

The additional transition area would provide controlled airspace for en route traffic and for transition to approach procedures.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (36 F.R. 2140), the description of the Moses Lake, Wash., transition area as amended (36 F.R. 3463 and

36 F.R. 4538) is further amended as follows:

MOSES LAKE, WASH.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Grant County Airport (latitude 47°-12'19" N., longitude 119°19'05" W.), within 3.5 miles west and 4 miles east of the Moses Lake ILS localizer south course extending from the 5-mile-radius area to 9.5 miles south of the Pelican RBN, within 7 miles southeast and 10 miles northwest of the Ephrata VORTAC 043° and 223° radials extending from 8 miles southwest to 19 miles northeast;

That airspace extending upward from 1,200 feet above the surface within 5 miles each side of the Ephrata VORTAC 043° radial extending from the VORTAC to the arc of a 21-mile-radius circle centered on the Ephrata VORTAC, within 5 miles southwest and 9.5 miles northeast of the Ephrata VORTAC 337° radial extending from the VORTAC to 19 miles northwest of the VORTAC, within 5 miles southwest and 6 miles northeast of Moses Lake VOR 144° radial extending from 26 miles southeast of the VOR to the northwest edge of V–112W, within 15 miles east and 10 miles west of the Moses Lake VOR 161° and 341° radials extending from 27 miles south to 14 miles north of the VOR, that airspace northeast of Moses Lake bounded on the northwest by a line 5 miles northwest of and parallel to the Ephrata VORTAC 066° radial, on the east by an arc of a 52-mile-radius circle centered on Fairchild Air Force Base, Spokane, Wash. (latitude 47°36'55" N., longitude 117°39'20" W.) on the southeast by a line 6 miles southeast of and parallel to the Moses Lake VOR 066° radial on the west by longitude 119°15'00" W., that airspace west of Moses Lake bounded on the north by latitude 47°30'00" N., on the east by longitude 119°15'00" W., on the south by a line 6 miles south of and parallel to the Moses Lake VOR 266° radial, on the west by an arc of a 39-mile-radius circle centered on the Grant County Airport;

That airspace extending upward from 3,500 feet MSL bounded on the northeast by a line 5 miles southwest of and parallel to the Moses Lake VOR 144° radial, on the southeast by the northwest edge of V–112 W, on the south by the north edge of V–298, on the west by longitude 119°15'00" W. and on the north by latitude 46°44'00" N.;

That airspace east of Moses Lake extending upward from 4,500 feet MSL bounded on the northwest by a line 6 miles southeast of and parallel to the Moses Lake VOR 066° radial, on the northeast by the 52-mile-radius arc of Fairchild AFB, on the southeast by the northeast edge of V–112W and on the west by a line 15 miles east of the Moses Lake VOR 161° radial;

That airspace southwest of Moses Lake extending upward from 5,500 feet MSL, bounded on the southeast by a line 10 miles southeast of and parallel to the Moses Lake VOR 238° radial extending from 10 miles to 52 miles southwest of the VOR on the west by a 52-mile-radius arc centered on the Moses Lake VOR, on the north by a line 4 miles south of and parallel to the Moses Lake VOR 266° radial.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Seattle, Wash., on January 18, 1972.

C. B. WALK, JR.,
Director.

[FR Doc.72–1165 Filed 1–26–72;8:46 am]

[14 CFR Part 75]

[Airspace Docket No. 71–GL–21]

AREA HIGH ROUTES

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would designate area high route J991R from Greater Southwest, Tex., to Minneapolis, Minn.

Amendments to Parts 71 and 75 of the Federal Aviation Regulations were published in the FEDERAL REGISTER (35 F.R. 10653) which established regulatory bases for the designation of specific area high and low routes.

Interested persons 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, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal 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 Central Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA proposes to amend Part 75 of the Federal Aviation Regulations by designating area high route J991R as follows:

J991 MINNEAPOLIS, MINN., TO GREATER SOUTHWEST, TEX.

Reference facility	Bearing/ distance	N. latitude/W. longitude
Minneapolis, Minn	000. 0/00. 0	45°08'45"/93°22'23"
Fort Dodge, Iowa	088. 0/25. 8	42°34'21"/93°42'55"
Lamoni, Iowa	177. 9/65. 8	39°30'13"/94°05'16"
Springfield, Mo	284. 1/79. 0	37°49'10"/94°53'04"
Oklahoma City, Okla	099. 4/84. 7	34°59'03"/96°08'31"
Greater Southwest, Tex	000. 0/00. 0	32°49'10"/97°02'28"

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on January 20, 1972.

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

[FR Doc.72–1166 Filed 1–26–72;8:46 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 43]

[Docket No. 19402; FCC 72–58]

CONVERSION OF FORM 901 TO COMPUTER FORMAT

Notice of Proposed Rule Making

In the matter of amendment of FCC Form 901, conversion of FCC Form 901 to computer format and related amendment of Part 43 of the Commission's rules, Docket No. 19402.

1. Notice is hereby given of proposed rule making in the above entitled matter.

2. As part of the Commission's plan to utilize an Automatic Data Processing (ADP) system to facilitate the compilation and publication of statistical information submitted by the carriers, the Commission is proposing in this rule making proceeding to amend its rules to require telephone carriers designated as Class A telephone companies which had operating revenues for the preceding year in excess of $1 million to file monthly reports of financial, operating, and statistical information on ADP media (punched cards) and to revise FCC Form 901 to provide instructions for reporting on ADP media. These instructions are set forth in Appendix A.[1] At present these carriers are filing manually prepared monthly reports FCC Form 901, Monthly Report of Revenues, Expenses, and Other Items—Telephone Companies. This rule making proceeding does not alter the present monthly reporting practices of the Communications Satellite Corp. It is believed that the adoption of an ADP system report format will provide for more efficient collection and dissemination of financial data and economic study results to both the Commission and the general public without imposing any new major information burden upon the carriers. In maintaining its public information responsibilities, the Commission's Staff will generate by computer a completed Form 901 (for each reporting carrier) which will be immediately available for public inspection.

3. It is proposed further that the data prescribed for submission on Form 901 by the carriers be expanded to include plant, depreciation reserve, revenue,

[1] Appendix A filed as part of the original document.

and expense data with respect to satellite earth stations. Presently, this information is being interlined on the manually prepared monthly report form by those subject telephone carriers which have interests in earth stations, as requested in the Commission's letter of December 27, 1967. In addition, it is proposed that the prescribed data include a breakdown of originating telephone toll messages between (1) interstate and overseas combined and (2) intrastate. Further, it is proposed that carriers who operate overseas telephone facilities shall indicate in a footnote on the ADP report format that portion of message toll revenue and telephone toll message traffic which is associated with overseas message telephone service. This separation of telephone toll revenue and messages would be beneficial to the Commission in discharging its regulatory responsibilities and would not create an additional hardship on the carriers because the information can be generated from data already maintained by them. It should be noted that no provision is being made on the manually prepared Form 901 for separately reporting of overseas telephone toll revenue and message data. It is further proposed that the requirement for Bell System operating companies to submit a footnote detailing local and toll service revenues derived from telegraph operations be deleted. This requirement, which originated in 1949, is no longer deemed necessary.

4. To facilitate the changeover, it is contemplated that parallel reporting on ADP media (punched cards) and on manually prepared report forms will be required for a reasonable period. In this regard, the adoption of the proposed ADP system, except for data being requested in a footnote by those carriers operating overseas facilities, has been informally discussed with representatives of the carriers involved, and it is felt an efficient workable computer oriented system can be put into effect with parallel reporting for the period not to exceed 12 months. During this period of parallel reporting, the carriers should utilize the revised Form 901 for reporting the manually prepared monthly data. It is proposed that the manually prepared report be discontinued after the conversion period.

5. In view of the foregoing, it is proposed to amend FCC Form 901 as set forth in Appendix B.[2] In this regard, it should be noted that provision is not being made in the instructions for reporting on ADP media (see Appendix A [1]) for the reporting on punched cards of subtotals and totals which can be generated internally from the information provided. However, subtotals and totals as presently provided for on the manually prepared Form 901 shall continue to be reported on the revised manually prepared Form 901.

6. No change is proposed in § 1.786 of Part 1 of the rules since we plan to continue to designate the report format as FCC Form 901, Monthly Report of Revenue, Expenses, and Other Items—Telephone Companies.

7. It is proposed to amend § 43.31 of Part 43 of the Commission's rules so as to provide for filing monthly reports of financial and operating data by telephone carriers on computer media (punched cards).

8. Since the proposed reporting format will require few, if any, additional records to be maintained, it is proposed that any amendment made as a result of this proceeding will be made effective for the reporting month beginning January 1, 1972.

9. The proposed amendment of Part 43 of the Commission's rules is set forth in Appendix C.

10. This notice of proposed rule making is issued under authority of sections 4(i), 201, 219, and 220 of the Communications Act of 1934, as amended.

11. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before March 3, 1972, and reply comments on or before March 14, 1972. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice. Comments in response to this notice will be available for inspection in the Commission's Broadcast and Dockets Reference Room.

12. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all statements or briefs shall be furnished to the Commission.

Adopted: January 19, 1972.

Released: January 24, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] BEN F. WAPLE,
Secretary.

APPENDIX C

In Part 43 of Chapter I of Title 47 of the Code of Federal Regulations, § 43.31 is revised to read as follows:

§ 43.31 Monthly reports of communication common carriers.

(a) Each Class A telephone common carrier which had operating revenues for the preceding year in excess of $1 million shall file with the Commission, within forty (40) days after the end of each calendar month, a report on computer media as prescribed by the Commission.

(b) Each other communication common carrier which had operating revenues for the preceding year in excess of $250,000 shall file with the Commission, within forty (40) days after the end of each calendar month, two certified copies of a report for that month on forms prescribed (or approved) by the Commission.

(c) A copy of each such report (in the case of telephone companies, a printout from the computer media) shall be retained in the principal office of the carrier and shall be filed in such manner as to be readily available for reference and inspection. The monthly reports shall contain all the information called for therein as prescribed by the Commission.

[FR Doc.72-1218 Filed 1-26-72;8:50 am]

[1] Appendix A filed as part of the original document.

[2] Appendix B filed as part of the original document.

[3] Commissioners Bartley and H. Rex Lee absent.

FEDERAL RESERVE SYSTEM

[12 CFR Part 225]

BANK HOLDING COMPANIES

Hearings Regarding Courier and Armored Car Services

On January 12, 1972, the Board of Governors announced postponement of a scheduled January 19 hearing to consider whether armored car and courier services are closely related to banking under the 1970 Amendments to the Bank Holding Company Act. The hearing has been rescheduled to commence at 10 a.m., Thursday, February 10, 1972, in Room 1202 of the Federal Reserve Building, Washington, D.C., before a hearing officer to be appointed by the Board.

In addition to rescheduling the hearing, the Board acted upon three motions by parties who have asked to appear at the hearing. Those motions and the Board's determinations with respect to them are as follows:

Separation of issues. On December 13, 1971, Wachovia Corp. and Wachovia Courier Corp. filed a "Motion to Provide Separate Consideration of Armored Car and Courier Services Proposed Amendment." The Board believes that separate consideration will facilitate a sharpening of the issues and avoid possible confusion that might otherwise result from a joint consideration. Accordingly, separate but consecutive hearings will be held. The subject of courier services will be considered beginning at 10 a.m. on February 10; the subject of armored car services will be considered following completion of the consideration of courier services.

Type of hearing. On December 14, 1971, the National Courier Association and the National Armored Car Association filed a petition for reconsideration by the Board of its denial of a request that these hearings be conducted under sections 556 and 557 of title 5, United States Code. (For the Board's order denying the original request, see 36 F.R. 23256). On January 11, 1972, the Independent Bankers Association of America also requested the Board to conduct the hearing under sections 556 and 557.

The Board is authorized by section 4(c)(8) of the Bank Holding Company Act to permit bank holding companies to engage in an activity that "the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling

banks as to be a proper incident thereto." In determining whether a particular activity is a proper incident to banking or managing or controlling banks, the Board is required to consider whether performance of the activity by an affiliate of a holding company can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

In the subject hearings, the Board proposes to determine whether courier services and/or armored car services are closely related to banking, and, if so, whether the usual procedures of § 225.4 (b) (1) and (2) of Regulation Y for entry by a holding company into activities on the list of activities specified in § 225.4(a) should apply to those services. The Board will not decide in these hearings whether any particular holding company may engage in courier or armored car services.

In the Board's judgment, the regulatory actions under consideration in the subject proceedings does not constitute an order subject to the judicial review provisions of section 9 of the Bank Holding Company Act. Further, the Holding Company Act does not require a formal hearing on the record with respect to such regulatory actions; and no considerations or arguments have been presented to the Board that, in the Board's judgment, warrant a formal hearing on the issues involved in the hearings, as a matter of Board discretion. Accordingly, the motions for formal hearings are denied.

Access to memoranda. The National Courier Association, the National Armored Car Association, and the Independent Bankers Association have also requested access to intra-agency memoranda considered by the Board in deciding to announce its proposed rulemaking regarding courier and armored car services.

Section 552 of title 5 specifically exempts from public inspection "interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency". The Board believes that the staff memoranda involved would not be available to the Associations in the event of litigation. Moreover, the Board's knowledge and experience in economics, the payments mechanism, banking, and supervision of banks are reflected in the Board's proposal but are not reflected in said staff memoranda, so that such memoranda cannot be considered to be the basis for the Board's announced proposal for rulemaking.

In these circumstances, the Board believes that there is no legal requirement compelling production and that petitioners' access to the staff memoranda would not contribute to their knowledge of relevant facts or to their understanding of the Board's rationale in this matter. Accordingly, the requests for access to them are denied.

Other matters. Although the hearing will not be conducted under sections 556 and 557 of title 5, it will be a more formal type proceeding than if conducted as previously announced before available members of the Board. The hearing officer will have legal training and skills. He will be qualified to establish orderly procedures; limit presentations in an appropriate manner; exclude irrelevant, immaterial, repetitious, or cumulative material; distinguish between fact and opinion evidence; and accord appropriate weight to material presented.

Accordingly, the Board has authorized the hearing officer to resolve all matters relating to the number and identity of participants, time accorded to participants, the receipt of evidence, expert opinion, rebuttal, written and oral arguments and other presentations, and the desirability and use of a prehearing conference.

The hearing officer will make recommendations to the Board, with supporting findings and reasons, on the basis of the subject hearings and material filed in the proceedings. However, the Board will make the final determinations whether, and for what reasons, to adopt its proposal or any modification thereof.

By order of the Board of Governors, January 12, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-1185 Filed 1-26-72;8:47 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1048]

[MC-C-3 (Sub-No. 3)]

CHICAGO, ILL. COMMERCIAL ZONE

Proposed Redefinition of the Limits

JANUARY 21, 1972.

Petitioner: Cooper-Jarrett, Inc.; Petitioner's representative: Edwood J. Buckley, Vice President, Economic Development, Cooper-Jarrett, Inc., 23 South Essex Avenue, Orange, NJ.

By petition filed December 20, 1971, the above-named petitioner requests the Commission to reopen the above-proceeding for the purpose of redefining a portion of the limits of the Chicago, Ill., commercial zone to include the petitioner's Burr Ridge, Ill., terminal facility. Petitioner recently relocated its terminal from a point within the Chicago commercial zone to Burr Ridge. Petitioner requests that a portion of the western boundary of the present zone be redescribed as follows: From the intersection of County Line Road and International Road; thence westerly along International Road to Frontage Road; thence in a southerly direction along Frontage Road to and including the terminal property of Cooper-Jarrett, Inc., located on Frontage Road (approximately one-half mile west of County Line Road); thence return along Frontage Road to the intersection of International Road; thence to County Line Road.

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 Chicago, Ill., 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 February 23, 1972. A copy of each representation should be served upon petitioner's representative. Petitioner is directed to submit a map in sufficient detail to show the present western limits of the zone, the corporate limits of Willow Springs, Ill., and the location of petitioner's Burr Ridge facilities. Written material or suggestions submitted will be available for public inspection at the Offices of The Interstate Commerce Commission, 12th and Constitution, Washington, DC, 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.72-1153 Filed 1-26-72;8:46 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 510]

[Docket No. 72-4]

LICENSING OF INDEPENDENT OCEAN FREIGHT FORWARDERS

Enlargement of Time To File Comments Regarding General Requirements

JANUARY 20, 1972.

Upon the request of various freight forwarder associations, and good cause appearing, time within which interested persons may submit views and comments in response to the notice of proposed rule making this proceeding (37 F.R. 678; January 15, 1972) is enlarged to and including February 25, 1972. The Bureau of Hearing Counsel shall file reply to comments on or before March 6, 1972. Answers to Hearing Counsel's replies shall be submitted on or before March 13, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-1232 Filed 1-26-72;8:51 am]

Notices

DEPARTMENT OF THE TREASURY

Customs Bureau

[T.D. 72-31; Customs Delegation Order 43]

REGIONAL COMMISSIONERS OF CUSTOMS

Delegation of Authority To Settle Certain Claims Arising Under the Federal Tort Claims Act

By virtue of the authority vested in me by Treasury Department Order No. 145, Revision 3 (32 F.R. 3066), I hereby delegate to the regional commissioners of Customs the authority to consider, ascertain, adjust, determine, settle and pay claims not in excess of $250 arising under 28 U.S.C. 2672 by reason of the negligent or wrongful act or omission of any employee of the Bureau of Customs.

I also delegate to the regional commissioners of Customs the authority to consider, ascertain, adjust, determine, settle and pay claims not in excess of $500 arising under 28 U.S.C. 2672 for loss to property caused by the negligent or wrongful act or omission of any employee of the Bureau of Customs in the operation of a motor vehicle owned or leased by the Bureau of Customs.

This order supersedes Customs Delegation Order No. 25, dated July 29, 1966 (T.D. 66-158, 31 F.R. 10540).

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[FR Doc.72-1240 Filed 1-26-72;8:52 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

FALLON PAIUTE-SHOSHONE INDIAN RESERVATION, NEV.

Ordinance Legalizing the Introduction, Sales, or Possession of Intoxicants

JANUARY 20, 1972.

In accordance with authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2, and in accordance with the Act of August 15, 1953, Public Law 277, 83d Congress, First Session (67 Stat. 586), I certify that the following ordinance relating to the application of the Federal Indian Liquor Laws on the Fallon Paiute-Shoshone Indian Reservation, Nev., was adopted on November 9, 1971, by the Fallon Business Council, which has jurisdiction over the area of Indian Country included in the ordinance, reading as follows:

An Ordinance, pursuant to section 1161, title 18, United States Code, regulating the sale and possession of intoxicating beverages on and within the Fallon Paiute-Shoshone Reservation and Colony, Nev.

Be it enacted by the Tribal Council of the Fallon Reservation and Colony, Nev., that the sale, introduction, and possession of intoxicating beverages shall be lawful within the exterior boundaries of the Fallon Reservation and Colony: *Provided*, That such introduction, sale, and possession is in conformity with the laws of the State of Nevada, and in accordance with the following:

SECTION 1. (a) It shall be unlawful for any person to sell alcoholic beverages on and within the Fallon Reservation and Colony, Nev., without first obtaining a valid State and County License as required by law or County Ordinance, and as a valid license issued by the Fallon Reservation-Colony Tribal Council.

(b) Such license will authorize the holder thereof to sell alcoholic beverages at retail in packages, or buy the drink for consumption on the premises.

(c) Such license shall set forth the location and description of the building and premises where such sales may be made and for which said license is issued.

(d) Such license shall be displayed in a conspicuous place within the building or room where such alcoholic beverages are sold.

(e) Such license shall not be issued until a valid State or County license is obtained and will then be issued for a period of time concurrent with the State or County license. The license fee will be paid in advance and fees shall be set at the discretion of the Tribe through appropriate resolutions.

SEC. 2. (a) No person shall sell, deliver, or give away an alcoholic beverage to any person actually or apparently under the influence of alcoholic beverages.

(b) No person shall sell, give away, or otherwise furnish any alcoholic beverages to any person under the age of twenty-one (21) years, or leave or deposit any such alcoholic beverages in any place with the intent that same shall be procured by any person under the age of twenty-one (21) years.

Penalty: Any Indian who violates any of the provisions of this ordinance shall be deemed guilty of an offense and upon conviction thereof shall be punished by a fine of not more than $300, or by sentence to imprisonment for not more than 150 days, or both such fine and imprisonment, and/or suspension or revocation of his or her license. When any provision of this ordinance is violated by a non-Indian, he or she shall be referred to the State and/or Federal authorities for prosecution under applicable law, and his or her license may be suspended or revoked.

LOUIS R. BRUCE,
Commissioner of Indian Affairs.

[FR Doc.72-1176 Filed 1-26-72;8:47 am]

WIND RIVER INDIAN RESERVATION, WYO.

Ordinance Legalizing the Introduction, Sale, or Possession of Intoxicants

JANUARY 20, 1972.

In accordance with authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2, and in accordance with the Act of August 15, 1953, Public Law 277, 83d Congress, first session (67 Stat. 586), I certify that the following ordinance relating to the application of the Federal Indian Liquor Laws on the Wind River Indian Reservation, Wyo., was adopted on February 13, 1971, and February 26, 1971, by the Shoshone and Arapahoe Tribes, which have jurisdiction over the area of Indian Country included in the ordinance, reading as follows:

Whereas, the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161, making the Federal Indian liquor laws inapplicable to: Any act or transaction within any area of Indian Country provided such act or transaction is in conformity both with the laws of the State in which such act or transaction occurs and with an ordinance duly adopted by the tribe having jurisdiction over such area of Indian Country, certified by the Secretary of the Interior, and published in the FEDERAL REGISTER, and;

Whereas, on November 3, 1953, the Shoshone and Arapahoe Tribes of the Wind River Reservation, Wyo. (hereafter the Tribes) adopted Ordinance No. 398 providing: That the introduction, sale, or possession of intoxicating beverages shall be lawful within the Indian Country under the jurisdiction of the Shoshone and Arapahoe Tribes: *Provided*, That such introduction, sale, or possession is in conformity with the laws of Wyoming.

Now therefore, be it enacted and ordained: That the introduction, possession, transportation, and sale of intoxicating beverages shall be lawful within the Indian Country under the jurisdiction of the Tribes, provided:

SECTION 1. *Conformity with Laws of Wyoming and this Ordinance.* That such introduction, possession, transportation, and sale are in conformity both with the laws of the State of Wyoming and with this Ordinance.

SEC. 2. *Corporate and tribal entity.* The Joint Business Council may form a corporation, or a subordinate tribal entity, or a tribal enterprise, to operate off-sale or packaged sale of intoxicating beverages, under such license or licenses as may be required by law.

SEC. 3. *Tribal license required.* No person shall engage in the sale of intoxicating beverages within the Indian Country under the jurisdiction of the Tribes unless duly licensed by the Tribes and, in the case of non-Indians, by the

Tribes and the State of Wyoming, except that this Ordinance shall not apply to any licensee under the laws of the State of Wyoming on the effective date of this Ordinance, until the expiration of the annual term of any such license: *Provided*, That the Tribes, in the discretion of the Joint Business Council, may require individual Indians to obtain licenses from the State.

SEC. 4. *Application for tribal liquor license; requirements.* No tribal license shall be issued under this Ordinance except upon a sworn application filed with the Joint Business Council containing a full and complete showing of the following:

a. If the applicant is a non-Indian, satisfactory proof that the applicant is or will be duly licensed by the State of Wyoming.

b. If the applicant is an Indian, and the Joint Business Council determines that a State license should be obtained, satisfactory proof that the applicant is or will be duly licensed by the State of Wyoming, or that such license has been withheld or denied for reasons in excess of the powers vested in the State licensing authorities, or for arbitrary or capricious reasons.

c. Satisfactory proof that the applicant is of good character and reputation among the people of the Wind River Reservation, with particular reference to the Indian people, and that he is financially responsible.

d. The description of the premises in which the intoxicating beverages are to be sold, proof that the applicant is the owner of such premises, or lessee of such premises, for at least the term of the license, and a complete detailed, itemized inventory of all intoxicating beverages on and in the premises where the intoxicating beverages are to be sold.

e. Agreement by the applicant to accept and abide by the conditions of the tribal license.

f. Payment of a fee of not less than $300 or more than $1,500 per annum.

g. Satisfactory proof that the applicant is not an officer or member of the Joint Business Council, is not an employee of either of the Tribes, and has never been convicted of a felony.

SEC. 5. *Conditions of the Tribal license.* Any tribal license issued under this Ordinance shall be subject to the following conditions:

a. The license shall be for a term of 1 year, and shall expire as of even date with any license issued under the laws of Wyoming.

b. The licensee shall at all times maintain an orderly, clean, and neat establishment, both inside and outside the licensed premises.

c. The licensed premises shall be subject to patrol by the Wind River Reservation police force, for the purpose of enforcing tribal law, and by State and county law officers for the purpose of enforcing State law against non-Indians, and the licensee shall cooperate with such police and law officers.

d. The licensed premises shall be open to inspection by any member of the Shoshone and Arapahoe Joint Business Council, or the duly authorized representative of the Council, at all times during the regular business hours.

e. No intoxicating beverages shall be sold, served, disposed of, delivered, or given to any person, or consumed on the licensed premises except between the hours of 8 a.m., and 1 a.m., Monday through Friday, and 8 a.m. to 12 midnight on Saturday, and 1 p.m. to 8 p.m. on Sunday.

f. The premises covered by the tribal liquor license be closed on tribal election days, or when a referendum is held of the people of either or both the Shoshone Tribe or the Arapahoe Tribe and including special days of observance as designated by the Business Councils.

g. All acts and transactions under authority of the tribal liquor license shall be in conformity with the laws of the State of Wyoming, and shall be in accordance with this Ordinance and any tribal license issued pursuant to this Ordinance.

h. No person under the age of 21 shall be admitted into the licensed establishment.

i. There shall be no discrimination in the operations under the tribal license by reason of race, color, or creed.

SEC. 6. *Cancellation and suspension.* Any license issued hereunder may be suspended or canceled by the Joint Business Council for the breach of any of the provisions of this Ordinance, or of the conditions of the tribal license, upon hearing before the Joint Business Council after 10 days' notice to the licensee.

SEC. 7. *Prior tribal laws repealed.* Ordinance No. 398, adopted November 3, 1953, by the Joint Business Council, is hereby repealed.

SEC. 8. *Effective date.* This Ordinance shall be effective upon publication in the FEDERAL REGISTER (1-27-72).

LOUIS R. BRUCE,
Commissioner of Indian Affairs.

[FR Doc.72-1184 Filed 1-26-72;8:47 am]

Office of Hearings and Appeals

[Docket No. M71-20]

IMPERIAL COAL CO.

Notice Regarding Modification of Interim Mandatory Safety Standard

In regard petition of the Imperial Coal Co. for modification of interim mandatory safety standard (section 303(b)).

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. section 861(c) (1970)), notice is given that the Imperial Coal Co. has filed an amendment to a petition to modify the application of section 303(b) of the Act, 30 U.S.C. section 863(b) (1970), as it applies to its Imperial Mine. Notice of the petition was published in the FEDERAL REGISTER on June 8, 1971, 36 F.R. 11048.

Section 303(b) provides in pertinent part as follows:

> All active workings shall be ventilated by a current of air containing not less than 19.5 volume per centum of oxygen, not more than 0.5 volume per centum of carbon dioxide, and no harmful quantities of other noxious or poisonous gases; and the volume and velocity of the current of air shall be sufficient to dilute, render harmless, and to carry away, flammable, explosive, noxious, and harmful gases, and dust, and smoke and explosive fumes. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms shall be 9,000 cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line shall be 9,000 cubic feet a minute. The minimum quantity of air in any coal mine reaching each working face shall be 3,000 cubic feet a minute * * *

The petitioner originally proposed to modify the application of section 303(b) by reducing the minimum quantity of air in its mine which reaches each working face at which coal is currently being extracted. By the amendment, the petitioner proposes to further modify the application of section 303(b) by reducing the minimum quantity of air in its mine reaching the last open crosscut in any pair or set of rooms to 6,000 cubic feet a minute, and by reducing the minimum quantity of air in its mine reaching the intake end of a pillar line to 6,000 cubic feet a minute. Petitioner states that "any amount of air in excess of 6,000 feet a minute imposes a great hazard to the miners during the cold winter months in that it greatly reduces the temperature by causing them to contract colds and pneumonia." Petitioner further states that "an additional hazard is created from the excess amount of air above 6,000 feet per minute in that it causes spontaneous combustion."

Parties interested in the petition as amended should file their answers or comments and, if they wish a hearing, their request for one, within 30 days from the date of publication of this notice in the FEDERAL REGISTER with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 6432 Federal Building, Salt Lake City, Utah 84111. Copies of the petition and the amendment to the petition, are available for inspection at that address.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

JANUARY 19, 1972.

[FR Doc.72-1213 Filed 1-26-72;8:50 am]

[Docket No. M 71-23]

IMPERIAL COAL CO.

Notice of Petition Regarding Modification of Interim Mandatory Safety Standard

In regard petition of the Imperial Coal Co. for modification of interim mandatory safety standard (section 303(b)).

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. section 816(c) (1970)), notice is given that the Imperial Coal Co. has filed an amendment to a petition to modify the application of section 303(b) of the Act, 30 U.S.C. section 863(b) (1970), as it applies to its Eagle Mine. Notice of the

petition was published in the FEDERAL REGISTER on June 8, 1971, 36 F.R. 11048.

Section 303(b) provides in pertinent part as follows:

All active workings shall be ventilated by a current of air containing not less than 19.5 volume per centum of oxygen, not more than 0.5 volume per centum of carbon dioxide, and no harmful quantities of other noxious or poisonous gases; and the volume and velocity of the current of air shall be sufficient to dilute, render harmless, and to carry away, flammable, explosive, noxious, and harmful gases, and dust, and smoke and explosive fumes. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms shall be 9,000 cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line shall be 9,000 cubic feet a minute. The minimum quantity of air in any coal mine reaching each working face shall be 3,000 cubic feet a minute * * *

The petitioner originally proposed to modify the application of section 303(b) by reducing the minimum quantity of air in its mine which reaches each working face at which coal is currently being extracted. By the amendment, the petitioner proposes to further modify the application of section 303(b) by reducing the minimum quantity of air in its mine reaching the last open crosscut in any pair or set of rooms to 6,000 cubic feet a minute, and by reducing the minimum quantity of air in its mine reaching the intake end of a pillar line to 6,000 cubic feet a minute. Petitioner states that "any amount of air in excess of 6,000 feet a minute imposes a great hazard to the miners during the cold winter months in that it greatly reduces the temperature by causing them to contract colds and pneumonia." Petitioner further states that "an additional hazard is created from the excess amount of air above 6,000 feet per minute in that it causes spontaneous combustion."

Parties interested in the petition as amended should file their answers or comments and, if they wish a hearing, their request for one, within 30 days from the date of publication of this notice in the FEDERAL REGISTER with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 6432 Federal Building, Salt Lake City, Utah 84111. Copies of the petition, and the amendment to the petition, are available for inspection at that address.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

JANUARY 19, 1972.

[FR Doc.72-1214 Filed 1-26-72;8:50 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-277]

AMERICAN STEAMSHIP CO.

Notice of Application

Notice is hereby given that American Steamship Co. has filed an application requesting an operating-differential subsidy contract for a 2-year period covering approximately 10 U.S. flag ships, but aggregating for each year of the contract not more than 1 ship year (about 260 days) of subsidized operating time in the carriage of dry bulk cargoes in U.S. foreign commerce between United States and Canadian ports on the Great Lakes and St. Lawrence River. The purpose of such an operating-differential subsidy contract will be to determine the feasibility of subsidized U.S. flag operations in the following described trades:

No.	*Origin/Destination*
1.	U.S. Lake Erie ports to Canadian ports on Lake Erie, Detroit River, St. Clair River, and St. Mary's River.
2.	U.S. ports on Lake Superior, Lake Michigan, and Lake Erie to Canadian ports on Lake Ontario and St. Lawrence River.
3.	U.S. ports on Lake Huron to Canadian ports on Detroit River and Lake Ontario.
4.	Canadian ports on St. Lawrence River to U.S. ports on Lake Erie and Lake Michigan.
5.	U.S. ports on Lake Erie and Lake Michigan to Canadian ports on St. Lawrence River.
6.	Canadian ports on Lake Superior to U.S. ports on Lake Erie.

American Steamship Co. proposes to use vessels it owns or charters including those of its subsidiaries in the above trades. The combined part-time employment of these vessels in subsidized operations will not exceed the equivalent in time of 1 ship year in the foreign commerce of the United States.

Any party having an interest in such application and who would contest a finding of the Board that the service now provided by vessels of U.S. registry in the carriage of dry bulk cargo tonnage moving in the foreign commerce of the United States on the Great Lakes and St. Lawrence River is inadequate, must, on or before February 7, 1972, notify the Secretary in writing of his interest and of his position and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Merchant Marine Act, 1936, as amended, and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing.

In the event that a section 605(c) hearing is ordered to be held, the purpose of such hearing will be to receive evidence relevant to whether the service already provided by vessels of U.S. registry for the transportation of dry bulk cargo tonnage on the Great Lakes and St. Lawrence River in the foreign commerce of the United States is inadequate and whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

Dated: January 25, 1972.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.72-1282 Filed 1-26-72;8:52 am]

[Docket No. S-278]

AMERICAN STEAMSHIP CO.

Notice of Application

Notice is hereby given that American Steamship Co. has filed an application dated January 13, 1972, under the Merchant Marine Act of 1936, as amended, for operating-differential subsidy for a 2-year period on a vessel or vessels to be employed in U.S. foreign trade. Inasmuch as American Steamship Co., its subsidiaries or affiliates, own and/or operate U.S.-flag bulk cargo vessels which are employed in the domestic Great Lakes service, written permission of the Maritime Administration under section 805 (a) of the Merchant Marine Act, 1936, as amended, will be required for American Steamship Co. if its application for operating-differential subsidy is granted.

American Steamship Co. advises that it or its subsidiary or affiliated companies own or operate a total of 21 U.S.-flag vessels. American Steamship Co., accordingly, requests permission in its operating-differential subsidy contract for the transportation of bulk cargoes within the area of the Great Lakes with free interchange of the vessels in that domestic trade.

As information the following U.S.-flag bulk cargo vessels are owned, managed, or operated by American Steamship Co., its subsidiaries or affiliates:

Adam E. Cornelius, Jr.
John J. Boland.
Detroit Edison.
H. Lee White.
John T. Hutchinson.
Consumers Power.
Diamond Alkali.
Joseph S. Young.
J. F. Schoellkopf, Jr.
Fred A. Manske.
Harris N. Snyder.
United States Gypsum.
Ben W. Calvin.
Richard J. Reiss.
Charles C. West.
John A. Kling.
Jack Wirt.
Peter Reiss.
Nicolet.
Hennepin.
McKee Sons.

Interested parties may inspect this application in the Office of Subsidy Administration, Maritime Administration, Room No. 4888, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on

February 7, 1972, file same with the Maritime Subsidy Board/Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board/Maritime Adminstration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 a.m. on February 8, 1972, in Room 4892, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

Dated: January 25, 1972.

By order of the Maritime Subsidy Board/Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 72-1283 Filed 1-26-72;8:52 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

COLLOIDAL PRODUCTS CORP.

Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulation (21 CFR 121.52), Colloidal Products Corp., Post Office Box 621, Petaluma, Calif. 94952, has withdrawn its petition (FAP 1H2680), notice of which was published in the FEDERAL REGISTER of May 29, 1971 (36 F.R. 9889), proposing that § 121.1225 *Adjuvants for pesticide use dilutions* (21 CFR 121.1225) be amended to provide for the safe use of 2-methylbutanol-4 *omega* hydroxypoly (oxyethylene) mixture of dihydrogen and monohydrogen phosphate esters (the poly (oxyethylene) content averaging 4 moles) to be used as an adjuvant for pesticide use dilutions by a grower or applicator prior to application to the growing crop.

Dated: January 19, 1972.

VIRGIL O. WODICKA,
Director,
Bureau of Foods.

[FR Doc.72-1208 Filed 1-26-72;8:49 am]

DOW CHEMICAL CO.

Notice of Withdrawal of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug and Cosmetic Act (sec. 409 (b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), The Dow Chemical Co., 2020 Abbott Road Center, Midland, Mich. 48640, has withdrawn its petition (FAP 0A2505), notice of which was published in the FEDERAL REGISTER of February 13, 1970 (35 F.R. 3000), proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of hydroxypropyl sodium carboxymethylcellulose as a foam stabilizer in beer.

Dated: January 19, 1972.

VIRGIL O. WODICKA,
Director,
Bureau of Foods.

[FR Doc.72-1209 Filed 1-26-72;8:49 am]

Office of Child Development

TERMINATION OF HEAD START GRANT TO OPPORTUNITIES FOR CORTLAND COUNTY, INC.

Notice of Hearing

Notice of Hearing is hereby given as set forth in the following letter which has been sent to Opportunities for Cortland County, Inc.

Mr. GEORGE F. YAGER, Chairman,
Board of Directors,
Opportunities for Cortland County, Inc.,
Clinton Avenue Extension,
Cortland, N.Y. 13045.

JANUARY 20, 1972.

DEAR MR. YAGER: In accordance with your request for a hearing on the termination of assistance under the Head Start program to your agency, I have set February 8, 1972, at 9:30 a.m., at Room 2805, Federal Office Building, 26 Federal Plaza, New York, NY, as the time and place for a hearing. This hearing is held under the authority in section 604(3) of the Economic Opportunity Act of 1964 (81 Stat. 715, section 108(d); 42 USC 2944(3)). Attached is a copy of my order designating the Honorable Arthur E. Flynn to preside over this hearing.

The hearing will be conducted in accordance with the procedures set forth in 45 CFR Part 1067, with such changes as are necessary to take into account the fact that the Department of Health, Education, and Welfare rather than the Office of Economic Opportunity, is conducting the Head Start program. For purposes of this hearing, the Director, Office of Child Development, U.S. Department of Health, Education, and Welfare, is the "responsible official" referred to in the regulations, and the procedure is hereby modified so that there is no review, such as the one in § 1067.1-8(e), subsequent to the review by the responsible official.

The reason for the termination of assistance is the failure of the Board of Directors of Opportunities for Cortland County, Inc. to obtain the concurrence of the Head Start Policy Council for the discharge, on or about October 7, 1971, of the Director of Head Start for Cortland County. Discharge of a project director without the concurrence of the Head Start Policy Council is a violation of the requirement concerning the hiring and firing of director and staff as set forth in Instruction I-30, section B-2, "The Parents," of the Head Start Policy Manual.

Sincerely yours,

EDWARD ZIGLER,
Director,
Office of Child Development.

Interested persons or organizations may be permitted to participate in the hearing as parties if, in the discretion of the presiding officer, the participation of such persons or organizations is necessary to a proper determination of the issues involved. Any person or group requesting to participate shall file an application with the Office of Child Development Hearing Clerk, Room 500 W, 400 Sixth Street SW., Washington, DC 20201, as soon as possible, but not later than February 3, 1972. The application shall state the applicant's interest in the proceeding, the evidence or arguments the applicant intends to contribute, and the necessity for the introduction of such evidence or arguments. The hearing clerk shall forward all such applications to the presiding officer.

Dated: January 20, 1972.

EDWARD ZIGLER,
Director,
Office of Child Development.

[FR Doc.72-1198 Filed 1-26-72;8:49 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-72-143]

ACTING ASSISTANT SECRETARY FOR ADMINISTRATION

Designation

Vincent J. Hearing, Deputy Assistant Secretary for Administration, is designated to serve as Acting Assistant Secretary for Administration with all the powers, functions, and duties delegated or assigned to the Assistant Secretary for Administration.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Effective date. This designation shall be effective January 17, 1972.

GEORGE ROMNEY,
Secretary of Housing
and Urban Development.

[FR Doc.72-1207 Filed 1-26-72;8:49 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIR CARRIER DISTRICT OFFICE 33 AT LOGAN AIRPORT, BOSTON, MASS.

Notice of Transfer of Jurisdiction

Notice is hereby given that on or about February 1, 1972, the Air Carrier District Office at Boston, Mass., will be reassigned from the jurisdiction of the FAA Eastern Region to the FAA New England Region. No changes in geographic location, services to the aviation public or staffing are anticipated as a result of this action. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Burlington, Mass., on January 17, 1972.

FERRIS J. HOWLAND,
Director, New England Region.

[FR Doc.72-1164 Filed 1-26-72;8:46 am]

[OE Docket No. 71-SO-3]

WSUN, INC.

Notice of Petition for and Grant of Review

On November 9, 1971, the Federal Aviation Administration, Southern Region issued a Determination of No Hazard to Air Navigation under Aeronautical Study No. 71-SO-798-OE. The determination concerns a proposal by WSUN, Inc., St. Petersburg, Fla., to erect a television antenna tower near Parrish, Fla., at latitude 27°33'37" North, longitude 82°21'-54" West. The overall height of the structure would be 1,500 feet above ground level and 1,525 feet above mean sea level.

The Administrator was petitioned for a review of the determination by the Air Line Pilots Association, the city of Lakeland, Fla., and the Department of Transportation of the State of Florida. The petitions cite the following as grounds for a review:

1. The proposed tower would compromise operations at the proposed regional airport.

2. The proposed tower would interfere with Visual Flight Rules traffic operating between Lakeland and Sarasota.

3. The increase in procedure turn altitude for VOR RWY 22 approach procedure, Sarasota-Bradenton Airport, would adversely affect use of the procedure.

4. The increased minimum flight altitude would compromise the flexibility of air traffic control.

5. The proposed tower should be located with other towers of the same height in the Riverview area.

6. The FAA can and should recommend additional lighting for a tower of the height proposed.

A review will be conducted. The review will be on the basis of written materials pursuant to FAR, § 77.37(c)(1). Interested persons may within 30 days of the date of issuance of this notice submit information relevant to the question of whether the proposed construction would have an adverse effect on the safe and efficient use of airspace. Sufficient detail must be provided to establish a clear understanding of the reasons for any claims made. Submissions should be in triplicate and sent to the Chief, Airspace Obstruction and Airports Branch, AT-240, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

Pending final disposition of the petition, the Determination of No Hazard to Air Navigation issued by the Southern Region under Aeronautical Study No. 71-SO-798-OE is not and will not be final.

Issued in Washington, D.C., on January 18, 1972.

ROBERT W. MARTIN,
Acting Director,
Air Traffic Service.

[FR Doc.72-1168 Filed 1-26-72;8:46 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-265]

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS AND ELECTRIC CO.

Order Extending Provisional Construction Permit Completion Date

By application dated January 5, 1972, Commonwealth Edison Co., acting for itself and on behalf of Iowa-Illinois Gas and Electric Co., requested an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-24 as extended by order, dated April 12, 1971. The permit authorizes Commonwealth Edison Co. to construct a single cycle, forced circulation, boiling water nuclear reactor, known as Quad-Cities Unit No. 2, at the Quad-Cities Station in Rock Island County, Ill. about 3 miles north of Cordova, Ill.

Good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the Commission's regulations: *It is hereby ordered,* That the latest completion date specified in Provisional Construction Permit No. CPPR-24 is extended from January 1, 1972 to January 1, 1973.

Dated at Bethesda, Md., this 21st day of January 1972.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.72-1211 Filed 1-26-72;8:50 am]

CIVIL AERONAUTICS BOARD

[Docket No. 21994; Order 72-1-79]

CONTINENTAL AIR LINES, INC.

Order To Show Cause Regarding Trust Territory Service Mail Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of January 1972.

By Order 69-10-40, October 9, 1969, the Board established fair and reasonable service mail rates of $1.07 per ton-mile for the period May 16, 1968, through December 31, 1968, and $1 per ton-mile for the period on and after January 1, 1969, to be paid Continental Air Lines, Inc. (Continental), for the transportation of mail by aircraft between points in the trust territory and between Honolulu, Johnston Island, the Trust Territory, Guam, and Okinawa. Order 69-10-40 was amended by Order 70-3-14, March 3, 1970, to make the $1 per ton-mile rate applicable to service between the trust territory and Nauru for the period on and after December 5, 1969. Subsequently, the Department of Defense (DOD) advised the Postal Service that military mail formerly carried by other means between Honolulu, Johnston Island, and Kwajalein (located in the trust territory) would be available for tender to Continental flights. Informal exploration by the parties of the cost consequences of the addition of this substantial volume of mail to Continental's trust territory service did not lead to the resolution of the problem.

The Postmaster General (PMG) filed a petition on March 10, 1970, requesting the Board to establish substantially reduced service mail rates for Continental for the transportation of military ordinary mail and priority airmail between points in the trust territory and between such points and certain Pacific points outside the territory. Continental filed an answer on March 19, 1970, stating that it could not agree to the rates proposed by the PMG, and that the current $1 rate is a fair and reasonable rate for the carriage of mail in its trust territory service. On March 24, 1970, the Department of Defense (DOD) petitioned the Board for permission to intervene. Upon consideration of the facts and reasons why DOD thinks it should be permitted to intervene, including the specific references in the petition to the factors set forth in paragraph (b) of Rule 15 of the Board's rules of practice, we have decided to grant DOD leave to intervene in this preceeding.

On June 17, 1971, the PMG filed a petition requesting the Board to establish the rates set forth in the petition as the fair and reasonable final mail rates for Continental's trust territory service. The petition indicates that agreement to the proposed rates was reached by the Postal Service and Continental after protracted discussions and extensive analyses of cost and traffic data. Continental filed an answer in support of the PMG's petition on

June 24, 1971. Both petition and answer state that the rates[1] and yields agreed to by Continental and the PMG were arrived at after arm's length bargaining and will provide fair and reasonable compensation for the services involved.

As shown in the appendix,[2] on the basis of standards mileages, a rate of 71 cents per ton-mile for airmail, when conjoined with the existing 21.84 cents military ordinary mail (MOM) and 11.40 cents space-available military mail (SAM) rates,[3] is adequate to cover Continental's estimated cost of 52.71 cents per ton-mile for transporting U.S. mail over its trust territory routes for calendar year 1970.

In view of the recently filed petition of the PMG in Docket 19973, which seeks the establishment of nonstop great circle miles as the basis for computing compensation for Continental's services between Honolulu, Guam, and Okinawa, the parties deemed it appropriate to base the rates proposed herein on nonstop great circle miles for the period on and after January 26, 1971. Thus, the aforementioned rates would, after adjustment for circuitry, become 82.75 cents for airmail, 22.28 cents for MOM, and 12.31 cents for SAM, when Midway is served as the intermediate point on the Honolulu-Kwajalein segment. The airmail rate would be 75.63 cents per ton-mile when Johnston Island is used as the intermediate point on that segment. The petition points out that, since the SAM rate is already applicable to Continental's service, it is necessary to establish only airmail and MOM rates for the period prior to January 26, 1971. Beginning January 26, 1971, it is necessary to establish a new SAM rate because of the change from standard mileages to nonstop great circle mileages.

Based on adjusted cost and traffic data submitted by Continental (see appendix), the total cost of air transportation of U.S. mail over the carrier's trust territory routes is estimated to be $379,000 for the year ended December 31, 1970, an amount equal to the total mail revenues received from the rates proposed herein for airmail, MOM mail and SAM mail. While the Board recognizes that a certain amount of judgment has been exercised in arriving at the cost and revenue estimates underlying the proposed rates, as we have previously noted, costing the mail does not lend itself to mathematical precision. In addition, the proposed rates are the product of arm's length bargaining between Continental and the Postal Service and are acceptable to the parties. Finally, it is our judgment that the rates are well within the zone of reasonableness on the basis of all the considerations involved.[4]

Under the foregoing circumstances, the Board has determined to grant the PMG's petition, subject to adjustment of the airmail rates proposed therein, as explained in footnote 1 on page 2 of this order. Therefore, the Board tentatively finds and concludes that:

(1) The fair and reasonable rates of compensation to be paid Continental Air Lines, Inc., for the transportation of mail by aircraft between points within the trust territory, between Honolulu, Guam, and Okinawa, on the one hand, and Johnston Island and points within the trust territory, on the other hand, between Honolulu, Guam, and Okinawa, on the one hand, and Midway Island and points within the trust territory, on the other hand, and between Nauru and Majuro, trust territory, the facilities used and useful therefor, and the services connected therewith, are as follows:

(a) For all mail matter other than specific mail matter for which rates are elsewhere established, the rate of compensation for the period March 10, 1970, through April 30, 1970, shall be $1 per ton-mile, the rate of compensation for the period May 1, 1970, through January 25, 1971, shall be 71 cents per ton-mile, and the rate of compensation for the period on and after January 26, 1971, shall be 82.75 cents per ton-mile, when Midway Island is the intermediate point on the Honolulu-Kwajalein segment, and 75.63 cents per ton-mile, when Johnston Island is the intermediate point on that segment, which rates shall be applied in accordance with the terms and conditions set forth below.

(b) For that mail matter (for convenience sometimes referred to as military mail) consisting of all classes of U.S. mail other than airmail and air parcel post, including official and personal letters and parcels addressed to or from Armed Forces Post Offices outside of the United States and tendered from time to time to an air carrier by the U.S. Postal Service or its agents or representatives for transportation in this class of service, the rate of compensation for the period March 10, 1970, through April 30, 1970, shall be 21.84 cents per ton-mile, the rate of compensation for the period May 1, 1970, through January 25, 1971, shall be 21.84 cents per ton-mile, and the rate of compensation for the period on and after January 26, 1971, shall be 22.28 cents per ton-mile, which rates shall be applied in accordance with the terms and conditions set forth below.

No such mail may be transported in this class of service on any aircraft unless the air carrier has first provided fully for the needs of the postal service for the transportation of airmail and air parcel post on that aircraft, and (in the case of a service offering passenger transportation) has also first provided fully for the passenger requirements on that flight.

(c) For that class of mail (hereinafter referred to as SAM mail) consisting of the mail matter described in sections 4303(d)(5) and 4560 of title 39 of the United States Code when airlifted on a space available basis, the rate of compensation for the period March 10, 1970, through April 30, 1970, shall be 11.40 cents per ton-mile, the rate of compensation for the period May 1, 1970, through January 25, 1971, shall be 11.40 cents per ton-mile, and the rate of compensation for the period on and after January 26, 1971, shall be 12.31 cents per ton-mile which rates shall be applied in accordance with the terms and conditions set forth below.

No such mail shall be transported at the rates fixed herein on any aircraft if such transportation will displace any other available revenue traffic.

Mail Ton-Miles

The rates established herein shall be applied to the mail ton-miles carried in each class of service to which the respective rates are applicable. For the periods March 10, 1970, through April 30, 1970, and May 1, 1970, through January 25, 1971, the mail ton-miles for each shipment of mail shall be based upon the standard mileages established in Order 69-12-28, December 5, 1969, for service between the points of origin and destination of each shipment. For the period on and after January 26, 1971, the mail ton-miles shall be computed on the basis of the nonstop great circle mileage between the points of origin and destination of each shipment. The nonstop great circle mileages shall be the mileages computed in accordance with the formula set forth in the notice to users of CAB official mileages issued May 21, 1970 (35 F.R. 8249).

Origin and Destination of Mail Shipments

As used herein "point of origin" means the point at which the carrier first enplanes the mail shipment after receipt thereof from a Postal Administration, or its representatives, from another ratemaking division of the same carrier, the operations of which division are not encompassed herein, or from another carrier; and "point of destination" means

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[1] The petition proposes the following air mail rates:

For the period May 1, 1970, through Jan. 25, 1971, 70 cents per ton-mile.

For the period on and after Jan. 26, 1971, 81 cents per ton-mile, when Midway Island is the intermediate point on the Honolulu-Kwajalein segment, and 74 cents per ton-mile, when Johnston Island is the intermediate point on that segment.

We have increased these rates to 71.00, 82.75, and 75.63 cents per ton-mile, respectively, to reflect proper allocations of traffic servicing costs between U.S. mail and other traffics.

[2] Filed as part of the original document.

[3] The MOM rate was established by Order 68-9-8, Sept. 4, 1968, and the SAM rate was established by Order E-25654, Sept. 8, 1967, as amended by Order E-26713, Apr. 25, 1968. The Board has no reason to believe that the rates applicable to MOM and SAM are not reasonable for the services here under consideration.

[4] Based on the difference between the total mail compensation paid Continental under existing rates and the estimated compensation to be paid under the rates proposed herein, it is estimated that the carrier will be required to refund to the Postal Service approximately $282,000 of excess mail pay for the period May 1, 1970–January 31, 1971. We note particularly that the Board establishes rates on the basis of assignments and allocations of costs to the airmail itself (see Nonpriority Mail Rates, Order 70-6-66, June 10, 1970), and that the approach utilized in the special circumstances herein is not intended to serve as a precedent in other mail rate determinations.

the point at which the carrier deplanes the mail shipment for a delivery to a Postal Administration, or its representatives, to a separate rate-making division of the same carrier, the operations of which division are not encompassed herein, or to another carrier.

EQUALIZATION OF RATES

Election to equalize. Any air carrier, or, pursuant to agreement, any two or more air carriers providing service on an interline or interchange basis, may, by notice, elect to establish a reduced charge for the carriage of mail between:

(a) Any point where a U.S. Postal Service international exchange office is located[5] and any other point to which such international exchange office is authorized to dispatch airmail, or

(b) Foreign points, equal to the charge then in effect for service between such points by any other air carrier or air carriers.

NOTICE OF ELECTION TO EQUALIZE RATE

An original and three copies of each notice of election and agreement to equalize shall be filed with the Board and a copy thereof shall be served upon the Postmaster General and each carrier providing on-line or connecting service between the stated points. Such notices shall contain a complete description of the reduced charge being established, the routing over which it applies, how it is constructed, and the charge with which equalization is sought.

Any equalized rate established pursuant to this order shall be effective for the electing carrier or carriers as of the date of filing of the notice or such later date as may be specified in the notice and shall continue in effect until such election is terminated. Elections may be terminated by any electing carrier upon 10 days' notice filed with the Board and served upon the Postmaster General and each carrier providing online or connecting service between the stated points.

DIVISION OF EQUALIZED RATES

In case of equalization of rates by agreement, the agreement shall provide for the proration of the mail compensation between participating carriers on the basis of the relative compensation which would otherwise be payable to each carrier in the absence of such an equalization. In the absence of an agreement among carriers for equalization of rates for interline or interchange shipments between a stated pair of points, any carrier (or two or more carriers jointly) may, by notice, elect to receive as its portion of the total compensation for each shipment the amount remaining after subtracting from such total compensation the compensation due the other carrier or carriers involved (nonelecting carriers). Such total compensation shall be computed on the basis of the lowest rate then in effect for service between the stated pair of points for any carrier or carriers. The compensation due the nonelecting carrier or carriers shall be that otherwise applicable to the point-to-point service it actually provides. In those instances where there is a nonelecting carrier or carriers involved in providing the through service and two or more carriers elect to receive payment under this provision, the total payment due such electing carriers shall be prorated by them on the basis of the relative compensation which would otherwise be payable to each of them in the absence of the provisions of this paragraph.

DIVISIONS OF EQUALIZED RATES PRESCRIBED BY THE BOARD

In the event that any carrier is unable to enter into an agreement with any other carrier to transport mail between any stated points at a reduced rate, it may file an application with the Board requesting it to determine and fix a different method of apportioning the total compensation for each such shipment of mail between the participating carriers. Such applications shall not be deemed to reopen the mail rates fixed by this order. Applications filed pursuant to this paragraph shall conform generally to the provisions of the rules of practice governing the filing of petitions in mail rate cases. Within 7 days after the application is served, any party may file an answer in support of, or in opposition to, the application, together with any documentary material upon which it relies. Any order upon an application filed pursuant to this paragraph shall be effective no earlier than the filing date of the application with the Board.

In reviewing such application, the Board will consider, among other pertinent factors, the need for the proposed service, the historical participation of electing carrier or carriers in the transportation of mail between such stated points, the amount of absorption required, and the grounds for refusal by the carrier or carriers to enter into an equalization agreement. After hearing the carriers concerned, either in writing or orally in those cases where it deems such action appropriate, the Board will, by order, prescribe the method for apportioning the total compensation between such carriers, but in no event shall the carrier or carriers, which refuse to enter into an agreement to equalize compensation, be required to accept less than the compensation which would have been payable if the service were performed under voluntary equalization agreement.

(2) The compensation provided herein shall be in lieu of, and not in addition to, the service mail compensation received by Continental Air Lines, Inc., for mail transported to, from, and within the trust territory on and after March 10, 1970.

(3) The final service mail rates here fixed and determined are to be paid in their entirety by the Postmaster General.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and pursuant to the regulations promulgated in 14 CFR Part 302,

It is ordered, That:

1. Permission to intervene in this proceeding is hereby granted to the Department of Defense.

2. All interested persons and particularly Continental Air Lines, Inc., the Postmaster General, and the Department of Defense are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rates specified above.

3. Further procedures herein shall be in accordance with 14 CFR Part 302, and, if there is any objection to the rates or to the other findings and conclusions proposed herein, notice thereof shall be filed within 10 days after the date of service of this order, and, if notice is filed, written answer and supporting documents shall be filed within 30 days after date of service of this order.

4. If notice of objection is not filed within 10 days, or, if notice is filed and if answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rates specified herein.

5. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable rates herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR 302.307.

6. This order shall be served upon Continental Air Lines, Inc., the Postmaster General and the Department of Defense.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-1228 Filed 1-26-72;8:51 am]

[5] International exchange offices currently authorize to dispatch mail for the transpacific area are located in Seattle, Anchorage, San Francisco, Los Angeles, Honolulu, Wake, Guam, Pago Pago, Washington, Chicago, and New York. The terms of this paragraph shall apply to points at which international exchange offices are hereafter established and shall cease to apply to any points at which international exchange offices are discontinued. The Postmaster General will file a notice of such new and discontinued offices in this docket and serve a copy on Continental Air Lines.

[Docket No. 24158; Order 72-1-83]

DELTA AIR LINES, INC.

Order Dismissing Complaint Regarding Point-to-Point Charter Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of January 1972.

By tariff revisions[1] which became effective January 6, 1972, Delta Air Lines, Inc. (Delta) established point-to-point

[1] Revisions to Delta Air Lines, Inc., tariff C.A.B. No. 109.

round-trip charter charges for its DC–8–33 aircraft between 14 midwest and eastern U.S. points, on the one hand, and Las Vegas, on the other hand. It had previously published rates for its DC–8–61 aircraft only in these markets. At the same time, Delta established point-to-point charges for its DC–8–61 aircraft between the same 14 points and San Francisco. Effective January 26, 1972, Delta proposes to extend its DC–8–33 and DC–8–61 charter rates in the Las Vegas market to 17 additional points, generally east of the Mississippi, and to provide for charter rates for DC–8–51 aircraft at the level of its DC–8–33 rates.[2]

United Air Lines, Inc. (United) filed a complaint in Docket 24069 against a Delta tariff filing dealing with point-to-point charter charges which was subsequently rejected. This complaint was dismissed by Order 72–1–35, dated January 12, 1972. Delta refiled to correct the rejected tariff (effective January 26, 1972) and United has requested that its complaint in Docket 24069 be considered against the refiled tariff marked to become effective January 26, 1972. United requests that the revisions marked to become effective January 26, 1972 be suspended and investigated. In addition it requests investigation of all of Delta's point-to-point charter rates, both effective and proposed. We will grant United's request that its complaint in Docket 24069 be considered against Delta's fourth revised page 16 of its tariff C.A.B. 109 marked to become effective January 26, 1972.

The thrust of United's complaint is that the proposed point-to-point rates are substantially below Delta's general charter rates, and that they raise questions of reasonableness. United further contends that the Board should not permit point-to-point charter rates for off-line points which are less than a carrier's general charter rates for on-line points, since such practice can only lead to a devastating debasement of charter rates by other carriers.

Delta answers that its proposal is merely an extension to additional eastern and midwest U.S. cities of existing rates against which no complaints were filed. The carrier further alleges that both the existing and proposed rates will produce a reasonable profit even under the most conservative costing approach.

Upon consideration of all relevant matters, the Board finds that the complaint does not set forth sufficient facts to warrant investigation of the proposal and the request therefor and consequently the request for suspension will be denied and the complaint dismissed.[3]

A substantial part of the proposal involves the extension to additional cities of existing charter rate levels, as alleged by Delta, and we do not find these proposed rates to be inconsistent with its presently effective charter rates. While the existing and proposed point-to-point rates are generally somewhat lower than Delta's general per-mile charter rates, they do not appear to be uneconomically low or out of line with existing charter rates of other carriers.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002, thereof,

It is ordered, That:

1. The complaint of United Air Lines, Inc., in Docket 24158 is hereby dismissed; and

2. A copy of this order be served upon Delta Air Lines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72–1227 Filed 1–26–72;8:51 am]

[Docket No. 24024]

PIAIR LTD.

Notice of Hearing Regarding Foreign Air Carrier Permit

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on Tuesday, February 8, 1972, at 10 a.m. (local time) in Room 503, 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 report of prehearing conference and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., January 20, 1972.

[SEAL] HENRY WHITEHOUSE,
Hearing Examiner.

[FR Doc.72–1226 Filed 1–26–72;8:51 am]

ENVIRONMENTAL PROTECTION AGENCY

E. I. DU PONT DE NEMOURS & CO., INC.

Notice of Filing of Pesticide and Food Additive Petitions

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 408(d)(1), 409(b)(5), 68 Stat. 512; 72 Stat. 1786; 21 U.S.C. 346a(d)(1), 348(b)(5)), notice is given that a pesticide petition (PP 2F1218) has been filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, DE 19898, proposing establishment of a tolerance (40 CFR Part 180) for residues of the fungicide benomyl (methyl 1-(butylcarbamoyl) - 2 - benzimidazolecarbamate) in or on the raw agricultural commodity grapes at 10 parts per million.

Notice is also given that the same firm has filed a related food additive petition (FAP 2H5004) proposing establishment of a food additive tolerance (21 CFR Part 121) of 50 parts per million for residues of benomyl in or on raisins resulting from application of the fungicide to growing grapes.

The analytical method proposed in the petition for determining residues of the fungicide is that of H. L. Pease and J. A. Gardiner, "Journal of Agricultural and Food Chemistry," Vol. 17, pp. 267–270 (1969).

Dated: January 17, 1972.

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

[FR Doc.72–1190 Filed 1–26–72;8:48 am]

ETHEPHON

Notice of Establishment of Temporary Tolerance

Amchem Products, Inc., Ambler, Pa. 19002, submitted a petition requesting a temporary tolerance for residues of the plant regulator ethephon ((2-chloroethyl) phosphonic acid) in or on the raw agricultural commodity cherries at 10 parts per million.

It has been determined that a temporary tolerance of 10 parts per million for residues of the plant regulator in or on cherries is safe and will protect the public health. It is therefore established as requested on condition that the plant regulator be used in accordance with the temporary permit being issued concurrently by the Environmental Protection Agency and which provides for distribution under the Amchem Products, Inc. name.

This temporary tolerance expires January 18, 1973.

This action is being 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 of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038).

Dated: January 18, 1972.

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

[FR Doc.72–1193 Filed 1–26–72;8:48 am]

ROHM AND HAAS CO.

Notice of Filing of Pesticide and Food Additive Petitions

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 409(b)(5), 68 Stat. 512; 72 Stat. 1786; 21 U.S.C. 346a(d)(1), 348(b)(5)), notice is given that a pesticide petition (PP 2F1211) has been filed by Rohm and

[2] Delta's DC–8–33 and DC–8–51 aircraft both have a 135-seat capacity.

[3] We will also deny the request for investigation of Delta's existing point-to-point charter rates.

Haas Co., Independence Mall West, Philadelphia, Pa. 19105, proposing establishment of tolerances (40 CFR Part 180) for residues of the herbicide 2,4-dichlorophenyl *p*-nitrophenyl ether in or on the raw agricultural commodities rice and rice straw at 0.1 part per million and in milk and meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.05 part per million (negligible residue).

Notice is also given that the same firm has filed a related food additive petition (FAP 2H5002) proposing establishment of a food additive tolerance (21 CFR Part 121) of 0.1 part per million for residues of the herbicide in or on rice bran, hulls, polishings, and other rice milling fractions.

The analytical method proposed in the pesticide petition for determining residues of the herbicide is a gas liquid chromatographic procedure with electron-capture detection.

Dated: January 17, 1972.

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

[FR Doc.72-1191 Filed 1-26-72;8:48 am]

STAUFFER CHEMICAL CO.

Notice of Filing of Petition for Food Additive

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 2H5006) has been filed by Stauffer Chemical Co., Richmond, CA 94804, proposing issuance of a food additive tolerance (21 CFR Part 121) of 20 parts per million for residues of carbophenothion (*S*-[(*p*-chlorophenylthio)methyl] *O,O*-diethyl phosphorodithioate) and its cholinesterase-inhibiting metabolites in or on dried tea resulting from application of the insecticide to the growing crop.

Dated: January 17, 1972.

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

[FR Doc.72-1194 Filed 1-26-72;8:48 am]

W. R. GRACE & CO.

Notice of Filing of Pesticide and Food Additive Petitions

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 408(d)(1), 409(b)(5), 68 Stat. 512; 72 Stat. 1786; 21 U.S.C. 346a(d)(1), 348 (b)(5)), notice is given that a pesticide petition (PP 2F1216) has been filed by W. R. Grace & Co., Washington Research Center, Clarksville, Md. 21029, proposing establishment of a tolerance (40 CFR Part 180) for residues of the fungicide ammonium isobutyrate in or on raw agricultural commodities intended for feeding animals at 20,000 parts per million.

Notice is also given that the same firm has filed a related food additive petition (FAP 2H5005) proposing establishment of a food additive tolerance (21 CFR Part 121) of 20,000 parts per million for residues of ammonium isobutyrate in or on processed foods intended for feeding animals.

The analytical method proposed in the pesticide petition for determining residues of the fungicide is a gas chromatographic procedure with flame ionization detection.

Dated: January 17, 1972.

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

[FR Doc.72-1192 Filed 1-26-72;8:48 am]

FEDERAL COMMUNICATIONS COMMISSION

[Canadian List 285]

CANADIAN BROADCAST STATIONS

Notification List

Correction

In F.R. Doc. 72-523 appearing at page 550 in the issue of Thursday, January 13, 1972, in the heading, the Canadian list number in brackets should read as set forth above.

FEDERAL HOME LOAN BANK BOARD

[H.C. 116]

LINCOLN FINANCIAL, INC., ET AL.

Notice of Receipt of Application for Permission to Acquire Control of Benjamin Franklin Savings Association

JANUARY 21, 1972.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Lincoln Financial, Inc., Houston, Tex., for approval of acquisition of control of the Benjamin Franklin Savings Association, an insured institution, presently controlled by Lincoln Consolidated, Inc., under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regulations for Savings and Loan Holding Companies, said acquisition to be effected by the merger of Lincoln Consolidated, Inc., into Lincoln Financial, Inc. This acquisition is to be accomplished by an exchange of stock of Lincoln Financial, Inc. for stock of Lincoln Consolidated, Inc. Following said acquisition, LF Corp., a subsidiary of Illinois Central Industries, Inc. will be merged into Lincoln Financial, Inc. This merger will be accomplished by an exchange of stock of LF Corp. for stock of Lincoln Financial, Inc. Following said exchange, there will be an exchange of stock of Lincoln Financial, Inc. for stock of Illinois Central Industries, Inc. which will result in Lincoln Financial, Inc. becoming a subsidiary of Illinois Central Industries, Inc. Illinois Central Industries, Inc. and its subsidiaries do not currently control an insured institution. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] GRENVILLE L. MILLARD, JR.,
Assistant Secretary, Federal Home Loan Bank Board.

[FR Doc.72-1230 Filed 1-26-72;8:51 am]

FEDERAL MARITIME COMMISSION

DOMINION FAR EAST LINE (HONG KONG) LTD.

Notice of Issuance of Casualty Certificate and Order of Revocation

Certificate of financial responsibility for indemnification of passengers for nonperformance of transportation No. P-87 and certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages No. C-1,082.

Dominion Far East Line, (Hong Kong) Ltd., 22 Pedder Street, Hong Kong.

Whereas, Dominion Far East Line (Hong Kong) Ltd. has ceased to operate the passenger vessel Marco Polo, and

Whereas, Dominion Far East Line (Hong Kong) Ltd. has returned Certificate (Performance) No. P-87 and Certificate (Casualty) No. C-1,082 for revocation.

It is ordered, That Certificate (Performance) No. P-87 and Certificate (Casualty) No. C-1,082 covering the Marco Polo be and are hereby revoked effective January 18, 1972.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the certificant.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-1231 Filed 1-26-72;8:51 am]

FEDERAL POWER COMMISSION

[Docket No. CS66-57, etc.]

WISER OIL CO. ET AL.

Findings and Order After Statutory Hearing

JANUARY 17, 1972.

Findings and order after statutory hearing issuing small producer certificates of public convenience and necessity, terminating certificates, canceling FPC gas rate schedules, terminating rate proceedings, making successor respondent, redesignating proceedings,

amending certificates, and dismissing applications.

Each applicant herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for small producer certificates of public convenience and necessity authorizing sales of natural gas in interstate commerce, all as more fully set forth in the applications and Appendix A hereto.

Certain applicants are presently authorized to sell natural gas pursuant to FPC gas rate schedules on file with the Commission. The temporary and permanent certificates authorizing said sales will be terminated and the related rate schedules will be canceled except with regard to Zephyr Oil Co., applicant in Docket No. CS72–264, who is filing only to cover its future sales. Some sales made pursuant to the certificates terminated herein and the canceled FPC gas rate schedules were made at rates in effect subject to refund. There are other rate increases which are suspended. Certain proceedings in which these increased rates are suspended or have been collected subject to refund by any of these applicants and were equal to or below area ceiling rates will be terminated.

Cenard Oil & Gas Co., et al., applicant in Docket No. CS72–162, proposes to continue the sales of natural gas heretofore authorized in Dockets Nos. G–3863 and G–18432 to be made pursuant to Nafco Oil and Gas, Inc., FPC Gas Rate Schedule Nos. 3, 6, 7, and 10. The rates have been subject to refund in Docket No. RI70–741 for sales under Nafco's FPC Gas Rate Schedule No. 3; in Docket No. RI70–688 for sales under Nafco's FPC Gas Rate Schedule No. 6; and in Docket No. RI70–694 for sales under Nafco's FPC Gas Rate Schedule Nos. 7 and 10. Applicant will be made respondent in said proceedings and the proceedings will be redesignated accordingly.

Howard E. Sutton, applicant in Docket No. CS72–188, proposes to continue in part the sales of natural gas heretofore authorized in Dockets Nos. G–3329 and G–7247 to be made pursuant to the estate of Francis W. Scott, FPC Gas Rate Schedule No. 1 and Skelly Oil Co., FPC Gas Rate Schedule No. 234, respectively. Therefore, the order issuing certificates of public convenience and necessity to the estate of Francis W. Scott in Docket No. G–3329 and Skelly Oil Co. in Docket No. G–7247 will be amended by deleting therefrom authorization to make the sales of natural gas which will be continued by Howard E. Sutton.

Applicant Marjorie Cone Kastman, et al., proposes to continue the sales heretofore authorized in Docket No. CS66–71 by S. E. Cone, et al., effective October 19, 1971. Therefore, the order issuing a certificate in Docket No. CS66–71 will be amended by the substitution of Marjorie Cone Kastman et al., as the certificate holder.

Maynard Oil Co. (operator), et al., holder of a small producer certificate in Docket No. CS71–282 has acquired effective July 1, 1971, the assets of Homa Oil & Gas Co., a small producer certified in Docket No. CS71–602. Docket No. CS71–602 therefore will be terminated.

Burk Gas Corp., et al. listed herein in Appendix B has been granted a small producer certificate of public convenience and necessity authorizing sales of natural gas in interstate commerce. Burk Gas Corp., et al. was theretofore authorized to sell natural gas pursuant to FPC gas rate schedules on file with the Commission. The certificates authorizing the former sales, which are now made under the small producer certificate in Docket No. CS71–7, will be terminated and the related FPC gas rate schedules will be canceled.

Freeport Oil Co., a division of Freeport Minerals Co., applicant in Docket No. CS69–6, listed herein at Appendix B, requests the amendment of the order issuing the small producer certificate heretofore issued in subject docket to Freeport Oil Co. (a division of Freeport Sulhpur Co.) to reflect the new corporate name, Freeport Oil Co., a division of Freeport Minerals Co. Therefore, the order issuing the small producer certificate in Docket No. CS69–6 will be amended by the substitution of Freeport Oil Co., a division of Freeport Minerals Co. as certificate holder in lieu of Freeport Oil Co. (a division of Freeport Sulphur Co.) and Freeport Oil Co., a division of Freeport Minerals Co., will be made respondent in the rate proceeding RI71–729. The certificates authorizing Freeport Oil Co., a division of Freeport Sulphur Co.'s former sales, which are now made under the small producer certificate in Docket No. CS69–6, will be terminated and the related FPC gas rate schedules will be canceled.

The Wiser Oil Co. listed herein in Appendix B proposes to continue the sales of natural gas heretofore authorized Southern Petroleum Exploration, Inc., in the subject docket. Southern Petroleum Exploration merged into The Wiser Oil Co. effective December 31, 1970. Therefore Docket No. CS66–57 will be amended by the substitution of The Wiser Oil Co. as certificate holder in lieu of Southern Petroleum Exploration, Inc. The certificates authorizing Southern's former sales, which are now made under the small producer certificate in Docket No. CS66–57, will be terminated and the related FPC gas rate schedules will be canceled.

R. J. Bean has been issued small producer certificates of public convenience and necessity in Dockets Nos. CS71–222 and CS71–369. Since R. J. Bean (operator), et al., has all the necessary authority to make small producer sales in Docket No. CS71–222, the certificate issued in Docket No. CS71–369 will be terminated.

The Commission's staff has reviewed the applications and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

At a hearing held on December 30, 1971, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each applicant is or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of the Commission and is, therefore, a "natural-gas company" or will be when the initial delivery is made, within the meaning of the Natural Gas Act.

(2) The sale of natural gas hereinbefore described, as more fully described in the applications herein, will be made in interstate commerce subject to the jurisdiction of the Commission, and such sales by applicants are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) Each applicant is an independent producer of natural gas which is not affiliated with a natural gas pipeline company and whose total jurisdictional sales on a nationwide basis, together with sales of affiliated producers, were not in excess of 10,000,000 Mcf at 14.65 p.s.i.a. during the preceding calendar year.

(5) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity, and small producer certificates of public convenience and necessity therefore should be issued as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the temporary and permanent certificates of public convenience and necessity heretofore issued to applicants should be terminated and that the related FPC gas rate schedules should be canceled.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Cenard Oil & Gas Co. should be made respondent in the proceedings pending in Dockets Nos. RI70–741, RI70–688, and RI70–694, and that said proceedings should be redesignated accordingly.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the order issuing a certificate of public convenience and necessity to the estate of Francis W. Scott in Docket No. G–3329 and Skelly Oil Co. in Docket No. G–7247 should be amended as hereinafter ordered.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Marjorie Cone Kastman, et al., should be substituted in lieu of S. E. Cone, et al., as certificate holder in Docket No. CS66–71.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the small producer certificates of public convenience and necessity heretofore issued to Homa

Oil & Gas Co. in Docket No. CS71–602 and R. J. Bean in Docket No. CS71–369 should be terminated.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Freeport Oil Co., a division of Freeport Minerals Co., should be substituted in lieu of Freeport Oil Co. (a division of Freeport Sulphur Co.) and that Freeport Oil Co., a division of Freeport Minerals Co., should be made respondent in the proceedings pending in Docket No. RI71–729.

(12) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the Wiser Oil Co. should be substituted in lieu of Southern Petroleum Exploration, Inc., as certificate holder in Docket No. CS66–57.

(13) The applications pending in Dockets Nos. CI68–286, CI69–637, CI70–526, CI71–121, CI71–653 and CI71–753 are moot.

(14) In view of all the facts and circumstances in this case, the Commission's action herein is consistent with the Economic Stabilization Act of 1970, as amended, and regulations existing thereunder.

The Commission orders:

(A) Small producer certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing the sale for resale and delivery of natural gas in interstate commerce by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission and particularly:

(1) The subject certificates shall be applicable only to all small producer sales as defined in § 157.40(a)(3) of the regulations under the Natural Gas Act; and

(2) Applicants shall file annual statements pursuant to § 154.104 of the regulations under the Natural Gas Act.

(C) The certificates granted in paragraph (A) above shall remain in effect for small producer sales until the Commission on its own motion or on application terminates said certificates because applicants no longer qualify as small producers or fail to comply with the requirements of the Natural Gas Act, the regulations thereunder, or the terms of the certificates. Upon such termination, applicants will be required to file separate certificate applications and individual rate schedules for future sales. To the extent compliance with the terms of this order is observed, the small producer certificates will still be effective as to sales already included thereunder.

(D) With respect to any small producer sales made pursuant to the authorization herein, the small producer shall not be relieved from compliance with section 7(b) of the Natural Gas Act.

(E) The temporary and permanent certificates heretofore issued to applicants for sales proposed to be continued under small producer certificates are terminated and the related FPC gas rate schedules are canceled as indicated in Appendix A hereto.

(F) The proceedings in which applicants' increased rates have not been made effective and certain proceedings in which increased rates have been made effective subject to refund and are equal to or below the applicable area base rate are terminated as indicated in Appendix A and B hereto.

(G) The temporary and permanent certificates of public convenience and necessity heretofore issued to small producer certificate holders for sales continued under their small producer certificate are terminated and the related FPC gas rate schedules are canceled as indicated in Appendix B hereto.

(H) Cenard Oil & Gas Co., et al., is made respondent in the proceedings pending in Dockets Nos. RI70–688, RI70–694, and RI70–751, and said proceedings are redesignated accordingly.

(I) The orders issuing certificates of public convenience and necessity to the estate of Francis W. Scott in Docket No. G–3329 and Skelly Oil Co. in Docket No. G–7247 are amended by deleting therefrom authorization to make the sales of natural gas which will be continued by Howard E. Sutton.

(J) Marjorie Cone Kastman, et al., is substituted in lieu of S. E. Cone, et al., as certificate holder in Docket No. CS66–71.

(K) The small producer certificates of public convenience and necessity heretofore issued to Homa Oil & Gas Co. in Docket No. CS71–602 and R. J. Bean in Docket No. CS71–369 are terminated.

(L) Freeport Oil Co., a division of Freeport Minerals Co. is substituted in lieu of Freeport Oil Co. (a division of Freeport Sulphur Co.) as certificate holder in Docket No. CS71–729, and Freeport Oil Co., a division of Freeport Minerals is made respondent in the proceedings pending in Docket No. RI71–729.

(M) The Wiser Oil Co. is substituted in lieu of Southern Petroleum Exploration, Inc. as certificate holder in Docket No. CS66–57.

(N) The applications pending in Docket Nos. CI68–286, CI69–637, CI70–526, CI71–121, CI71–653, and CI71–753 are dismissed.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

Docket No. and filing date	Applicant	Canceled FPC gas rate schedule	Terminated certificate docket No.	Terminated rate increase docket No.
CS71–530 4–29–71 [2]	Crystal Oil Co., et al	1	CI69–637 [1]	
	do	2	CI68–286 [1]	
	do	3	CI70–526 [1]	
	do	4	CI64–873	
	do	5	CI64–873	
	do	6	CI65–1257	
	do	8	G–13139	
	do	9	G–19810	
	do	10	G–20361	
	do	11	CI61–209	
	do	12	CI61–231	
	do	13	CI62–816	
	do	14	CI66–268	
	do	15	CI66–231	
	do	16	CI66–1044	
	do	17	CI67–233	
	do	18	CI67–1259	
	do	19	CI67–1290	
	do	20	CI67–1355	
	do	21	CI68–138	
	do	22	CI65–790	
	do	23	CI69–652	
	do	24	G–5211	
	do	25	CI71–653 [1]	
	do	26	G–4567, G–11179, CI71–753 [1]	
CS71–855 5–5–71	W. Earl Rowe et al	1	G–9079	
	do	2	G–10185	
	do	3	G–10280	
	do	4	G–11194	
	do	5	G–9026	
	do	6	CI61–526	
	do	7	CI64–1368	
	do	8	CI64–1538	
CS72–120 8–11–71	Atlas Corp	1	CI62–516	
	do	2	CI63–435	
	do	3	CI63–436	
	do	4	CI63–482	
	do	5	CI62–501	
	do	6	CI63–1509	
	do	7	CI66–909	
	do	8	CI71–719	
	do	9	CI71–720	
	do	10	CI71–721	

See footnotes at end of table.

APPENDIX A—Continued

Docket No. and filing date	Applicant	Canceled FPC gas rate schedule	Terminated certificate docket No.	Terminated rate increase docket No.
CS72-162 8-23-71	Cenard Oil & Gas Co. et al	1	G-6256	
	do	2	G-17338	
	do	3	CI64-1132	
	do	4	CI66-1274	RI69-778.
	do	5	CI66-1275	
	do	6	CI66-1276	
	do	7	CI66-1277	RI69-778.
	do	8	CI63-1429	
	do	3 1	CI67-1268 3	
	do	4 1	G-4780 4	
	do	4 6	CI62-1298 4	RI65-433.
	do	5 1	G-18432 5	
	do	5 2	G-18432 5	
	do	5 3	G-18432 5	
	do	5 4	G-18432 5	
	do	5 5	G-18432 5	
	do	5 6	G-18432 5	
	do	5 7	G-3863 5	
	do	5 8	G-3863 5	
	do	5 9	G-3863 5	
	do	5 10	G-3863 5	
	do	5 11	G-3863 5	
	do	5 12	G-12769 5	RI63-197.
	do	5 14	G-14287 5	RI63-451.
	do	5 15	G-14509 5	
	do	5 16	G-14795 5	RI70-695.
	do	3 17	G-18432 5	
	do	5 18	G-18432 5	RI62-460.
	do	5 19	G-19841 5	RI70-696.
	do	5 20	CI61-1181 5	
	do	5 21	CI61-1598 5	
	do	5 22	CI62-1204 5	RI70-696.
	do	5 23	G-5926 5	
	do	5 24	G-6033 5	
	do	5 25	CI64-200 5	RI69-530.
CS72-187 8-20-71	Sklar & Phillips Oil Co. et al	1	CI65-1044	
	do	2	CI65-1017	
	do	3	CI69-342	
	do	6 3	G-8685 6	RI70-978.
	do	6 4	G-9210 6	RI70-978.
	do	6 5	G-12054 6 9	
	do	7 3	G-14658 7	
	do	7 4	G-10285 7	
	do	7 7	G-4027 7	
	do	8 3	G-4207 8	
	do	8 5	G-4171 8	
CS72-188 8-26-71	Howard E. Sutton			
CS72-190 9-2-71	Donald B. Anderson			
CS72-191 9-2-71	Robert L. Nolan			
CS72-192 9-2-71	True Oil Co	1	CI69-657	
CS72-193 9-3-71	Fred L. Oliver			
CS72-194 9-2-71	Clay J. Calhoun			
CS72-198 9-3-71	Mackeller, Inc., et al			
CS72-199 9-3-71	J. E. Stack, Jr., et al	1	CI64-61	
CS72-216 9-8-71	Chas. A. Neal & Co			

See footnotes at end of table.

APPENDIX A—Continued

Docket No. and filing date	Applicant	Canceled FPC gas rate schedule	Terminated certificate docket No.	Terminated rate increase docket No.
CS72-217 9-9-71	Tribal Oil Co			
CS72-250 9-22-71	R. Lacy, Inc., et al	1	G-4244	
	do	2	G-4249	
	do	5	G-4245	
	do	8	G-4247	
	do	11	G-4241	
	do	12	G-4252	
	do	13	G-4250	
	do	14	G-4813	
	do	15	G-4240	
CS72-264 9-20-71	Zephyr Oil Co.10			
CS72-265 9-20-71	C. W. Hughes			
CS72-266 9-20-71	David L. Billingsley			
CS72-267 9-23-71	Roden Drilling Co			
CS72-290 9-28-71	Drew, Howard H. and Littell, Weldon H.	1	G-10457, G-10487	
CS72-306 10-4-71	Don C. Rider			
CS72-307 10-5-71	Western Petroleum Co., Operator			
CS72-308 10-5-71	George W. Moran			
CS72-309 10-5-71	Gary R. Reagan			
CS72-310 10-5-71	Morris E. Pyle			
CS72-311 10-4-71	Husky Producing Co			
CS72-346 10-18-71	J. Evans Attwell			
CS72-348 10-18-71	Lynco Oil Corp			
CS72-349 10-18-71	Newport Industries, Inc., d.b.a., Allied Petroleum Co.			
CS72-350 10-18-71	Plaza Oil of California			
CS72-351 10-18-71	Less Whitaker			
CS72-352 10-19-71	The Petroleum Corp			
CS72-373 10-26-71	Perry Lynn Larson			
CS72-374 10-26-71	Gibraltar Oil Corp			
CS72-403 11-8-71	Grapevine Corp			

1 Temporary certificate.
2 Application amended on Nov. 30, 1971, to include "et al." parties.
3 Certificate and Rate Schedule on file as Sunland Oil Corp.
4 Certificate and Rate Schedule on file as Murphy Oil Corporation of Oklahoma, Inc.
5 Certificate and Rate Schedule on file as Nafco Oil and Gas Inc.
6 Certificate and Rate Schedule on file as Leonard W. Phillips, et al.
7 Certificate and Rate Schedule on file as Sam Sklar et al.
8 Certificate and Rate Schedule on file as Sam Sklar, Trustee.
9 Only insofar as it pertains to applicant.
10 Applicant has existing sales but does not want them covered by the small producer exemption at this time.

APPENDIX B

Docket No.	Certificate holder	Canceled FPC gas rate schedule	Terminated certificate docket No.	Terminated rate increase docket No.
CS66-87	The Wiser Oil Co.	[1] 7	G-3573 [1]	
	do	[1] 11	G-13132 [1]	
	do	[1] 15	CI63-375 [1]	
	do	[1] 17	CI65-692 [1]	
CS69-6	Freeport Oil Co., a division of Freeport Minerals Co. et al.	[2] 1	G-15915 [2]	
	do	[2] 2	CI62-720 [2]	
	do	[2] 3	CI69-255 [2]	
CS71-7	Burk Gas Corp. et al.	1	CI64-285	
	do	2	G-17907	
	do	3	G-6210	
	do	4	CI66-740	
	do	5	G-6210	
	do	6	G-6210	
	do	7	G-6210	
	do	8	G-6210	
	do	9	G-6210	
	do	10	CI67-239	
	do	11	CI63-152	RI65-291
	do	12	CI63-153	RI69-589.
	do	13	CI64-1147	RI70-1559.
	do	14	CI70-630	
	do	15	CI71-121 [3]	

[1] Certificate and rate schedule on file as Southern Petroleum Exploration, Inc.
[2] Certificate and rate schedule on file as Freeport Oil Co. (a division of Freeport Sulphur Co.).
[3] Temporary certificate.

[FR Doc.72-1103 Filed 1-26-72;8:45 am]

[Docket No. RP 72-89]

COLUMBIA GAS TRANSMISSION CORP.

Order Suspending Proposed Tariff Sheets

JANUARY 14, 1972.

On December 15, 1971, Columbia Gas Transmission Corp. (Columbia) tendered for filing under section 4 of the Natural Gas Act revised tariff sheets to its FPC Gas Tariff, Original Volume No. 1 [1] and requested that those sheets become effective January 15, 1972, or, if suspended, that the period of suspension not extend beyond April 1, 1972.

The filing is Columbia's response to our Order No. 431 and the changes contained in those tariff sheets represent Columbia's proposed curtailment plan. The basic change made by this filing is the addition of limitations of service and curtailment provisions under gas supply deficiency conditions. Section 14.2 limits Columbia's obligation to deliver maximum monthly volumes of gas to its customers, except those who purchase under Rate Schedule SGS. Such monthly volumes are set forth on Original Sheet Nos. 90 through 94 of the tariff.

In summary, Columbia's filing provides that, in the event that it must institute curtailment procedures to protect storage or as a result of deficient gas supply, it will ratably curtail all customers, except those who purchase under Rate Schedule SGS. Additionally, should all attempts to provide adequate ratable service on its system fail, Columbia will consider customer's requests not to be curtailed below the level existing after all such measures have been taken, and that provisions will be made for crediting the accounts of those customers who must bear the burden of any additional curtailment below that level. Further, proposed new section 6(c) and CDS and G Rate Schedules provide for penalties for volumes taken in excess of the volumes specified in the limitations and curtailment procedures. Proposed new section 6(d) provides that any penalties otherwise payable under other tariff provisions will be deducted from those penalties imposed under section 6(c). Further, proposed § 14.5 provides for a commodity rate adjustment whereby Columbia's rates shall reflect the net balance of credits and penalties and, on an annual basis, such net balance will be used in the computation of a rate adjustment to be effective for the year.

Protests have been filed to Columbia's proposed curtailment plan and requests have been made that we suspend the plan for the full statutory period. We find that because of the uncertainty of Columbia's gas supply (three of Columbia's nonaffiliated Southwest gas suppliers are presently curtailing gas deliveries) and to insure that Columbia has a curtailment program in effect before storage injection season begins, we will suspend the proposed tariff sheets until April 1, 1972, as suggested by Columbia. Our action, thus, will accomplish the goal of permitting Columbia to invoke a standard procedure of curtailment for its storage injection season when warranted and, at the same time, the plan will be in effect subject to refund with interest to protect Columbia's customers.

The Commission finds:

It is necessary and appropriate for the purposes of the Natural Gas Act, particularly sections 4, 5, and 16 thereof, that the operation of the proposed tariff sheets tendered by Columbia on December 15, 1971, and designated in footnote 1 above, be suspended and the use thereof deferred as hereinafter provided.

The Commission orders:

The proposed tariff sheets tendered by Columbia on December 15, 1971, to its FPC Gas Tariff, Original Volume No. 1, and designated in footnote 1 above, are hereby suspended and the use thereof deferred until April 1, 1972, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc. 72-1172 Filed 1-26-72;8:46 am]

[1] The proposed tariff sheets are designated as First Revised Sheet Nos. 1, 18, 19, 20, 28, 29, 30, 33, 47, and 62 and Original Sheet Nos. 19A, 28A, 28B, 47A, 62A, 62B, 90, 91, 92, 93, and 94.

[Docket No. CP72-5]

MOUNTAIN FUEL SUPPLY CO. ET AL.

Order Granting Petitions To Intervene, Setting Date for Filing Case-in-Chief, and Setting Dates for Prehearing Conference and Hearing

JANUARY 17, 1972.

Mountain Fuel Supply Co., applicant, Colorado Interstate Gas Co., a division of Colorado Interstate Corp., respondent, Docket No. CP72-5.

On July 8, 1971, Mountain Fuel Supply Co. (Mountain Fuel) filed in Docket No. CP72-5 an application pursuant to section 7(a) of the Natural Gas Act [1] for an order of the Commission directing Colorado Interstate Gas Co., a division of Colorado Interstate Corp. (CIG), to sell and deliver up to 30,000 Mcf of natural gas per day to Mountain Fuel on a firm basis for a period of 20 years, at an existing interconnection of their respective facilities near Green River, Sweetwater County, Wyo., all as more fully set forth in the application. Mountain Fuel's application also requested that proceedings in this matter be consolidated with proceedings on CIG's petition to amend the certificate issued by the Commission on May 19, 1971, in Docket No. CP71-190 (Phase I).

On August 20, 1971, CIG filed a petition for rejection or dismissal of Mountain Fuel's application citing deficiencies in supporting exhibits and failure to make a threshold showing of need for the gas. Mountain Fuel filed on September 17, 1971, an amendment to its application and a response to CIG's petition. While Mountain Fuel's application as amended may be sufficient to avoid rejection or dismissal, Mountain Fuel should include in its case-in-chief detailed information regarding gas supply and deliverability.

In its amended application Mountain Fuel did not renew its request for consolidation with proceedings in Docket No. CP71-190 (Phase I) which were concluded on August 30, 1971.

Notice of Mountain Fuel's application was issued by the Commission July 19, 1971, and published in the FEDERAL REGISTER on July 24, 1971 (36 F.R. 13818). The notice set August 9, 1971, as the date

[1] 52 Stat. 824 (1938); U.S.C. section 717f(a).

by which any protests or petitions to intervene were to be filed. Timely petitions to intervene were filed by the following:

Natural Gas Pipeline Co. of America.
Public Service Co. of Colorado et al., including Western Slope Gas Co., The Pueblo Gas and Fuel Co., Cheyenne Light, Fuel, and Power Co.

An untimely notice of intervention in support of Mountain Fuel was filed by the Public Service Commission of Utah on August 11, 1971.

A formal hearing was requested by Natural Gas Pipeline Co. of America.

The Commission finds:

(1) It is desirable and in the public interest to allow the above-named petitioners to intervene in this proceeding in order that they may establish the facts and the law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

(2) Good cause exists to permit the filing of the untimely notice of intervention by the Public Service Commission of Utah.

The Commission orders:

(A) The above-named petitioners are permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; and *provided, further,* That the admission of such interveners shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) Pursuant to the provisions of § 2.62(c) of the Commission's rules of practice and procedure, the applicant shall serve copies of its filings upon all interveners promptly, unless such service has already been effected pursuant to Part 156 of the regulations of the Natural Gas Act.

(C) Mountain Fuel Supply Co. shall file with the Commission and serve on all parties and the Commission staff, on or before February 3, 1972, its case-in-chief including the exhibits and prepared testimony upon which it relies in support of its application and including detailed information regarding gas supply and deliverability.

(D) Colorado Interstate Gas Co. shall file with the Commission and serve on all parties and the Commission staff, on or before February 17, 1972, its case-in-chief including the exhibits and prepared testimony upon which it relies in opposition to the application of Mountain Fuel Supply Co.

(E) Pursuant to the provisions of § 1.18 of the Commission's rules of practice and procedure, a prehearing conference before a duly designated presiding examiner shall commence at 10 a.m., e.s.t., on March 7, 1972, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426 for the purpose of effectuating the expeditious disposition of this proceeding. The purpose of such conference shall be to consider all matters at issue in the above docket and to consider any and all matters which might contribute to an expeditious disposition of this proceeding. The applicant, the Commission staff, and all persons who have been permitted to intervene by the Commission shall be entitled to participate in that conference.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held immediately following the conclusion of the aforeordered prehearing conference in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC, concerning the matters involved in and the issues presented by Mountain Fuel Supply Co.'s application.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-1173 Filed 1-26-72;8:46 am]

NATIONAL GAS SURVEY COORDINATING COMMITTEE

Order Designating Secretary

JANUARY 14, 1972.

The Federal Power Commission by order issued May 10, 1971, established a Coordinating Committee of the National Gas Survey.

1. *Secretary.* A new Secretary to the Coordinating Committee, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

John P. Mathis, Federal Power Commission.

Mr. Mathis is to fill the position vacated by the resignation of Mr. Stephen A. Wakefield, Federal Power Commission, from this Committee.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-1171 Filed 1-26-72;8:46 am]

[Docket No. E-7687]

DETROIT EDISON CO.

Order Suspending Tendered Rate Schedules, Denying Petition for Rejection of Rate Filings, Providing for Hearing, and Granting Intervention

JANUARY 21, 1972.

The Detroit Edison Co. (Detroit Edison), a public utility subject to the jurisdiction of this Commission, filed on November 24, 1971, changes in rates for sales to five wholesale customers,[1] which would increase its revenues by approximately $1,818,300 (or 18.8 percent), based upon estimated sales for the year 1972. The increase is proposed to be effective January 1, 1972, or as soon thereafter as permitted by the Commission. An effective date of January 1, 1972, would require waiver of the 60-day notice requirement of § 35.13(b)(4) of the Commission's regulations under the Federal Power Act. Since we have concluded that it will be necessary to suspend the proposed rate increase filings for the full statutory period we believe that the suspension period should commence running upon expiration of the notice period, i.e., January 24, 1972, subject to the provisions of this order.

In support of the proposed rate increase, Detroit Edison points to the continued rise in its costs of operation and the need to earn a reasonable rate of return on all segments of its business. According to the Company, the rate schedule revisions are made in an attempt to provide more uniform treatment of wholesale customers and to establish rates designed on the basis of cost to serve; and the Fuel Adjustment base is being revised to conform with FPC standards and to represent more fully the current cost of fuel.

Notice of the filing was issued on December 16, 1971, and published in the FEDERAL REGISTER on December 23, 1971 (36 F.R. 24837), stating that any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure.

On December 29, 1971, Consumers Power Co. filed a petition for intervention in this proceeding, and requested that the Commission order a hearing on the rate increase filing.

On December 30, 1971, Southeastern Michigan Rural Electric Cooperative, Inc. (Southeastern) and Thumb Rural Electric Cooperative, Inc. (Thumb) filed a joint "Protest and Petition to Intervene and for Rejection of Supplements to Rate Schedules Submitted for Filing". The petitioners inter alia, (1) request intervention in the proceeding; (2) request that the Commission reject the tendered rate schedule supplements on the ground that the Company's rate agreements with the cooperatives are fixed rate contracts containing no language permitting Detroit Edison unilaterally to increase its

[1] City of Croswell, Mich., Supplement No. 2 to Rate Schedule FPC No. 2; Consumers Power Co. at Pontiac, Mich., Supplement No. 5 to Rate Schedule FPC No. 5; Southeastern Michigan Rural Electric Cooperative, Supplement No. 1 to Rate Schedule FPC No. 14; Thumb Electric Cooperative, Supplement No. 1 to Rate Schedule FPC No. 4; and the village of Clinton, Mich., Supplement No. 2 to Rate Schedule FPC No. 6.

rates by a filing made pursuant to section 205 of the Federal Power Act; (3) aver that Detroit Edison's filing should be rejected on the additional basis of failing to comply with the requirements of § 35.13(b)(4) of the Commission's regulations under the Federal Power Act; (4) contend that a cost of service study properly prepared will show that the rate of return Detroit Edison earns from the cooperatives is substantially greater than that shown by Detroit Edison; (5) argue that a wholesale rate increase of the magnitude here involved raises serious antitrust questions; (6) maintain that the fuel adjustment provision proposed by the Company is unreasonable and not in conformity with § 35.14 of the Commission's regulations under the Federal Power Act; and (7) urge that the Commission suspend the rate filings for not less than 5 months and convene a hearing on the reasons advanced for their rejection in the event that the Commission does not elect to reject them.

Citing the Supreme Court's Sierra [2] and Mobile [3] decisions as support, joint petitioners contend that the subject rate filings should be rejected because their presently effective rate agreements with Detroit Edison allegedly do not contain contractual authorization permitting the Company to make unilateral rate change filings.

As petitioners point out, the contracts do contain the following language relevant to this question under the caption "Contract Term":

> It is expressly understood that the rates, charges and rules for wholesale electric service to the cooperatives are subject to the jurisdiction and order of the Michigan Public Service Commission and are subject to change from time to time by order issued from said Commission. A copy of this agreement will be filed with the Michigan Public Service Commission.

Additionally, the Thumb contract includes this provision:

> In the event of any change in rates ordered by the Michigan Public Service Commission, the Cooperative shall have the option of immediately exercising the 24-month termination notice.

The language in the above provision that the rates and charges for service to the cooperatives "* * * are sunbject to change from time to time by order issued from said (Michigan Public Service) Commission" clearly indicates that changes in the rates and charges contained in the subject contracts were contemplated by or with the approval of the Michigan Commission. Requiring approval for such changes by the Michigan Public Service Commission instead of the Federal Power Commission merely evidences a belief by the parties at the time of drafting the contracts that the State commission had jurisdiction over the sales in question, and is not material to our consideration for this purpose here.

The language in these contracts is, in substance, to the same effect as that in the Memphis case [4] which permits a public utility unilaterally to modify its rate by filing a tariff increase under section 4 of the Natural Gas Act (and thus under the companion section 205 of the Federal Power Act) if the utility's contract with its customers provides for such change. The provision in the cooperatives' agreements, moreover, is virtually identical to that in certain of Carolina Power & Light Co.'s contract with municipalities which we found to authorize unilateral rate filings by the Company.[5] See Opinion No. 608, Carolina Power & Light Co., Docket No. E–7564, issued January 3, 1972, —— FPC ——.

We conclude that these rate agreements provide for, in effect, a "going rate" rather than a fixed rate, and accordingly that the petition for rejecting on that ground should be denied.

The petitioners' assertion that improper cost of service methodology was utilized by the Company raises a question essentially as to the weight to be accorded Detroit Edison's cost analysis in meeting its burden of proof herein rather than affording a basis for outright rejection. Moreover, the antitrust matters referred to in the joint petition do not disclose per se such inconsistency with the antitrust laws as would warrant rejection. In addition, we find no ground for directing that a hearing be held solely on the issues raised by petitioners.

On January 10, 1972, Detroit Edison filed a motion for waiver of § 36.2 of the Commission's regulations under the Federal Power Act requiring that a filing fee be paid at the time of its rate schedule filing, and requested further that the Secretary accept as the filing fee the Company's check tendered January 10, 1972, and the Commission consider Detroit Edison's rate filing to be complete as of the original filing date, November 24, 1971. On the same date the Company also filed a petition requesting inter alia that the Commission waive all rules and requirements necessary to permit its rate increase filing to become effective January 2, 1972, subject to refund, following a 1 day suspension.

Inasmuch as the substantive data in support of the rate increase filing was submitted on November 24, 1971, we shall waive § 36.2 of the Commission's regulations under the Federal Power Act. We deny the request to make Detroit Edison's rate changes effective January 2, 1972, for reasons hereinbefore set forth.

A preliminary review of the subject rate filing indicates that the proposed rates may be excessive, unduly discriminatory, or otherwise unjust and unreasonable. The allegations made in support of the increased rates and the arguments against them raise questions best resolved through a public hearing. Hence, we are directing that a hearing be held to determine the lawfulness of the proposed changed rates, and we shall suspend them in accordance with section 205(e) of the Federal Power Act.

The Commission further finds:

(1) The tendered rate schedule filings as designated in footnote (1) of the recital above may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful under the Federal Power Act.

(2) It is necessary and appropriate for the purposes of the Federal Power Act, particularly sections 205, 206, 301, 307, 308, and 309 thereof, that the Commission enter upon a hearing concerning the lawfulness of the tendered filings and that the tendered filings be suspended and the use thereof be deferred and a public hearing be initiated in accordance with the procedures set forth below.

(3) In view of all the facts and circumstances in this case, the Commission's action herein of permitting the subject rate increases to become effective, subject to refund, at the expiration of the suspension period ordered herein pending Commission determination of the justness and reasonableness of such increased rates is consistent with the Economic Stabilization Act of 1970, as amended, and regulations existing thereunder.

(4) Good cause has been shown to grant Detroit Edison's request for waiver of § 36.2 of the Commission's regulations under the Federal Power Act.

(5) Participation by the aforementioned petitioners for intervention in this proceeding may be in the public interest.

(6) The joint petition of Southeastern and Thumb to reject the filing should be denied.

(7) Detroit Edison's petition to make the rate increase effective as of January 2, 1972, should be denied.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act and pursuant to the Commission's rules of practice and procedure, a public hearing shall be convened at the offices of the Federal Power Commission in Washington, D.C., concerning the lawfulness of Detroit Edison's rate schedules as designated in footnote (1) of the recital above.

(B) Pending such hearing and decision thereon, Detroit Edison's revised rate schedules listed in footnote (1) of the recital above are hereby suspended and the use thereof deferred until June 24, 1972.

(C) Staff will serve its direct case no later than May 2, 1972. Intervenors will serve their direct cases no later than May 16, 1972. Detroit Edison's rebuttal evidence shall be served no later than June 6, 1972. Cross-examination of all evidence shall commence June 20, 1972, at 10 a.m. in a hearing room of the Federal Power Commission.

(D) Any revenue collected under increased rates and charges found by the Commission in this proceeding to be not justified shall be refunded and shall bear simple interest at the rate of 7 percent

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[2] F.P.C. v. Sierra Pacific Power Co., 350 U.S. 348 (1956).

[3] United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956).

[4] United Gas Pipeline Co., v. Memphis Light, Gas and Water Division, et al., 358 U.S. 103 (1958).

[5] See also the Commission orders issued May 19, 1971, and January 7, 1972, in Central Telephone & Utilities Corp., Western Power Division, Docket No. E–7602, ----- FPC -----.

per annum. Detroit Edison shall bear all costs of refunding; shall keep accurate accounts in detail of all amounts received by reason of the increased rates and charges which become effective at the termination of the suspension period, and shall file with the Commission a monthly written report in duplicate and under oath for each billing period. Such report shall set forth (1) the billing determinants of electric power and energy sold and delivered during the billing period, and (2) the revenues resulting from such sales and deliveries computed under the Company's present rate and under the increased rate, and shall show the differences in revenues so computed.

(E) Unless otherwise ordered by the Commission, Detroit Edison shall not change the terms or provisions of the subject rate schedules or of its presently effective rate schedules until this proceeding has been terminated or until the period of suspension has expired.

(F) A Presiding Examiner to be designated by the Chief Examiner for that purpose shall preside at the hearing initiated by this order, and shall conduct such hearing in accordance with the terms of this order, the Commission's rules of practice and procedure, and the Federal Power Act.

(G) Each of the afore-mentioned petitioners for intervention is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenors shall be limited to the matters affecting asserted rights and interests specifically set forth in the petitions to intervene; *and provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved by any orders entered in this proceeding.

(H) Section 36.2 of the Commission's regulations under the Federal Power Act is hereby waived.

(I) The joint petition by Southeastern and Thumb to reject the filing herein and Detroit Edison's petition to place the increased rates into effect, subject to refund, on January 2, 1972, are hereby denied.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-1221 Filed 1-26-72;8:50 am]

[Docket No. CP72-165, etc.]

DISTRIGAS CORP.

Order Consolidating Proceedings, Authorizing Importation of One Shipload of Liquefied Natural Gas, Scheduling Formal Hearing, Establishing Procedures, and Granting Intervention

JANUARY 20, 1972.

On December 21, 1971, Distrigas Corp. (Distrigas) filed in Docket No. CP72-165 an application pursuant to section 3 of the Natural Gas Act requesting authorization to import liquefied natural gas (LNG) from Algeria for delivery to its Everett, Mass. LNG terminal facilities. The proposal is to import up to three shiploads of LNG of approximately 1.1 trillion B.t.u. for each shipload during the period of January through March 1972. Applicant states that the LNG will be purchased from British Methane Ltd., and transported from Arzew, Algeria, to Everett, by the cryogenic tanker Descartes, at a total cost of approximately $1.20 per million B.t.u.

On December 28, 1971, Distrigas filed, in Docket No. CP72-167, an application pursuant to section 7(c) of the Natural Gas Act requesting a certificate of public convenience and necessity authorizing the sale to Algonquin Gas Transmission Co. (Algonquin) of 1.05 trillion B.t.u. of the LNG Distrigas seeks to import in Docket No. CP72-165. Distrigas states that the proposed sale to Algonquin would be f.o.b. Distrigas' Everett facilities at a price of $1.625 per million B.t.u. plus 10 cents per million B.t.u. for vaporization.

Also on December 28, 1971, Distrigas filed in Docket No. CP72-168 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of imported LNG volumes to various distributing companies in the following quantities:

Customers	*Total volume (million B.t.u.)*
Elizabethtown Gas Co	3,000
Haverhill Gas Co	100,000
Lowell Gas Co	100,000
New England Gas and Electric Systems	80,000
South Jersey Gas Co	60,000
UGI Corp	25,000
Valley Gas Co	60,000
	428,000

Distrigas states that those proposed sales will be made f.o.b. its LNG terminal at Everett, Mass., during brief periods this winter as a price of $1.70 per million B.t.u. plus 10 cents per million B.t.u. if delivery to the customer requires vaporization.

Applicant states that the purpose of the importation and sales proposed in Dockets Nos. CP72-165, CP72-167, and CP72-168 is to provide a supplemental gas supply vitally needed by east coast distribution companies in order to meet their winter peak requirements beginning in January 1972.[1] Additionally, in order to forestall the alleged imminent gas supply emergency involving the systems of the distributing companies to be served by Distrigas, we will authorize the importation of one shipload of LNG as proposed in Distrigas' section 3 application. The terms under which LNG may be sold, however, and Distrigas' proposal to import and sell up to two additional shiploads of LNG will be the subject of the consolidated proceeding hereinafter ordered.

[1] On January 20, 1972, we received responses from Department of State and Department of Defense indicating no opposition to the requested section 3 authorization.

Petitions to intervene were filed in Dockets Nos. CP72-165, CP72-167, and CP72-168 by Superior Oil Co. (Superior), and in Docket No. CP72-165 by the Public Service Electric and Gas Co. Neither petitioner has requested formal hearing. Superior's petition to intervene was withdrawn by communication dated January 13, 1972.

Distrigas' section 7 applications in Dockets Nos. CP72-167 and CP72-168 request authorization to sell LNG volumes, which are the subject matter of the import authorization sought in Docket No. CP72-165. Since these proceedings, of necessity, will contain common questions of law and fact, they should be consolidated for purposes of hearing and decision.

We note that the project proposed in the applications consolidated herein differs from Distrigas' original proposal to import LNG in Docket No. CP70-196. We believe that formal hearings should be held in the consolidated proceeding to explore, inter alia, the reasonableness of the import and sales prices proposed, the need for import LNG volumes, the availability of domestic facilities to accommodate the volumes to be imported, the availability of alternate domestic sources, and any other issues that may result from the hearings herein ordered.

Because the first delivery of imported LNG is proposed for January 1972, this consolidated proceeding should be heard expeditiously. Accordingly, we will establish procedures to effectuate an expeditious determination of the issues involved.

The Commission finds:

(1) It is necessary and appropriate in the public interest that the proceedings in the above-named applications be consolidated for purposes of hearing and decision.

(2) Good cause exists for formal hearings to be held in the proceedings consolidated herein and for the procedures hereinafter ordered.

(3) The participation of the Public Service Electric and Gas Co. in this consolidated proceeding may be in the public interest.

(4) The importation of one shipload of liquefied natural gas by Distrigas from Algeria, as hereinbefore described and as set forth in the application in Docket No. CP72-165, will not be inconsistent with the public interest within the meaning of section 3 of the Natural Gas Act, provided that said importation be on the terms and conditions hereinafter ordered.

The Commission orders:

(A) The above-designated matters are consolidated for the purposes of hearing and decision.

(B) The Public Service Electric and Gas Co. is hereby permitted to intervene in this consolidated proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in its petition to intervene: *And provided, further,* That the admission of

such intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders entered in these proceedings.

(C) Authorization is granted to applicant to import one shipload of LNG from Algeria to its Everett, Mass. LNG terminal facilities, as hereinbefore described and as set forth in the application filed in Docket No. CP72–165, upon the conditions herein ordered and subject to the provisions of the Natural Gas Act and the Commission's regulations issued thereunder.

(D) The authorization granted by paragraph (C) above is conditioned as follows:

(i) The maximum amount of LNG to be imported by applicant shall not exceed one shipload of 1.1 trillion B.t.u. and shall be unloaded into Distrigas' storage facilities no later than March 15, 1972.

(ii) Applicant shall secure all necessary Federal, State, and local authorizations for the authorization granted above.

(iii) Applicant shall comply with all the requirements of § 153.8 of the Commission's regulations under the Natural Gas Act before initiating the proposed importation.

(iv) Applicant shall file statements or reports with the Commission from time to time under oath and in such detail as the Commission may require with respect to the whole or any part of the above import authorization.

(v) Thirty days after the completion of the above authorization, applicant will submit a written report to the Commission stating the actual volumes delivered both in gallons and Mcf equivalent under standard conditions (60° F., 14.73 p.s.i.a. at 1000 B.t.u. per cubic foot) and the cost thereof, including taxes, duties, and any other costs incurred by applicant and resulting from the above import authorization.

(vi) Applicant shall file with the Commission a copy of the transportation contract prior to the delivery authorized herein.

(vii) The import authorization herein granted is without prejudice to determination of any issue or issues involved in the formal hearing hereinafter ordered on applicant's applications filed with this consolidated hearing.

(E) In the event that the applicant should abandon or permanently cease for any reason whatsoever all or any part of the instant operation described herein, applicant shall notify the Commission immediately of said fact and the reasons therefor.

(F) The authorization granted herein is not transferable and applicant shall not, during the term of the authorization granted by this order, materially change or alter its operations described herein, including but not restricted to changes in price and delivery pattern, without first obtaining the permission and approval of the Commission.

(G) A formal hearing shall be convened in this consolidated proceeding in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC, on February 7, 1972, at 10 a.m., e.s.t., concerning the issues involved in the applications filed on December 21 and 28, 1971, by Distrigas under sections 3 and 7 of the Natural Gas Act. The Chief Examiner will designate an appropriate officer of the Commission to preside at the formal hearing of these matters, pursuant to the Commission's rules of practice and procedure.

(H) Applicant's direct case shall be filed and served on all parties on or before January 28, 1972, and the hearing ordered by paragraph (G) above shall commence with cross-examination of applicant's direct case and shall proceed, under procedures established by the Presiding Examiner, to an expeditious conclusion and determination.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72–1222 Filed 1–26–72;8:50 am]

[Docket No. CP71–312]

EL PASO NATURAL GAS CO.

Notice of Petition To Amend

JANUARY 21, 1972.

Take notice that on January 13, 1972, El Paso Natural Gas Co. (Petitioner), Post Office Box 1492, El Paso, TX 79978, filed in Docket No. CP71–312, a petition to amend the order of the Commission heretofore issued in said docket pursuant to section 7(b) of the Natural Gas Act on October 21, 1971, so as to delete therefrom authorization to abandon certain tap facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner was granted in the subject docket on October 21, 1971, permission and approval to abandon 14 taps and sales made thereby to Southern Union Gas Co. (Southern Union) in New Mexico. Petitioner states that subsequent to receipt of the abandonment authorization it was disclosed that three of the taps, the Wallace B. Horn, the Seb Maestas, and the Manuel Gutierrez Taps, were still serving Southern Union. Petitioner requests the Commission to delete from the aforementioned order the authorization to abandon the subject taps.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 14, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–1223 Filed 1–26–72;8:50 am]

[Docket No. CP72–175]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

JANUARY 21, 1972.

Take notice that on January 7, 1972, Michigan Wisconsin Pipe Line Co. (applicant), 1 Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP72–175 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that its customers for the contract year commencing September 1, 1972, have nominated an increased maximum daily quantity of natural gas of 177,378 Mcf which it plans to obtain from newly acquired offshore Louisiana reserves. Applicant proposes to increase the capacity of its transmission system to handle the newly acquired reserves by the installation and operation of 187.1 miles of 36-inch loop line on its Louisiana main line system in the States of Louisiana, Mississippi, Tennessee, Kentucky, and Indiana, by the installation of one 5,000 horsepower class compressor unit and one 4,500 horsepower class compressor unit at its St. John and Bridgman Compressor Stations, respectively, and through the uprating of a compressor unit at its Hamilton Compressor Station from 15,000 to 19,000 horsepower. Applicant also proposes to expand the capacity of its onshore Louisiana gathering system by the installation of 12.5 miles of 30-inch loop line, to provide a new delivery point for Community Natural Gas Co., Inc., at Christmas Lake, Ind., and to loop its Abbotsford lateral in Wisconsin with 15.7 miles of 6-inch line to meet the increased firm requirements served by this lateral. Applicant estimates the cost of the proposed facilities to be $58,311,000 which it plans to finance from treasury funds, retained earnings, and borrowings from banks under short term lines of credit.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 14, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person

wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-1224 Filed 1-26-72;8:50 am]

FEDERAL RESERVE SYSTEM

ATLANTIC BANCORPORATION

Order Approving Acquisition of Bank

Atlantic Bancorporation, Jacksonville, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of The First State Bank and Trust Co., Eustis, Fla. (Bank).

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

Applicant presently controls 19 banks with aggregate deposits of $687 million, representing 4.7 percent of total commercial bank deposits held by Florida's banks. (All banking data are as of June 30, 1971, and reflect holding company formations and acquisitions approved through November 30, 1971.) Applicant's acquisition of Bank, with deposits of approximately $21 million, would not represent a significant increase in Applicant's share of total deposits in the State.

Bank is the larger of two banks headquartered in Eustis and the second largest of 10 banks located in Lake County, the relevant market, wherein it holds 13.2 percent of the market's total deposits. However, the fifth and eighth largest of the county banks are closely affiliated and together hold 16.3 percent of market deposits, and two other county banks, as subsidiaries of the fifth and sixth largest banking organizations in the State, together control 28.5 percent of market deposits. Bank does not compete significantly with any of applicant's subsidiary banks, the nearest of which is located in Sanford, 26 miles east of Eustis. It also appears that consummation of this proposal would not eliminate any meaningful potential competition due, among other factors of record, to the distances involved, the number of intervening banks, and the restrictions placed on branching by Florida law.

Based upon the record, the Board concludes that consummation of the proposed acquisition would have no significant adverse effect on competition in any relevant area. The financial conditions and managerial resources of applicant and its subsidiary banks are regarded as satisfactory and prospects for applicant's group appear favorable. The financial resources and future prospects of Bank are generally satisfactory and favorable; however, applicant's ability to provide Bank with management strength as needed lends some weight toward approval of this application. The convenience and needs aspects of the proposal also lend weight toward approval since applicant proposes to increase Bank's lending capabilities, and to provide Bank with counseling regarding trusts, investments, credit and overall operations of the Bank. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] January 20, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-1186 Filed 1-26-72;8:48 am]

NORTH PLATTE CORP.

Order Approving Formation of Bank Holding Company

North Platte Corp., Torrington, Wyo., has applied for the Board's approval, under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)), for the formation of a bank holding company through acquisition of 100 percent (less directors' qualifying shares) of the voting shares of The Citizens National Bank of Torrington, Torrington, Wyo. (Bank).

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

Applicant is a nonoperating corporation formed for the express purpose of acquiring Bank which has aggregate deposits of approximately $14 million. (All banking data are as of June 30, 1971.) The proposed transaction would effect a corporate ownership of Bank, and all shareholders of Bank are being accorded equal treatment. Since applicant has no present operations or subsidiaries, it appears that consummation of the proposal would not significantly affect existing or potential competition, nor have an adverse effect on the other bank in the area.

The banking considerations are consistent with approval of the application. The financial and managerial resources of Bank and its prospects are regarded as generally satisfactory. Applicant has not commenced operations; thus, its financial condition, management, and prospects are dependent on those of Bank. Applicant's projected earnings appear to be sufficient to service its debt without undue strain on Bank's income. The acquisition herein is not likely to have any significant immediate effect on the convenience and needs of the community. However, the new and expanded services which applicant proposes to institute should ultimately benefit the public; and this aspect of the proposal lends some weight toward approval of the application. It is the Board's judgment that the transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[1] January 20, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-1187 Filed 1-26-72;8:48 am]

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer, and Sheehan.

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs. Temporary Reg. F-133]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer, and Sheehan.

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 consumer interests of the executive agencies of the Federal Government before the South Carolina Public Service Commission in a proceeding (Docket No. 15,849) involving the application of Carolina Power & Light Co. for increased rates.

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.

ROD KREGER,
Acting Administrator of General Services.

JANUARY 20, 1972.

[FR Doc.72-1210 Filed 1-26-72;8:49 am]

SECURITIES AND EXCHANGE COMMISSION

[812-3051]

BROAD STREET INVESTING CORP. ET AL.

Notice of and Order for Hearing on Application for Exemption

JANUARY 20, 1972.

Notice is hereby given that Broad Street Investing, National Investors Corp., Whitehall Fund, Inc. (Applicants), 65 Broadway, New York, NY 10006, open-end, diversified, management investment companies registered under the Investment Company Act of 1940 (Act), have filed an application for an order pursuant to section 6(c) of the Act declaring that Richard S. Maynard (Maynard) shall not be an interested person of applicants or Union Service Distributor, Inc. (Union Distributor), principal underwriter for applicants, solely by reason of his status as an affiliated person of Stillman, Maynard & Co. (Stillman, Maynard). All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Mr. Maynard, a director of applicants, is a senior partner of Stillman, Maynard, a broker-dealer registered under the Securities Exchange Act of 1934.

Stillman, Maynard, which is Mr. Maynard's primary occupation, is a member of the National Association of Securities Dealers, Inc., the New York Stock Exchange and the American Stock Exchange.

Stillman, Maynard has entered into a sales agreement with Union Distributor to sell shares of applicants. For the year 1971 through August 31, Stillman, Maynard had received commissions totaling $1,931 representing the selling commission to a dealer selling shares of the Union Service Group of Mutual Funds. Stillman, Maynard does not participate in any underwritings so it is not involved in any commissions paid by applicants for portfolio securities acquired from an underwriting group. Applicants, as well as two investment companies associated with applicants, do not purchase or sell any portfolio securities through or from Stillman, Maynard.

Section 2(a)(19) of the Act, in pertinent part, defines an interested person of an investment company and its principal underwriter to include any broker or dealer registered under the Securities Exchange Act of 1934 or any affiliated person of such broker or dealer.

Section 2(a)(3) of the Act defines an affiliated person of another person to include any partner or copartner of such other person.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person from any provision 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 purpose fairly intended by the policy and provisions of the Act.

Mr. Maynard, a partner of Stillman, Maynard, is an "affiliate" of a broker-dealer and is thus an "interested person" of applicants and Union Distributor, their principal underwriter.

Applicants assert that Mr. Maynard's affiliation with Stillman, Maynard does not affect and will not impair his independence in acting on behalf of applicants or their shareholders, and that the requested exemption is therefore consistent with the provisions of section 6(c).

It appears to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to the said application.

It is ordered, Pursuant to section 40(a) of the Act, that a hearing of the aforesaid application under the applicable provisions of the Act and of the rules of the Commission thereunder be held on February 22, 1972 at 10 a.m., in the offices of the Securities and Exchange Commission, 500 North Capitol Street, Washington DC 20549. At such time the Hearing Room Clerk will advise as to the room in which such hearing will be held. Any person other than the applicant desiring to be heard or otherwise wishing to participate in the proceeding is directed to file with the Secretary of the Commission on or before February 15, 1972, his application pursuant to Rule 9(c) of the Commission's rules of practice setting forth the nature and extent of his interest in the proceeding and any issues of law or fact which he deems raised by the application with respect to which this notice and order have been issued. 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 applicants at the address noted above, and proof of service (by affidavit, or, in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. Persons filing an application to participate or to be heard will receive notice of any adjournment of the hearing as well as other actions of the Commission involving the subject matter of this proceeding.

It is further ordered, That any officer or officers of the Commission designated by it for that purpose, shall preside at said hearing. The officer so designated is hereby authorized to exercise all powers granted to the Commission under sections 41 and 42(b) of the Act and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation having advised the Commission that it has made a preliminary examination of the application, and that upon the basis thereof the following matters are presented for consideration, without prejudice to its specifying additional matters upon further examination:

(1) Whether the requested 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.

It is further ordered, that the aforesaid hearing attention be given to the foregoing matters.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this notice and order by registered mail to the applicant, and that notice to all other persons be given by publication of this notice and order in the FEDERAL REGISTER, and that a general release of this Commission in respect of this notice and order be distributed to the press and mailed to the mailing list for releases.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-1177 Filed 1-26-72;8:47 am]

[812-3043]

HORNBLOWER & WEEKS—HEMPHILL, NOYES

Notice of Filing of Application To Amend an Order of Exemption of the Act to the Extent That it Adopts Certain Transactions

JANUARY 20, 1972.

Notice is hereby given that Hornblower & Weeks, Hemphill, Noyes (Applicant),

8 Hanover Street, New York, NY 10004, in connection with a proposed public offering of 4 million shares of common stock of Chase Convertible Fund of Boston, Inc. (Company), a registered, closed-end, diversified management investment company, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) to amend an order issued by the Commission pursuant to section 6(c) of the Act on December 22, 1971 (Investment Company Act Release No. 6910). The order exempted certain transactions from section 30(f) of the Act to the extent that such section adopts section 16(b) of the Securities Exchange Act of 1934 (Exchange Act). The order states that Applicant and W. E. Hutton & Co. are the prospective representatives (Representatives) of a group of Underwriters (Underwriters) formed in connection with the above public offering. Applicant has requested that the order be amended to reflect the addition of E. F. Hutton & Co., Inc., as a representative of the Underwriters and the modification of the contemplated Underwriting Agreement between the Company and the Underwriters to include an option whereby the Underwriters may purchase up to an additional 400,000 shares to cover overallotments, if any. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Applicant contemplates that each Underwriter, including the Representatives, will execute an Agreement Among Underwriters and that the Representatives acting both for themselves and as Representatives for several Underwriters, will execute an Underwriting Agreement with the Company. It is also contemplated that one or more dealers will offer and sell certain of the shares and in connection therewith will enter into Selected Dealer Agreements. Under the proposed underwriting arrangements, each Underwriter will be obligated to offer to the public, respectively, its expected Underwriting Commitment.

Applicant states that it is possible that the Underwriting Commitment of any one or more of the Underwriters, including each of the Representatives, will exceed 10 percent of the aggregate number of shares of the Company's common stock to be outstanding after the closing of the initial public offering of the shares. Since section 30(f) of the Act subjects every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of outstanding securities of the Company to the same duties and liabilities as those imposed by section 16 of the Exchange Act, such Underwriter or Underwriters would become subject to the filing requirements of section 16(a) of the Exchange Act and, upon resale of the shares purchased by them to their customers, subject to the obligations imposed by section 16(b) of the Exchange Act.

Rule 16b–2 under the Exchange Act exempts certain Underwriters from the operation of section 16(b). Applicant states that the purpose of the purchase of the shares by the Underwriters will be for resale in connection with the initial distribution of the shares. Applicant states that such purchases, therefore, will be transactions effected in connection with a distribution of a substantial block of securities within the purpose and spirit of Rule 16b–2.

Applicant states that although it is anticipated that the requirements of Rule 16(b)–2(a)(3) that the aggregate particor more of the Underwriters, through their participation in the distribution of the shares of the Company, may not be entitled to rely upon Rule 16b–2 to exempt them from section 16(b) of the Exchange Act. The requirement in Rule 16(b)–2(a)(3) that the aggregate participation of Underwriters not within section 16(b) of the Exchange Act be at least equal to the participation of Underwriters exempted therefrom under Rule 16b–2 may not be met because it is possible that one or more of the Underwriters may purchase more than 10 percent of the aggregate number of the shares of the Company's common stock to be outstanding after the closing, as a result of obligations to purchase additional shares due to defaults by other Underwriters. Moreover, one or more of the Underwriters who are obligated through the Underwriting Agreement to purchase more than 10 percent of the aggregate number of shares of the Company's common stock to be outstanding after the closing, may, as Underwriters and as selected dealers, distribute more than 50 percent of the aggregate number of shares being offered. Such a distribution would not meet the requirement of Rule 16b–2(a)(3).

In addition to purchases of shares from the Company and sales of shares to customers, there may be the usual transactions of purchase or sale incident to a distribution such as stabilizing purchases, purchases to cover overallotments or other short positions created in connection with such distribution, and sales of shares purchased in stabilization.

Applicant states that there is no inside information in existence since the Company, prior to the initial distribution of the shares, will have no assets other than cash, or business of any sort, and all material facts with respect to the Company will be set forth in the prospectus pursuant to which the shares will be offered and sold. No partner, director or officer of Applicant, W. E. Hutton & Co. or E. F. Hutton & Co., Inc. is a director or officer of either the Company or John P. Chase, Inc., the Company's investment adviser (Adviser), and Applicant states that it is not anticipated that any partner, director or officer of any other Underwriter will be a director or officer of the Company or the Adviser.

Applicant maintains that the requested exemption from the provisions of section 30(f) of the Act is necessary and 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. It further asserts that the transactions sought to be exempted cannot lend themselves to the practices to which section 16(b) of the Exchange Act and section 30(f) of the Act were enacted to apply.

Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption cannot lend themselves to the practices to which section 16(b) of the Exchange Act and section 30(f) of the Act were enacted to apply.

Notice is further given that any interested person may, not later than February 11, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this 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 said 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] RONALD F. HUNT,
Secretary.

[FR Doc.72–1178 Filed 1–26–72;8:47 am]

[70–5134]

METROPOLITAN EDISON CO.

Notice of Proposed Issue and Sale of 350,000 Shares of Cumulative Preferred Stock at Competitive Bidding

JANUARY 20, 1972.

Notice is hereby given that Metropolitan Edison Co. (Met-Ed), 2800 Pottsville Pike, Muhlenberg Township, Berks County, PA 19605, an electric utility subsidiary company of General Public Utilities Corp. (GPU), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935

(Act), designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Met-Ed proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 350,000 shares of its Cumulative Preferred Stock, — percent Series G, par value $100 per share. The dividend rate of the preferred stock (which will be a multiple of one-twenty-fifth of 1 percent) and the price to be paid to Met-Ed (which will be not less than $100 nor more than $102.75 per share) will be determined by competitive bidding. The terms of the preferred stock include a prohibition against refunding the preferred stock prior to March 1, 1977, directly or indirectly, with funds derived from the issue of debt securities at a lower effective interest cost or preferred stock at a lower effective dividend cost.

The proceeds from the proposed sale of the preferred stock will be used to pay a portion of Met-Ed's short-term bank borrowings, which were incurred for construction purposes and which are expected to aggregate approximately $48,750,000 at the time of the proposed sale. Met-Ed's 1972 construction program is estimated at $138,500,000. Met-Ed plans to finance its 1972 construction program by the issuance and sale of additional preferred stock and funded debt securities, funds provided from operations, and/or cash contributions by GPU. The proceeds from any premium resulting from the sale of the preferred stock will be used to finance the business of Met-Ed, including the payment of the expenses of financing.

It is stated that the fees and expenses to be incurred in connection with the proposed transaction are estimated at $87,000, including legal fees of $24,500 and accounting fees of $6,800. The fees and expenses of counsel for the underwriters, to be paid by the successful bidders, will be supplied by amendment. The application further states that the issue and sale of the preferred stock is subject to the jurisdiction of the Pennsylvania Public Utility Commission, the State commission of the State in which Met-Ed is organized and doing business, and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than February 14, 1972, 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. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-1179 Filed 1-26-72; 8:47 am]

[812-3098—812-3100]

MUNICIPAL BOND FUND, SERIES I (AND SUBSEQUENT FUNDS)

Notice of Filing of Applications for Orders of Exemption From Provisions and for Order Granting Confidential Treatment

JANUARY 21, 1972.

Notice is hereby given that The Municipal Bond Fund, Series 1 (Series 1), a unit investment trust registered under the Investment Company Act of 1940 (Act) and its sponsors, Paine, Webber, Jackson & Curtis Inc., 140 Broadway, New York, NY 10005, and Dean Witter & Co. Inc. (Sponsors), 45 Montgomery Street, San Francisco, CA 94106 (hereinafter both Sponsors and Series 1 are collectively referred to as "Applicants"), have filed applications pursuant to section 6(c) of the Act for orders of the Commission exempting Series 1 (and subsequent funds) from compliance with the provisions of section 14(a) of the Act and exempting the secondary market operations of Sponsors from the provisions of Rule 22c-1 under the Act. Applicants further seek an order pursuant to section 45(a) of the Act granting confidential treatment to the profit and loss statements of the Sponsors supplied in connection with certain registration statements filed with the Commission from time to time. All interested persons are referred to the applications on file with the Commission for a statement of the representations therein, which are summarized below.

The exemptive orders are requested for Series 1 and subsequent funds sponsored by the Sponsors and meeting the description of such funds in the applications. The confidential treatment sought is to extend to the profit and loss statements of the Sponsors supplied in connection with registration statements and amendments thereto filed with the Commission by Series 1, and all subsequent funds sponsored by the Sponsors and meeting the description of such funds in the application. The Municipal Bond Fund, Series 1 and each future fund will be governed by a trust agreement for that fund (hereinafter called the "Agreement") to be entered within 2 months of the registration of the fund with the Securities and Exchange Commission under which the Sponsors will act as such and U.S. Trust Co. of New York will act as trustee. Standard & Poor's Corp. will act as evaluator. The trust Agreement for each fund will contain standard terms and conditions of trust common to all funds. Pursuant to the Agreement, the Sponsors will deposit with the Trustee not less than $5 million principal amount of bonds (hereinafter called the "Bonds") which the Sponsors shall have accumulated for such purpose. Simultaneously with such deposit the Trustee will deliver to the Sponsors registered certificates for not less than 5,000 units, which will represent the entire ownership of the fund. These units are in turn to be offered for sale to the public by the Sponsors.

It shall be noted that the Bonds will not be pledged or be in any other way subjected to any debt at any time after the Bonds are deposited in the fund. All of the Bonds will be municipal bonds the interest on which is exempt from Federal income taxation. The Sponsors have been accumulating the Bonds for the purpose of deposit in Series 1 and will follow a similar procedure of accumulating the Bonds for each future fund. In selecting the Bonds, the following factors are considered: (i) Standard & Poor's Corp.'s rating of "BBB" or better, (ii) the price of the Bonds relative to other bonds of comparable quality and maturity, (iii) diversification as to the purpose of issue and location of issuer and (iv) income to the unit holder of the fund.

Each fund will consist of the Bonds, such bonds as may continue to be held from time to time in exchange or substitution for any of the Bonds upon certain refundings, accrued and undistributed interest and undistributed cash. Certain of the Bonds may from time to time be sold under circumstances set forth in the Agreement or may be redeemed or may mature in accordance with their terms. The proceeds from such dispositions will be distributed to unit holders and not reinvested. There is no provision in the Agreement for Series 1, and there will be no provision in the Agreement for any future fund, for the sale and reinvestment of the Bonds, and such activity will not take place. Reference is made to the Agreement and to the prospectus for Series 1 for a full explanation of the operation of the funds.

Initially each unit for a particular fund will represent a fractional undivided interest represented will be 1; the denominator, the number of units then in the fund. Units will be redeemable. In the event that any units shall be redeemed, the denominator of the fraction will be reduced and the fractional undivided interest represented by each unit increased. Units will remain outstanding until redeemed or until the

termination of the Agreement. The Agreement may be terminated by 100 percent agreement of the unit holders of the fund, or, in the event that the value of the Bonds shall fall below 20 percent of the principal amount of Bonds originally deposited in the fund, upon direction of the Sponsors to the trustee. There is no provision in the Agreement for Series 1, and there will be no provision in the Agreements for future funds, for the issuance of any units after the initial offering of units (except to the extent that the secondary trading by the Sponsors in the units is deemed the issuance of units under the Act) and such activity will not take place.

Following the deposit of Bonds for each fund by the Sponsors with the trustee, and following the declaration of effectiveness of that fund's registration statement under the Securities Act of 1933 and clearance by the securities authorities of the various States, the Sponsors will offer the units of that fund to the public at the public offering price set forth in the prospectus, plus accrued interest.

It is the purpose of each fund to provide a diversified investment of quality not less than Standard & Poor's Corp.'s rating of BBB or better. In the opinion of counsel, none of the funds will be associations taxable as corporations under the Internal Revenue Code and to the extent that income of any fund consists of interest excludable from gross income under the Internal Revenue Code such income is excludable from the gross income of the unit holders when distributed to them.

The Sponsors intend to maintain a market for the units of Series 1 of Municipal Bond Fund and continually offer to purchase such units at prices based on the most recent evaluation by the evaluator which exceed the redemption price at the time of such evaluation for such units by amounts which depend upon supply and demand for units. While the Sponsors undertake no obligation to do so, it is their intention to maintain a market for units of each fund and continuously to offer to purchase such units at prices in excess of the redemption price as set forth in the Agreement.

Section 14(a) of the Act requires that a registered investment company (a) have a net worth of at least $100,000 prior to making a public offering of its securities, (b) have previously made a public offering and at that time have had a net worth of $100,000, or (c) have made arrangements for at least $100,000 to be paid in by 25 or fewer persons before acceptance of public subscriptions.

Applicants seek an exemption from the provisions of section 14(a) in order that they may make a public offering of units of the fund as described above. In connection with the requested exemption from section 14(a), the Sponsors have agreed (i) to refund on demand and without deduction the sales load to purchasers of units, if within 90 days after the registration of a fund under the Securities Act of 1933 becomes effective, the net worth of that fund shall be reduced to less than $100,000 or if the fund is terminated, (ii) to instruct the trustee on the date the bonds are deposited in each fund that if the fund shall at any time have a net worth of less than 20 percent of the principal amount of bonds originally deposited in the fund, as a result of redemption by the Sponsors of units constituting a part of the unsold units, the trustee shall terminate the fund in the manner provided in the trust Agreement and distribute any bonds or other assets deposited with the trustee pursuant to the trust Agreement as provided therein; and (iii) in event of termination for the reasons described in (ii) above to refund any sales load to any purchaser of units purchased from the Sponsors on demand and without any deduction.

Rule 22c–1 provides, in pertinent part, that no registered investment, issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Applicants seek an order exempting the secondary market operations of Sponsors from the provisions of Rule 22c–1 under the Act.

Applicants assert that the pricing by the Sponsors in the secondary market will in no way affect the funds' assets, and that the public unit holders will benefit from such pricing procedure by receiving a normally higher repurchase price for their units without the cost burden of daily evaluations of the unit redemption value. In addition, the application states that Sponsors have undertaken to adopt a procedure whereby the evaluator, without a formal evaluation, will provide estimated evaluations on trading days. In the case of a repurchase, if the evaluator cannot state that the previous Friday's price is at least equal to the current bid price, Sponsors will order a full evaluation. Sponsors have agreed that, in case of the resale of units in the secondary market, if the evaluator cannot state that the previous Friday's price is not more than one-half point ($5 on a unit representing $1,000 principal amount of underlying bonds) greater than the current offering price, a full evaluation will be ordered.

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provisions of the Act or of any rule or regulation under the Act, if and to the extent 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 45(a) of the Act provides in pertinent part that information filed with the Commission "shall be made available to the public, unless and except insofar as the Commission * * * by order upon application, finds that public disclosure is neither necessary nor appropriate in the public interest or for the protection of investors."

Applicants seek an order granting confidential treatment to the profit and loss statements of the Sponsors supplied in connection with registration statements and amendments thereto filed with the Commission by Series 1, and all subsequent funds sponsored by the Sponsors and meeting the description of such funds in the application.

Applicants submit that public disclosure of the profit and loss statements of the Sponsors is neither necessary nor appropriate in the public interest, or for the protection of investors. Investors in the funds are not offered an opportunity to acquire any interest whatsoever in the Sponsors. Apart from the Sponsors' minimal obligation under the trust agreement to direct the disposition of municipal bonds which are, or are likely to be, defaulted upon by the issuers thereof (which obligation may be performed by the trustee or successor Sponsor if not performed by current Sponsors), Applicants state that the Sponsors will function solely as underwriters of the funds. Applicants also assert that there is no legitimate interest on the part of investors in the public disclosure of the profit and loss statements of the underwriters from whom the units are purchased.

In addition, Applicants submit that to the extent the Sponsors' solvency may conceivably be thought relevant to the maintenance of the secondary market in the units of the funds, the Sponsors' statements of financial condition, which are filed with the Commission and various stock exchanges, and which are readily available to the public, contain fully adequate information. Further, the prospectuses disclose the Sponsors' right to terminate secondary market activities in a particular fund. Should the Sponsors exercise this right, for whatever reason, the unit holders would be fully protected by their right under the trust agreements to redeem their units upon presentation of such units properly endorsed to the trustee, and to receive the redemption value of the units computed on the underlying assets of the particular fund.

In addition, Applicants state that the soundness of the investors' interest in the funds is solely a function of the fiscal conditions of the issuing municipalities. Applicants thus represent that the financial operations of the Sponsors will in no way enhance or diminish the prospect for an orderly payment of the underlying bonds.

Notice is further given that any interested person may, not later than February 1, 1972, 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, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission orders 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 each of the Applicants at the addresses 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 said 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 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 the 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] RONALD F. HUNT, *Secretary.*

[FR Doc.72–1189 Filed 1–26–72;8:48 am]

[812–3052]

TRI-CONTINENTAL CORP.

Notice of Filing of Application for Exemption

JANUARY 18, 1972.

Notice is hereby given that Tri-Continental Corp. (Applicant), 65 Broadway, New York, NY 10006, a closed-end, diversified, management investment company registered under the Investment Company Act of 1940 (Act) has filed an application for an order pursuant to section 6(c) of the Act declaring that Mr. W. Paul Stillman shall not be deemed an interested person of Applicant as that term is defined under section 2(a)(19) of the Act solely by reason of his status as Chairman of the Board of Directors of the Mutual Benefit Life Insurance Company (Mutual Benefit). All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Mr. Stillman, a director of Applicant, is also a director of Mutual Benefit, a mutual life insurance company. Mutual Benefit has a wholly owned subsidiary, Mutual Benefit Financial Service Co. ("FISCO"), registered as a broker-dealer under the Securities Exchange Act of 1934.

FISCO, a member of the National Association of Securities Dealers, Inc., is engaged in the business of selling variable annuities offered by mutual funds organized by Mutual Benefit. FISCO is not a member of any securities exchange, does not make markets in securities, and does not execute or clear security transactions, except transactions in the mutual funds of which it is the distributor and in other mutual funds where it has signed a dealer agreement with the distributors of those funds. FISCO is not otherwise engaged in the securities business.

Mr. Stillman is not an officer or employee of Applicant. He is neither a director, officer or employee of FISCO. Day to day activities of FISCO are conducted by its officers and employees and the final responsibility for its affairs rests with its board of directors.

Section 2(a)(19) of the Act, in pertinent part, defines an interested person of an investment company as any broker or dealer registered under the Securities Exchange Act of 1934 or any affiliated person of such broker or dealer.

Section 2(a)(3) of the Act defines an affiliated person of another person to include any director of such other person.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person from any provision 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.

Applicant asserts that Mr. Stillman should not be deemed an "interested person" of Applicant because his affiliation with Mutual Benefit does not and will not impair his independence in acting on behalf of Applicant and its stockholders, and the requested exemption is therefore consistent with the provisions of section 6(c).

Notice is further given that any interested person may, not later than February 7, 1972 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, if any, of fact or law proposed to be controverted, or he may request that 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 the 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 said 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 in order will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–1180 Filed 1–26–72;8:47 am]

[812–3053]

UNION CAPITAL FUND, INC.

Notice of and Order for Hearing on Application for Exemption

JANUARY 20, 1972.

Notice is hereby given that Union Capital Fund (Applicant), 65 Broadway, New York, NY 10006, an open-end, diversified management investment company, registered under the Investment Company Act of 1940 (Act) has filed an application for an order pursuant to section 6(c) of the Act declaring that Robert H. Mundheim (Mundheim) shall not be deemed an interested person of Applicant or of Union Service Distributor, Inc., the principal underwriter of Applicant, solely by reason of his status as an affiliated person of Weeden & Co. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Mr. Mundheim, a director of Applicant, is also a director of Weeden & Co., registered as a broker-dealer under the Securities Exchange Act of 1934. He also serves as a consultant to Union Service Corp.

Weeden & Co., a member of the National Association of Securities Dealers, Inc., is a dealer in securities and makes markets in a number of securities both listed and unlisted. Applicant has not purchased or sold portfolio securities from or to Weeden & Co. but it might do so in the future. Some of the four investment companies associated with Applicant have purchased and sold portfolio securities from or to Weeden & Co. and from time to time any one of these investment companies might do so in the future. Weeden & Co. does not sell shares of Applicant.

Section 2(a)(19) of the Act defines an interested person of an investment company and its principal underwriter to include any broker or dealer registered under the Securities Exchange Act of 1934 or any affiliated person of such a broker or dealer.

Section 2(a)(3) of the Act defines an affiliated person of another person to include any director of such other person.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person from any provision 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.

Mr. Mundheim, as a director of Weeden & Co., is an affiliate of a broker-dealer and is thus an interested person of Applicant and Union Service Distributor, Inc., its principal underwriter.

Applicant asserts that Mr. Mundheim's affiliation with Weeden & Co. does not affect and will not impair his independence in acting on behalf of Applicant and its shareholders, and that the requested exemption is therefore consistent with the provisions of section 6(c).

It appears to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to the said application.

It is ordered, Pursuant to section 40(a) of the Act, that a hearing of the aforesaid application under the applicable provisions of the Act and of the rules of the Commission thereunder be held on February 24, 1972, at 10 a.m., in the offices of the Securities and Exchange Commission, 500 North Capitol Street, Washington, DC 20549. At such time the Hearing Room Clerk will advise as to the room in which such hearing will be held. Any person other than the Applicant desiring to be heard or otherwise wishing to participate in the proceeding is directed to file with the Secretary of the Commission on or before February 17, 1972, his application pursuant to Rule 9(c) of the Commission's rules of practice setting forth the nature and extent of his interest in the proceeding and any issues of law or fact which he deems raised by the application with respect to which this notice and order have been issued. 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 noted above, and proof of service (by affidavit, or, in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. Persons filing an application to participate or to be heard will receive notice of any adjournment of the hearing as well as other actions of the Commission involving the subject matter of this proceeding.

It is further ordered, That any officer or officers of the Commission designated by it for that purpose, shall preside at said hearing. The officer so designated is hereby authorized to exercise all powers granted to the Commission under sections 41 and 42(b) of the Act and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation having advised the Commission that it has made a preliminary examination of the application, and that upon the basis thereof the following matters and questions are presented for consideration, without prejudice to its specifying additional matters upon further examination:

(1) Whether the requested 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.

It is further ordered, That at the aforesaid hearing attention be given to the foregoing matters.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this notice and order by registered mail to the Applicant, and that notice to all other persons be given by publication of this notice and order in the FEDERAL REGISTER and that a general release of this Commission in respect of this notice and order be distributed to the press and mailed to the mailing list for releases.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-1181 Filed 1-26-72;8:47 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 870, Class B]

COLORADO

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of January 1972, because of the effects of certain disasters damage resulted to homes and business property located in the State of Colorado;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitutes a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Associate Administrator for Operations and Investment of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Boulder, Larimer, Weld, and Jefferson Counties, Colo., suffered damage or destruction resulting from fire and windstorm on January 11, 1972.

OFFICE

Small Business Administration Regional Office, 721, 19th Street, Room 426A, Denver, CO 80202.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to July 31, 1972.

Dated: January 14, 1972.

A. H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.72-1182 Filed 1-26-72;8:47 am]

[Declaration of Disaster Loan Area 869; Class B]

GEORGIA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of January 1972, because of the effects of certain disasters, damage resulted to homes and business property located in the State of Georgia;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitutes a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Fulton and De Kalb Counties, Ga., suffered damage or destruction resulting from a tornado on January 10, 1972.

OFFICE

Small Business Administration Regional Office, 1401 Peachtree Street NE., Atlanta, GA 30309.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to July 31, 1972.

Dated: January 13, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-1183 Filed 1-26-72;8:47 am]

TARIFF COMMISSION

[332-66]

BARRIERS TO TRADE AMONG PRINCIPAL TRADING NATIONS

Request for Briefs

The Tariff Commission, in investigation No. 332-66 being conducted at the request of the Committee on Finance, U.S. Senate, is seeking to identify all procedures, regulations, or practices by governments or private organizations, which in recent years have significantly impeded or distorted the normal flow of U.S. exports and imports, and to assess the impact on U.S. trade of such measures. Notice of the investigation was issued on April 30, 1971, and was published in the FEDERAL REGISTER on May 5, 1971 (36 F.R. 8419).

To assist the Commission in identifying such barriers and in determining their impact on U.S. trade, the Commission hereby solicits from all interested parties relevant information in the form of briefs, written statements, or data, including copies of relevant depositions filed with other Government agencies or with industry or trade groups acting in the field of foreign trade. Barriers currently encountered are of principal interest for the Commission's study, but information on barriers which have been removed in the past few years, or otherwise became inoperative, is also sought. With respect to import duties, the Commission already has extensive data on rates levied by the United States and foreign countries, but seeks information on the impact of individual rates on trade in particular products. The following illustrative list describes some categories of measures, other than import

duties, which may impede or distort trade and which may be considered in the Commission's investigation:

SPECIFIC LIMITATIONS ON IMPORTS AND EXPORTS

Quantitative restrictions.
Embargoes.
Import and export licensing practices.
Screen-time quotas.
Local content and mixing requirements.
Exchange controls.
Discrimination resulting from bilateral agreement among countries.
Discriminatory sourcing.
Export restraints.
Minimum and maximum price and process controls.
Tariff quotas.
Restrictive business practices.

STANDARDS INVOLVING IMPORTS AND DOMESTIC GOODS

Industrial standards.
Health and safety standards.
Pharmaceutical standards.
Processing standards.
Requirements on weights and measures.
Product content requirements.
Labelling and container regulations.
Packaging requirements.
Marking requirements.

SPECIAL FEES, TAXES AND LEVIES

Border tax adjustments.
Variable levies.
Surcharges, port taxes, statistical taxes, etc.
Discriminatory excise taxes, film taxes, use taxes, etc.
Consular fees.
Stamp taxes.

CUSTOMS AND ADMINISTRATIVE ENTRY PROCEDURES

Arbitrary classification of merchandise.
Customs valuation practices.
Documentation requirements.
Regulations on samples and repayment of duties on returned goods and re-exports.
Consular formalities.
Antidumping practices.
Countervailing duty practices.

OTHER PRACTICES

Subsidies and other aids to domestic production or exports.
Government procurement practices.
State trading practices.
Government monopolies, including exclusive franchises to private enterprises.
Prior import deposit requirements.
Government-controlled insurance rates.
Discriminatory credit restrictions.

To be of maximum usefulness in preparing the Commission's report, submissions should be as specific and detailed as possible in describing the operation of individual barriers, identifying products on which they impinge, and indicating the magnitude of their effect on trade. Submissions should be addressed to the Secretary, U.S. Tariff Commission, Washington, D.C. 20436. To receive appropriate consideration, they should be submitted not later than March 15, 1972.

Issued: January 21, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-1162 Filed 1-26-72;8:46 am]

[AA1921-85]

FISH NETS AND NETTING FROM JAPAN

Notice of Investigation and Hearing

Having received advice from the Treasury Department on January 18, 1972, the fish nets and netting of man-made fibers from Japan are being, or are likely to be, sold in the United States at less than fair value, the U.S. Tariff Commission has instituted an investigation under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigation will be held in the Tariff Commission's Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, DC, beginning at 10 a.m. e.s.t., on February 29, 1972. All parties will be given opportunity to be present, to produce evidence, and to be heard at such hearing. Interested parties desiring to appear at the public hearing should notify the Secretary of the Tariff Commission, in writing, at its offices in Washington, D.C., at least 5 days in advance of the date set for the hearing.

Issued: January 21, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-1161 Filed 1-26-72;8:46 am]

DEPARTMENT OF LABOR

Office of the Secretary

[TEA-W-39]

FOOT FLAIRS, INC., MANCHESTER, N.H.

Notice of Revised Certification of Eligibility of Workers to Apply for Adjustment Assistance

Following a Tariff Commission report under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884), the President's decision under section 330(d)(1) of the Tariff Act of 1930, as amended, in respect thereto, and subsequent investigation as authorized under 29 CFR Part 90 and notice in 34 F.R. 18342; 36 F.R. 7625, a certification under section 302(c) of the Trade Expansion Act was made on June 14, 1971, certifying that "all workers (hourly, piecework, and salaried) of the Foot Flairs, Inc., plant located at Manchester, N.H., who became unemployed or underemployed after October 2, 1969, are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962." (36 F.R. 11836)

On the basis of a further showing and further investigation by the Director of the Office of Foreign Economic Policy, and pursuant to the provisions of section 302(d) of such Act, the certification issued by the Department on June 14, 1971, is hereby revised to change the date shown therein, and accordingly, to include within the coverage of the certification additional workers who became unemployed or underemployed. Such revised certification is hereby made as follows:

"All workers (hourly, piecework, and salaried), of the Foot Flairs, Inc., plant located at Manchester, N.H., who became unemployed or underemployed after September 28, 1969, are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962."

Signed at Washington, D.C., this 18th day of January 1972.

EDWARD B. PERSONS,
Associate Deputy Under Secretary for International Affairs.

[FR Doc.72-1188 Filed 1-26-72;8:48 am]

INTERSTATE COMMERCE COMMISSION

[Notice 6]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

JANUARY 21, 1972.

The following applications are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 730 (Sub-No. 333), filed December 20, 1971. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a corporation, 1417 Clay Street, Post Office Box 958, Oakland, CA 94604. Applicant's representative: Earl J. Brooks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Firearms International Corp., Accokeek, Prince Georges County, Md., as an off-route point in connection with carrier's otherwise authorized regular route operations to and from Washington, D.C. NOTE: Applicant states that no duplicating authority is being sought. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Baltimore, Md.

No. MC 2202 (Sub-No. 403), filed December 23, 1971. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309. Applicant's representative: James W. Conner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and warehouse facilities of Firearms International Corp., at or near Accokeek, Md., as an off-route point in connection with applicant's regular route authority. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 6380 (Sub-No. 10), filed December 29, 1971. Applicant: R. F. TRUESDELL, INC., 1616 West 47th Street, Ashtabula, OH 44004. Applicant's representative: Edwin C. Reminger, 731 Leader Building, Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Ashtabula, Ohio, to Winchester, Va., under contract with Inland Container Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 7419 (Sub-No. 4), filed December 27, 1971. Applicant: RELIABLE TRANSFER & STORAGE COMPANY, INC., 1251 Occidental Avenue South, Seattle (King County), WA 98134. Applicant's representative: Edward C. Pewters, 5403 Rainier Avenue South, Seattle, WA. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General freight* in cargo vans or containers and *empty cargo vans or containers*, between points in King, Snohomish, and Pierce Counties, Wash., restricted to shipments having an immediate prior or subsequent movement by water. NOTE: Applicant states no duplications exist. It further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 13250 (Sub-No. 113), filed December 23, 1971. Applicant: J. H. ROSE TRUCK LINE, INC., 5003 Jensen Drive, Post Office Box 16190, Houston, TX 77022. Applicant's representative: James M. Doherty, Suite 401, First National Life Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Car wash systems*, (2) *parts, attachments, and accessories* for the commodities specified in (1) above, and (3) *supplies* used in the operation and maintenance of commodities specified in (1) above, from Los Angeles, Calif., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states it has no *present* intention to tack the authority sought with existing authority. However, tacking would be possible in order to serve on any of the involved commodities which require the use of special equipment, between points in Washington and Oregon, on the one hand, and, on the other, points in the involved destination area (via Los Angeles County, Calif.). If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 22301 (Sub-No. 12), filed December 20, 1971. Applicant: SIOUX TRANSPORTATION COMPANY, INC., 1230 Steuben Street, Sioux City, IA 51105. Applicant's representative: Paul Beck (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, commodities in bulk and those requiring special equipment) (1) between Sioux City, Iowa and Chicago, Ill.: From Sioux City over Iowa Highway 141 to Dennison, Iowa, thence over U.S. Highway 30 to junction Alternate Highway 30, and thence over Alternate U.S. Highway 30 to Chicago, and return over the same route. Service is authorized to and from the intermediate points of Carroll, Iowa; (2) between Omaha, Nebr., and Chicago, Ill.: From Omaha over U.S. Highway 75 to Missouri Valley, Iowa, thence over U.S. Highway 30 to junction Alternate U.S. Highway 30, thence over Alternate U.S. Highway 30 to Chicago, and return over the same route. Service is authorized to and from the intermediate points of Council Bluffs, Missouri Valley, and Carroll, Iowa, and serving Lombard, Ill., as an off-route operations point in connection with applicant's authorized regular routes operations to and from Chicago, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, or Omaha, Nebr.

No. MC 30844 (Sub-No. 384), filed December 13, 1971. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Footwear, department store findings, and footwear display cabinets*, from the plantsites and facilities of Meldisco Shoe Division of Melville Shoe Corp. at Brockton, Mass., to points in Arkansas, Illinois (except Chicago, and commercial zone), Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Texas, and Wisconsin. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Chicago, Ill.

No. MC 30844 (Sub-No. 385), filed December 20, 1971. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such articles* as are dealt in by retail discount stores (except foodstuffs and commodities in bulk), from points in New York City, N.Y., and commercial zone to points in Colorado, Illinois (except Chicago and commercial zone), Indiana, Iowa, Michigan, Minnesota, Montana, Nebraska, North Dakota, Ohio, Wisconsin, restricted to transportation of

traffic originating at or destined to the facilities of Diana Stores Corp., Division of Daylin, Inc. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill., or New York, N.Y.

No. MC 35320 (Sub-No. 132), filed December 23, 1971. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, Post Office Box 2550, Lubbock, TX 79408. Applicant's representative: Frank M. Garrison (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Firearms International Corp., Accokeek, Prince Georges County, Md., as an off-route point in connection with applicant's authorized regular route operations to and from Washington, D.C. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or any location convenient to the Commission.

No. MC 40270 (Sub-No. 12), filed December 19, 1971. Applicant: CRABBS TRANSPORT, INC., Post Office Box 3486, Enid, OK 73701. Applicant's representative: Rufus H. Lawson, 106 Bixler Building (Post Office Box 75124), Oklahoma City, OK 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and feed ingredients*, in bulk, in tank or hopper type vehicles, between Enid, Okla., on the one hand, and, on the other, points in Kansas. NOTE: Applicant states the purpose of this application is to remove the restriction under Docket No. MC 40270 which prohibits the transportation of said commodities in tank or hopper type vehicles, between Enid, Okla., on the one hand, and, on the other, points in Kansas. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Tulsa, Okla.

No. MC 42487 (Sub-No. 782), filed December 23, 1971. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, a corporation, 175 Linfield Drive, Menlo Park, CA 94025. Applicant's representative: Eugene T. Liipfert, 1660 L Street NW., Suite 1100, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving the plantsite of Eastalco Aluminum Co. near Frederick, Md., as an off-route point in connection with applicant's presently authorized regular route serving Frederick, Md. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 46007 (Sub-No. 5), filed December 23, 1971. Applicant: J. W. BROWNETT, INC., 70 Canal Street, Jersey City, NJ 07302. Applicant's representative: Robert B. Pepper, 174 Brower Avenue, Edison, NJ 08817. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Shortenings, margarine, and edible greases*, in bulk, in tank vehicles, from the facilities of Colfax, Inc., Pawtucket, R.I., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Vermont, Virginia, and the District of Columbia; and (2) *animal oils, vegetable oils and oils kindred to animal and vegetable oil*, in bulk, in tank vehicles, from points in New Jersey, New York, Pennsylvania, and Virginia, to the facilities of Colfax, Inc., Pawtucket, R.I., under a continuing contract with Colfax, Inc., Pawtucket, R.I. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 61592 (Sub-No. 254), filed December 3, 1971. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: R. Connor Wiggins, Jr., 100 North Main Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal panels, metal insulated panels, insulation, metal windows and doors and frames therefor, and accessories*, necessary for the installation and completion of the named commodities, from Pine Bluff, Ark., to points in the United States (except Alaska, Arkansas, and Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 76429 (Sub-No. 5), filed December 27, 1971. Applicant: WILLIAM A. STEWART, doing business as STEWART TRUCK LINE, Dry Ridge, Ky. 41035. Applicant's representative: Rudy Yessin, McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Sherman, Ky., and Corinth, Ky., serving all intermediate points and points within 5 miles thereof, over U.S. Highway 25; and (2) between Dry Ridge, Ky., and Glenco, Ky., serving all intermediate points and points within 5 miles of said route, over Kentucky Highway 22 and U.S. Highway 127. NOTE: Applicant states it will tack at common points. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Lexington, Ky.

No. MC 83539 (Sub-No. 326), filed December 23, 1971. Applicant: C & H TRANSPORTATION CO., INC., 1936 2010 West Commerce Street, Post Office Box 5976, Dallas, TX 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural tractors and parts, implements, attachments, accessories, and supplies*, from New Orleans, La., to points in Alabama, Arkansas, Illinois, Louisiana, Mississippi, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 94350 (Sub-No. 292) (correction), filed August 12, 1971, published in the FEDERAL REGISTER issue of September 23, 1971, and republished as corrected this issue. Applicant: TRANSIT HOMES, INC., Haywood Road, Post Office Box 1628, Greenville, SC 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers* designed to be drawn by passenger automobiles in initial shipments, and (2) *Buildings in sections*, mounted on wheeled undercarriages, from points of manufacture from points in Rockingham County, N.H., to all points east of the Mississippi River, including Minnesota. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to reflect the origin in part (2) above as *Rockingham County, N.H.* in lieu of *Rockingham County, N.Y.* which was in error. If a hearing is deemed necessary, applicant requests it be held at Concord, N.H.

No. MC 100449 (Sub-No. 32), filed December 28, 1971. Applicant: MALLINGER TRUCK LINE, INC., Otho, Iowa 50569. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from New Hampton, Iowa, to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin, restricted to traffic originating at the plantsite and facilities of Kitchens of Sara Lee at New Hampton, Iowa, and destined to the above-named destination States. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 101075 (Sub-No. 111) filed December 22, 1971. Applicant: TRANSPORT, INC., Post Office Box 396, Moorhead, MN 56560. Applicant's representative: Ronald B. Pitsenbarger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, from Superior, Wis., to points in South Dakota. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant further states that no duplicating authority is being sought. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 102567 (Sub-No. 147), filed December 13, 1971. Applicant: EARL GIBBON TRANSPORT, INC., 4295 Meadow Lane, Post Office Drawer 5357, Bossier City, LA 71010. Applicant's representative: Jo E. Shaw, 816 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Antifreeze preparations, glycols, glycol ethers, jet fuel anti-icing agents, and motor fuel antiknock compound* from the plantsite of Houston Chemical Co. located near Beaumont, Tex., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, and Tennessee, restricted to traffic originating at the plantsite of Houston Chemical Co. near Beaumont, Tex., and destined to points in the above named States. NOTE: If a hearing is deeemd necessary, applicant requests it be held at New Orleans, La., or Houston, Tex.

No. MC 105813 (Sub-No. 183), filed January 3, 1972. Applicant: BELFORD TRUCKING CO., INC., 3500 Northwest 79th Avenue, Miami, FL 33148. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Mattoon, Ill., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, and Tennessee (except Memphis, Tenn., and points in its commercial zone). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 106398 (Sub-No. 580), filed December 15, 1971. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from points in Onslow County, N.C., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 107295 (Sub-No. 593), filed December 20, 1971. Applicant: PREFAB TRANSIT CO., a corporation, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and roofing materials*, from points in Franklin, Warren County, Ohio, to points in Indiana, Kentucky, North Carolina, Pennsylvania, Tennessee, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. No duplications anticipated, however, should any develop full disclosure will be made at the hearing. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 107295 (Sub-No. 594), filed December 20, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paving joints, paving compound, concrete curing compound, asphalt siding and roofing cement*, from Elgin and Hampshire, Ill., to points in Alabama, Kansas, Louisiana, Minnesota, Mississippi, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplications are anticipated. However, should any develop, full disclosure will be made at the hearing. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 108449 (Sub-No. 335), filed December 6, 1971. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113. Applicant's representative: Adolph J. Bieberstein, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, (1) from Providence, R.I., to points in Connecticut, Maine, Massachusetts, Pennsylvania, New Hampshire, New Jersey, New York, Rhode Island, and Vermont, and (2) from points in Connecticut, Maine, Massachusetts, New Hampshire, Pennsylvania, New Jersey, New York, Rhode Island, and Vermont, to Providence, R.I. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Providence, R.I.

No. MC 110420 (Sub-No. 647), filed December 27, 1971. Applicant: QUALITY CARRIERS, INC., I–94 and County Highway C, Bristol Wis., Post Office Box 186, Pleasant Prairie, WI 53158. Applicant's representative: Allan B. Torhorst, Post Office Box 307, Burlington, WI 53105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furfural*, in bulk, from Cedar Rapids, Iowa, to points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 110689 (Sub-No. 5), filed December 16, 1971. Applicant: AIRWAY TRUCKING CO., a corporation, 1605 Chapin Road, Montebello, CA 90640. Applicant's representative: Charles R. Hart, Jr., 6055 East Washington Boulevard, Suite 1020, Los Angeles, CA 90040. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: Over regular routes: *Property* necessary or incidental to the establishment, maintenance, or dismantling of *oil, gas, or water well, pipe lines, refineries and cracking or gasinghead plants, equipment, and material* used in construction, *and equipment* used in farming, (1) between Oregon-California State line and California-Mexico line over U.S. Highway 101 and U.S. Highway 101 Bypass; (2) between Oregon-California State line and Mexican Border over U.S. Highways 99, 99E, and 99W; (3) between Redding and Alturas, Calif., over California Highway 299; (4) between the Oregon-California State line and the California-Nevada State line, via Alturas and Johnstonville, Calif., over U.S. Highway 395; (5) between junction U.S. Highway 99E near Red Bluff, Calif., and junction U.S. Highway 395 at Johnstonville, Calif., over California Highway 36; (6) between Marysville, Calif., and junction U.S. Highway 40 over California Highway 20; (7) between San Francisco and California-Nevada State line over U.S. Highway 40; (8) between Sacramento, Calif., and the California-Nevada State line over U.S. Highway 50; (9) between the California-Nevada State line at Topaz Lake and junction U.S. Highway 66 over U.S. Highway 395; (10) between Los Angeles and Needles, Calif., over U.S. Highway 66; (11) between Los Angeles, Calif., and California-Arizona State line over U.S. Highway 60; (12) between Barstow and Nevada-California State line over U.S. Highways 91 and 466; (13) between San Diego and California-Arizona State line over U.S. Highway 80; and (14) between Baker, Calif., and Nevada-California State line over California Highway 127, and return over the same routes in 1 through 14 above, and serving all

intermediate points with the right to make lateral departures thereon within a radius of 50 miles of such routes;

Over irregular routes: (1) *Commodities* which by reason of size or weight require special handling or the use of special equipment, and *commodities* which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading; (2) *self-propelled articles* transported on trailers and *related machinery, tools, parts, and supplies* moving in connection therewith; (3) *machinery and machines;* (4) *iron and steel articles* as described in Appendix 5 to the Commission's report in Descriptions in *Motor Carriers Certificates,* ex parte, MC 45, 61 MCC 209 and 766; (5) *pipe,* other than iron and steel, together with fittings; and (6) *construction materials,* between points in California, Oregon, Washington, Idaho, Montana, Utah, Nevada, Wyoming, Colorado, and Arizona. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states the instant application seeks to convert the certificate of registration under MC 110689 (Sub-No. 4) into a certificate of public convenience and necessity. If a hearing is deemed necessary, applicant requests it be held at Los Angeles or San Francisco, Calif., or Portland, Oreg.

No. MC 111729 (Sub-No. 333), filed December 20, 1971. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Business papers, records and audit and accounting media of all kinds,* and *advertising material moving therewith,* (a) between Piscataway, N.J., on the one hand, and, on the other, Fairless Hills, Hamburg, and Hanover, Pa.; Cambridge, Md.; Danbury, Conn.; and Millis, Mass.; (b) between Lincoln, R.I., and New York, N.Y.; (c) between Marseilles, Ill., and Des Moines, Iowa; (d) between Bradley, Ill., and Munster, Ind.; and (e) between Waldorf, Md., and Manassas, Va.; (2) *small plumbing and heating supplies,* restricted against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor to one consignee on any one day, between Waldorf, Md., and Manassas, Va.; and (3) *whole human blood and blood derivatives,* between Washington, D.C., on the one hand, and, on the other, Charlottesville, Culpeper, Fort Belvoir, Front Royal, Fredericksburg, Gordonsville, Harrisonburg, Leesburg, Louisa, Luray, Manassas, Quantico, Warrenton, Winchester, and Woodstock, Va.; and Berkeley Springs, Martinsburg, Petersburg, Ranson, and Romney, W. Va., and Clinton, Frederick, Hagerstown, La Plata, Leonardtown, Lexington Park, Olney, and Prince Frederick, Md. NOTE: Applicant now holds contract carrier authority under its No. MC 112750 and subs, therefore dual operations may be involved. Common control may also be involved. Applicant states that a portion of the requested authority could be tacked with certain existing authorities, however, applicant does not at present have any intentions to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 111812 (Sub-No. 463), filed December 23, 1971. Applicant: MIDWEST COAST TRANSPORT, INC., 405½ East Eighth Street, Post Office Box 1233, Sioux Falls, S.D. 57101. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods,* from the plantsite and storage facilities of The Kitchens of Sara Lee at or near New Hampton, Iowa, to points in North Dakota, South Dakota, Montana, Idaho, Washington, Oregon, Utah, Arizona, Nevada, and California. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago Ill.

No. MC 111812 (Sub-No. 464), filed December 23, 1971. Applicant: MIDWEST COAST TRANSPORT, INC., 405½ East Eighth Street, Post Office Box 1233, Sioux Falls, SD 57101. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Canned foodstuffs,* from Estherville, Iowa, to points in California, Oregon, Washington, Colorado, Salt Lake City, Utah, Arizona, Idaho, and Montana. NOTE: Applicant states that the requested authority can be tacked with its existing authority in Subs 48, 64, 188, 236, 237, and 283, wherein applicant is authorized to serve points in Pennsylvania, Minnesota, Iowa, Nebraska, North Dakota, South Dakota, Wisconsin, New York, Colorado, Kansas, Oregon, New Hampshire, Maryland, Delaware, Virginia, West Virginia, Massachusetts, Illinois, California, and the District of Columbia. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Sioux Falls, S. Dak., or St. Paul, Minn.

No. MC 111812 (Sub-No. 465), filed January 3, 1972. Applicant: MIDWEST COAST TRANSPORT, INC., 405½ East Eighth Street, Post Office Box 1233, Sioux Falls, SD 57101. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen baked potatoes,* from the plantsite of Penobscot Frozen Foods, Belfast, Maine to points in Nebraska, Kansas, Colorado, South Dakota, North Dakota, Wyoming, Idaho, Utah, New Mexico, Arizona, Nevada, California, Montana, Oregon, and Washington. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack, and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Augusta or Bangor, Maine.

No. MC 111839 (Sub-No. 9), filed December 28, 1971. Applicant: BEE LINE EXPRESS, INC., Post Office Box 388, Albertville, AL 35950. Applicant's representative: Drew L. Carraway, 618 Perpetual Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and facilities of the Monsanto Co. located at or near Sand Mountain, Marshall County, Ala., approximately 10 miles northeast of Guntersville, Ala., as an off-route point in connection with applicant's authorized regular-route operations between Chattanooga, Tenn., and Birmingham, Ala. NOTE: If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Chattanooga, Tenn.

No. MC 112822 (Sub-No. 219), filed December 23, 1971. Applicant: BRAY LINES INCORPORATED, 1401 North Little (Post Office Box 1191), Cushing, OK 74023. Applicant's representative: K. Charles Elliott (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sugar, syrups, and blends thereof,* in bulk, from Kansas City, Kans.-Mo. commercial zone, to Omaha, Nebr. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Kansas City, Mo.

No. MC 112822 (Sub-No. 220), filed December 30, 1971. Applicant: BRAY LINES INCORPORATED, 1401 North Little (Post Office Box 1191), Cushing, OK 74023. Applicant's representative: K. Charles Elliott, 1401 North Little Street (Post Office Box 1191), Cushing, OK 74023. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Glass containers, closures, and corrugated cartons knocked-down,* from Waco, Tex., to points in Louisiana and New Mexico. NOTE: Applicant states it will tack with its authority in Sub-No. 108, from Ada and Muskogee, Okla., to points in Louisiana. If a hearing is deemed necessary, applicant requests it be held at Fort Worth or Houston, Tex.

No. MC 113434 (Sub-No. 48), filed December 28, 1971. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, MI 49423. Applicant's representative: Miss Wilhelmina Boersma, 1600 First Federal Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carnivorous animal feed*, in packages and (2) *materials and supplies* used in the manufacture, sale, and distribution of carnivorous animal feed (except in bulk), between points in Michigan and the plantsite and warehouse facilities of Kal-Kan Food, Inc., at Columbus, Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Detroit, Mich., or Washington, D.C.

No. MC 113587 (Sub-No. 6), filed December 23, 1971. Applicant: WARD RUGH, INC., Post Office Box 68, Ellensburg, WA 98926. Applicant's representative: Joseph O. Earp, 411 Lyon Building, 607 Third Avenue, Seattle, WA 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery*, from Caldwell, Idaho to points in Yakima, Kittitas, Benton, Adams, Franklin, Grant, Lincoln, and Douglas Counties, Wash. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 113678 (Sub-No. 445) (amendment) filed November 24, 1971, published in the FEDERAL REGISTER issue of December 30, 1971, and republished as amended this issue. Applicant: CURTIS, INC., 4810 Pontiac (Post Office Box 16004, Stockyard Station), Denver, CO 80216. Applicant's representative: Duane W. Acklie, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsites and storage facilities of Iowa Beef Processors, Inc., at Luverne, Minn.; West Point, Nebr.; Dennison and Fort Dodge, Iowa, to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at and destined to named locations. NOTE: The purpose of this republication is to reflect a change in one of the origin points as *West Point, Nebr.*, in lieu of *West Point, Iowa*, which applicant states was in error. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.; Chicago, Ill.; or Denver, Colo.

No. MC 113843 (Sub-No. 178), filed December 20, 1971. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA 02210. Applicant's representative: Lawrence T. Sheils (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Milton, Del., to points in Ohio and West Virginia and that part of Pennsylvania on and west of U.S. Highway 220, restricted to traffic originating at Milton, Del., and destined to the named destinations. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113861 (Sub-No. 53), filed November 22, 1971. Applicant: WOOTEN TRANSPORTS, INC., 153 Gaston Avenue, Memphis, TN 38106. Applicant's representative: Dale Woodall, 900 Memphis Bank Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, from points in Davidson County, Tenn., to points in Alabama and Kentucky. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 114725 (Sub-No. 49), filed November 19, 1971. Applicant: WYNNE TRANSPORT SERVICE, INC., 2606 North 11th Street, Omaha, NE 68110. Applicant's representative: Donald W. Wynne (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed ingredients, feed supplements, urea, feed grade urea, urea when used in feed or feed ingredients or feed supplements*, in bulk, in tank or hopper vehicles, from Fremont, Nebr., to points in Colorado, Illinois, Iowa, Kansas, Missouri, Minnesota, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 114772 (Sub-No. 8), filed December 23, 1971. Applicant: MERCER & DUNBAR ARMORED CAR SERVICE, INC., doing business as DAS, 75 Maxim Road, Hartford, CT. Applicant's representative: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Scrap platinum*, from Southbridge, Mass., to Carteret, N.J.; and (b) *platinum coated electrodes*, from Carteret, N.J., to Southbridge, Mass., under contract with American Optical Corp. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Hartford, Conn.

No. MC 114965 (Sub-No. 46), filed December 27, 1971. Applicant: CYRUS TRUCK LINE, INC., Post Office Box 327, Iola, KS 66749. Applicant's representative: Charles H. Apt, 104 South Washington, Iola, KS 66749. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and dry fertilizer materials*, from the plantsite of Midwest Terminal Warehouse in Kansas City Mo., to points in Iowa, Kansas, Nebraska, and Oklahoma. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 115793 (Sub-No. 14) (Correction), filed December 7, 1971, published in the FEDERAL REGISTER issue of January 6, 1972, and republished as corrected this issue. Applicant: CALDWELL FREIGHT LINES, INC., U.S. Highway 321 South, Post Office Box 672, Lenoir, NC 28645. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain products, bakery mixes and bases for bakery products*, from Alton, Ill., to points in North Carolina on and west of U.S. Highway 301, those in South Carolina on and north of U.S. Highway 29, those in Georgia on and north of U.S. Highway 78 (except Atlanta, Ga.), those in Tennessee on and east of Alternate U.S. Highway 41 and those in Kentucky within the area bounded by U.S. Highway 41 from the Tennessee-Kentucky State line north to U.S. Highway 62, thence northeast along U.S. Highway 62 to U.S. Highway 231, thence southeast along U.S. Highway 231 to U.S. Highway 80, thence east along U.S. Highway 80 to Interstate Highway 75, thence south along Interstate Highway 75 to the Tennessee-Kentucky State line and westward along that State line to point of beginning, including points on all designated boundary lines. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to redescribe the territorial scope of the application. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 115826 (Sub-No. 233), filed December 27, 1971. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, CO 80217. Applicant's representative: Ezekial Gomez (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Fort Morgan, Colo., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Kentucky, Tennessee,

Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 115826 (Sub-No. 235), filed December 27, 1971. Applicant: W. J. DIGBY, INC., 1960 31st Street, Post Office Box 5088, Denver, CO 80217. Applicant's representative: Ezekial Gomez (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from points in Oregon, Washington and Idaho, to Turlock, Calif., and cold storage facilities utilized by Banquet Foods Corp. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Salt Lake City, Utah.

No. MC 115840 (Sub-No. 75), filed December 27, 1971. Applicant: COLONIAL FAST FREIGHT LINES, INC., 1215 West Bankhead Highway, Post Office Box 10327, Birmingham, AL 35202. Applicant's representative: C. E. Wesley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles* (except in bulk), from Dothan, Ala., to points in Florida, Georgia, Mississippi, Louisiana, and Tennessee; (2) *conduit, plastic pipe, fittings and valves*, from Slocomb and Mobile, Ala., to points in the United States (except Alaska and Hawaii); (3) *equipment, materials, and supplies* used in the manufacture of conduit plastic pipe, fittings, and valves, from points in the United States (except Alaska and Hawaii) to Slocomb and Mobile, Ala. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Montgomery or Birmingham, Ala.

No. MC 115841 (Sub-No. 421) (amendment), filed November 12, 1971, published in the FEDERAL REGISTER issue of December 23, 1971, amended and republished as amended, this issue. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, Post Office Box 10327, Birmingham, AL 35204. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), from points in California, to points in Ohio, Pennsylvania, New York, Georgia, Missouri, Texas, Oklahoma, Illinois, and Florida. NOTE: Applicant states tacking is possible at Cleveland, Ohio, but it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. The purpose of this republication is to broaden the scope of authority sought by adding Pennsylvania, New York, Georgia, Missouri, Texas, Oklahoma, Illinois, and Florida. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.; Cleveland, Ohio, or Washington, D.C.

No. MC 115841 (Sub-No. 422), filed December 23, 1971. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, Birmingham, AL 35204. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), in tank vehicles equipped with mechanical refrigeration, from King of Prussia and Philadelphia, Pa., to Cleveland, Ohio and its commercial zone, Syracuse, N.Y., and New York City, N.Y., and its commercial zones. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio, Philadelphia, Pa., or Washington, D.C.

No. MC 116073 (Sub-No. 212), filed December 23, 1971. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, 1825 Main Avenue, Moorhead, MN 56560. Applicant's representative: Robert G. Tessar, 1819 Fourth Avenue South, Moorhead, MN 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from points in York County, Nebr., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr.

No. MC 116073 (Sub-No. 213), filed December 30, 1971. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, Post Office Box 919, Moorhead, MN 56560. Applicant's representative: Robert G. Tessar, 1819 Fourth Avenue South, Moorhead, MN 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements and *pickup caps and covers*, from points in Plymouth County, Mass., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 116073 (Sub-No. 214), filed January 3, 1972. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, Moorhead, MN 56560. Applicant's representative: Robert G. Tessar, 1819 Fourth Avenue South, Moorhead, MN 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from points in Hamilton County, Nebr., to points in the United States (except Alaska, and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr.

No. MC 116073 (Sub-No. 215), filed December 27, 1971. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, Moorhead, MN 56560. Applicant's representative: Robert G. Tessar, 1819 Fourth Avenue South, Moorhead, MN 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings* or *buildings in sections* (excluding buildings or buildings in sections, mounted on wheeled undercarriages), between points in the United States (including Alaska but excluding Hawaii). NOTE: Applicant states it intends only to transport modular units on specially designed lowboy equipment. Applicant further states that the requested authority cannot be tacked with its existing authority. No duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Atlanta, Ga., Chicago, Ill., Dallas, Tex., Denver, Colo., or Los Angeles, Calif.

No. MC 116092 (Sub-No. 4), filed December 27, 1971. Applicant: E. J. PERSONS TRANSPORT LTD., 785 Main Street, Sweetsburg, PQ, Canada. Applicant's representative: Robert B. Pepper, 174 Brower Avenue, Edison, NJ 08817. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the ports of entry on the United States-Canada international boundary line at or near Highgate Springs, Richford, and Troy, Vt., to point in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont, restricted to shipments originating in Canada and destined to points in the United States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 116273 (Sub-No. 150), filed December 20, 1971. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, IL 60650. Applicant's representative: William R. Lavery (same address as above). Authority sought to

operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pellets and liquid latex*, in bulk, from Marseilles, Ill., to points in Michigan, Missouri, Kansas, Colorado, Utah, Tennessee, Wisconsin, Ohio, Idaho, Washington, Oregon, California, Texas, Minnesota, West Virginia, Alabama, Kentucky, and Indiana; and (2) *petroleum and petroleum products*, in bulk, from points in Milwaukee County, Wis., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Ohio, Pennsylvania, and Wisconsin. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack, and therefore does not identify the territories which can be served. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 116763 (Sub-No. 216), filed December 16, 1971. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum, petroleum products, and lubricating oils*, in containers or barrels or boxes or in bulk in barrels, kits or pails; and *grease guns, grease gun parts, and related articles, vehicle body sealer or sound deadener compounds*, from Wichita, Kans., to points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Delaware, Maryland, West Virginia, Virginia, North Carolina, South Carolina, Georgia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. No duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 117815 (Sub-No. 185), filed December 27, 1971. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (1) from St. James, Madelia, and Butterfield, Minn., to points in Iowa, Nebraska, Kansas, Missouri, Illinois, Wisconsin, Michigan, and Indiana, and (2) from Estherville, Iowa, to points in Nebraska, Kansas, Missouri, Illinois, Minnesota, Wisconsin, Michigan, and Indiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Omaha, Nebr.

No. MC 117883 (Sub-No. 166), filed December 23, 1971. Applicant: SUBLER TRANSFER, INC., 791 East Main Street, Versailles, OH 45380. Applicant's representative: Edward J. Subler, Post Office Box 62, Versailles, OH 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Albany, N.Y., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 118288 (Sub-No. 39), filed December 27, 1971. Applicant: STEPHEN F. FROST, 14750 Boyle Avenue, Fontana, CA 92335. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, serving Montgomery Pass, Nev. as an intermediate point in connection with applicant's presently authorized regular route authority under MC 118288 (Sub-No. 9). NOTE: If a hearing is deemed necessary, applicant request it be held at Carson City, Nev.

No. MC 118520 (Sub-No. 7), filed December 22, 1971. Applicant: ALASKA TRUCK TRANSPORT, INC., 832 Denny Building, 2200 Sixth Avenue, Seattle, WA 98121. Applicant's representative: R. F. Sites (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from points in Ada and Canyon Counties, Idaho, to points in Alaska, west of the Alaska-Yukon Territory boundary line and its southward extension. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Anchorage, Alaska or Seattle, Wash.

No. MC 118806 (Sub-No. 19), filed December 28, 1971. Applicant: ARNOLD BROS. TRANSPORT, LTD., 739 Lagimodiere Boulevard, Winnipeg, MB, Canada. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bus bodies*, and (2) *parts, attachments and accessories* for bus bodies, between points in St. Joseph County, Ind., on the one hand, and, on the other, ports of entry on the United States-Canada boundary line at Noyes, Minn., and Sault Ste. Marie, Mich. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119422 (Sub-No. 51), filed December 27, 1971. Applicant: EE-JAY MOTOR TRANSPORTS, INC., 15th and Lincoln, East St. Louis, IL 62204. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastics*, in bulk, in tank vehicles, from East St. Louis, Ill., to points in Kansas, Iowa, Nebraska, Missouri, Indiana, Ohio, Tennessee, and Kentucky, restricted to shipments having a prior movement by rail. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Springfield, Ill.

No. MC 119767 (Sub-No. 280), filed December 27, 1971. Applicant: BEAVER TRANSPORT CO., a corporation, I-94 and County Highway C, Bristol, WI., Post Office Box 188, Pleasant Prairie, WI 53158. Applicant's representative: Allan B. Torhorst, Post Office Box 307, Burlington, WI 53105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite of the Kitchens of Sara Lee at New Hampton, Iowa, to points in Michigan, points in Ohio on and west of a line beginning at Sandusky, thence south over Ohio Highway 4 to Marion, thence south over U.S. Highway 23 to Portsmouth, Ohio, points in Indiana, Kentucky, Minneosta, Missouri, Illinois, Wisconsin, points in South Dakota on and east of U.S. Highway 281, and points in North Dakota on and east of U.S. Highway 281. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 119777 (Sub-No. 231), filed December 27, 1971. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Drawer L, Highway 85 East, Madisonville, KY 42431. Applicant's representative: Ronald E. Butler, Post Office Drawer 477, Madisonville, KY 42431. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings* (except commodities as described by the Commission in Mercer Extension—Oilfield Commodities, 74 M.C.C. 459), from points in Calhoun County, Ark., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 126970 and subs, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 119789 (Sub-No. 111), filed December 20, 1971. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6188, Dallas, TX 75222. Applicant's representative: Winston M. Boggs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Honeycomb, unexpandable cardboard, paper and paper products,* from Tulleytown, Pa., to Los Angeles, Calif., and the Los Angeles commercial zone. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 119872 (Sub-No. 9), filed December 27, 1971. Applicant: GULF TRANSPORT, LIMITED, a corporation, 61 St. Peters Road, Charlottetown, PE, Canada. Applicant's representative: Kenneth B. Williams, 111 State Street, Boston, MA 02109. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from Albany, N.Y., to points on the international boundary line between the United States and Canada at or near Houlton and Calais, Maine, restricted to shipments moving to points in Canada. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 123294 (Sub-No. 24), filed December 30, 1971. Applicant: WARSAW TRUCKING CO., INC., 1102 West Winona Avenue, Warsaw, IN 46580. Applicant's representative: Martin J. Leavitt, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Aluminum ingots and aluminum molten metal,* from the plantsite of Wabash Smelting, Inc., at Wabash, Ind., to points in Connecticut, Delaware, Florida, Georgia, Maryland, Massachusetts, Michigan, Minnesota, Virginia, Wisconsin, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Rhode Island, South Carolina, South Dakota, West Virginia, and Oklahoma, and (2) *aluminum scrap metal,* from the above-named destination points to the plantsite of Wabash Smelting, Inc., at Wabash, Ind. NOTE: Applicant states that the request authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 123372 (Sub-No. 23), filed December 29, 1971. Applicant: CARTAGE SERVICES, INC., 26380 Van Born Road, Dearborn Heights, MI 28125. Applicant's representative: Martin J. Leavitt, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Toilet preparations and work gloves,* from Detroit, Mich., to points in Indiana, Illinois, Minnesota, and Wisconsin, and (2) *materials and supplies used in the manufacture of toilet preparations and work gloves* from points in Indiana, Illinois, Minnesota, and Wisconsin to Detroit, Mich., under a continuing contract, or contracts with Advance Glove Co., and its division, Joseph Frenkel Co., of Detroit, Mich. NOTE: Applicant also holds common carrier authority under MC 118594, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 124708 (Sub-No. 40), filed November 22, 1971. Applicant: MEAT PACKERS EXPRESS, INC., 222 South 72d Street, Omaha, NE 68114, Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles* distributed by meat packinghouses as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Carroll, Iowa and Omaha, Nebr., to points in Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, West Virginia, California, Arizona, Nevada, Oregon, Washington, and the District of Columbia, under contract with Farmlands Foods, Inc., of Denison, Iowa. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Omaha, Nebr.

No. MC 124078 (Sub-No. 505), filed December 23, 1971. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53246. Applicant's representative: James R. Ziperski (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cement,* from the plantsite of Medusa Portland Cement Co. at Wampum, Pa., to points in Illinois, Kentucky, Maryland, Pennsylvania, and Virginia. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 124170 (Sub-No. 27), filed December 22, 1971. Applicant: FROSTWAYS, INC., 2450 Scotten, Detroit, MI 48209. Applicant's representative: Robert D. Schuler, One Woodward Avenue, Suite 1700, Detroit, MI 48226. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with bananas, in vehicles equipped with mechanical refrigeration, from points in North Carolina and South Carolina to points in Illinois, Indiana, Michigan, New York, New Jersey, Ohio, and Pennsylvania, restricted to shipments having a prior movement by water. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich., or Washington, D.C.

No. MC 124402 (Sub-No. 7), filed December 29, 1971. Applicant: FLEET LINE, INC., 3109 Alton Boulevard, Chattanooga, TN. Applicant's representative: Robert D. Rierson, Greyhound Towers, Phoenix, Ariz. 85077. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Animal oils, animal fats, vegetable oils and products including blends thereof* (except in bulk in tank trailers) all in vehicles equipped with mechanical refrigeration, from Chattanooga, Tenn., to points in Kentucky, Tennessee, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, and Mississippi, limited to a transportation service to be performed under a continuing contract or contracts with Armour & Co., of Phoenix, Ariz. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Chattanooga, Tenn., or Washington, D.C.

No. MC 125708 (Sub-No. 125), filed December 17, 1971. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., Highway 32 East, Crawfordsville, Ind. 47933. Applicant's representative: James W. Major (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Pulp board or fibre board, paper or pulp lined,* from points in Kalamazoo, Mich., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico. NOTE: Applicant holds no authority or has no pending applications which could feasibly be tacked or joined with authority sought in this application however applicant would tack or join this authority with future authority where feasible to serve the shipping public. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 128007 (Sub-No. 41), filed December 27, 1971. Applicant: HOFER, INC., Post Office Box 583 (4032 Parkview Drive), Pittsburg, KS 66762. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry feed ingredients,* from the plant and warehouse facilities of Farmland Industries, Inc., and/or Farmers Chemical Co., located in Jasper County, Mo., to points in New Mexico, Colorado, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Arkansas, Louisiana, Wisconsin, Illinois, Kentucky, Tennessee, Indiana, Wyoming, Montana, Michigan, Utah, Ohio, Mississippi, Arizona, Idaho, Alabama, and Georgia, restricted to traffic originating at the plant and warehouse facilities of Farmland Industries, Inc., and/or Farmers Chemical Co., in Jasper County, Mo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 128235 (Sub-No. 10), filed December 23, 1971. Applicant: ALVIN JOHNSON, 137 13th Avenue NE., Minneapolis, MN 55413. Applicant's representative: Earl Hacking, 503 11th Avenue South, Minneapolis, MN 55415. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from St. Louis, Mo., to Virginia, Minn. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 128273 (Sub-No. 121), filed December 30, 1971. Applicant: MIDWESTERN EXPRESS, INC., Box 189, Fort Scott, KS 66701. Applicant's representative: Danny Ellis (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed ingredients*, from the warehouse facilities of Farmland Industries, Inc., and Farmer's Chemical Co. located in Jasper County, Mo., to points in New Mexico, Colorado, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Arkansas, Louisiana, Wisconsin, Illinois, Kentucky, Tennessee, and Indiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 128527 (Sub-No. 25), filed December 27, 1971. Applicant: MAY TRUCKING COMPANY, a corporation, Post Office Box 398, Payette, ID 83661. Applicant's representative: John K. Gatchel, Post Office Box 195, Payette, ID 83661. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Pipe or tubing*, aluminum or plastic, in straight or mixed shipments; and (b) *pipe fittings* when included with pipe or tubing, aluminum, plastic, or iron and steel, not to exceed 10 percent of the total weight of the shipment, from points in Vancouver, Wash., Portland and Eugene, Oreg., to points in Idaho south of the southern boundary of Idaho County and points in Nevada on and north of U.S. Highway 40 and points in Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 128762 (Sub-No. 7), filed December 27, 1971. Applicant: P. L. LAWTON, INC., Post Office Box 325, Berwick, PA 18603. Applicant's representative: John M. Musselman, 400 North Third Street, Harrisburg, PA 17108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal siding and roofing, and other component parts, accessories and materials for mobile homes, modular or assembled buildings, and recreational vehicles, and metal sheets and slabs*, between Bloomsburg, Pa., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, under contract with Amax Aluminum Mill Products, Inc., a division of American Metal Climax, Inc., of New York, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 133095 (Sub-No. 19), filed December 30, 1971. Applicant: TEXAS CONTINENTAL EXPRESS, INC., Post Office Box 434, Euless, TX 76039. Applicant's representative: Rocky Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen seafoods and frozen foods* when moving in the same vehicle at the same time with frozen seafoods, from points in Maine and Massachusetts to points in Alabama, Arizona, Arkansas, California, Colorado, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Virginia, West Virginia, and Pensacola, Fla. NOTE: Applicant holds a pending contract application under MC 136032. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., Dallas, Tex., or Washington, D.C.

No. MC 133655 (Sub-No. 52), filed December 29, 1971. Applicant: TRANSNATIONAL TRUCK, INC., Post Office Box 4168, Amarillo, TX 79105. Applicant's representative: Charles Singer, 33 North Dearborn, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts, and articles distributed by meat packinghouses*, from Booker and Amarillo, Tex., to points in the United States (except Alaska and Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with various subs of its existing authority under MC 133655 and will tack where feasible. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Kansas City, Kans.

No. MC 133884 (Sub-No. 2), filed December 22, 1971. Applicant: BRUCE FULLER, 1710 Main Street, Buhl, ID 83316. Applicant's representative: Charles J. Kimball, 605 South 14th Street, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Blood flour and brewers dried yeast*, from Denver and Greeley, Colo., to Gardners, Pa., under continuing contract with Rangen, Inc., Buhl, Idaho. NOTE: If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 135364 (Sub-No. 2), filed December 27, 1971. Applicant: MORWALL TRUCKING, INC., Route 502, Post Office Box 152, Dunmore, PA 18512, Daleville, Pa. 18444. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper, gummed, enameled other tank clothlined; paper, cloth or plastic, enameled, glazed or surface coated*, from Moosic, Pa., and Danville, Ill., to points in the United States (except Alaska and Hawaii), and (2) *materials and supplies* used or useful in the manufacture of the above commodities (except commodities in bulk), from points in New Jersey, New York, Ohio, Michigan, Massachusetts, West Virginia, Delaware, Virginia, Vermont, Maine, California, and New Hampshire, to Moosic, Pa., and Danville, Ill., under contract with Fitchburg Coated Products, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa.

No. MC 135537 (Sub-No. 1), filed December 23, 1971. Applicant: METRO HEAVY HAULING, INC., 19060 Frager Road, Kent, WA 98031. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel rods, rebar wire mesh and tie wire*, from Seattle, Wash., to the site of the nuclear energy plant of Portland Gas & Electric Co., at or near St. Helens, Oreg., under contract with Tri-M Erectors, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 135611 (Sub-No. 3), filed December 27, 1971. Applicant: WALKER & WHITTED TRANSPORTATION CO., INC., 320 North Eighth Street, Brawley, CA 92227. Applicant's representative: Carl H. Fritze, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses*, in bulk, from points in California in and south of San Luis Obispo, Kern, and San Bernardino Counties, to points in Arizona. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 135858 (Sub-No. 1), filed December 23, 1971. Applicant: A. G. KNORR, ROBERT D. KNORR, AND GENE A. KNORR, a partnership doing business as KNORR TRUCKING, Sawyer, N. Dak. 58781. Applicant's representative: Harris P. Kenner, 615 South Broadway, Minot, ND 58701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Packaged oil and grease products and containers*, from Shreveport, La., to Minot, N. Dak., under contract with Westland Oil Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minot or Fargo, N. Dak., or Minneapolis-St. Paul, Minn.

No. MC 136003 (Sub-No. 1), filed December 27, 1971. Applicant: JOSEPH C. PETRAITIS, Post Office Box 752, Murphysboro, IL 62966. Applicant's representative: Robert T. Lawley, 300 Reisch

Building, Springfield, IL 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Jackson, Perry, and Williamson Counties, Ill., on the one hand, and, on the other, Lambert Field (International Airport), St. Louis, Mo., on traffic having an immediately prior or subsequent movement by air. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Springfield, Ill.

No. MC 136121 (Sub-No. 1) (Correction), filed October 21, 1971, published in the FEDERAL REGISTER issue of December 2, 1971, and republished in part, as corrected this issue. Applicant: MINYARD TRUCKING COMPANY, INC., Post Office Box 45388, Tulsa, OK 74145. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Center, 3535 Northwest 58th Street, Oklahoma City, OK 73112. NOTE: The sole purpose of this partial republication is to reflect the correct docket number assigned thereto as MC 136121 (Sub-No. 1) in lieu of MC 136121. The rest of the application remains the same.

No. MC 136170 (Sub-No. 1), filed November 17, 1971. Applicant: HUBERT WM HENRY SR., HUBERT WM HENRY JR., AND RICHARD M HENRY, a partnership, doing business as HENRY TRUCKING COMPANY, 11221 Cadigan Drive, St. Louis, MO 63138. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting*, from points in Bartow, Gilmer, Gordon, Murray, and Whitfield Counties, Ga., to St. Louis, Mo., under contract with Standard Floor Covering, Inc., and Camelot Carpets, Ltd. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 136219 (Sub-No. 1), filed November 22, 1971. Applicant: ACKERMAN MOTOR LINES, INC., 208 Alpine Trail, Sparta, NJ 07870. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Textiles and materials, equipment, and supplies* used or useful in the manufacture and sale of textiles, between Millville, N.J., on the one hand, and, on the other, Newburgh and points in the New York, N.Y., commercial zone as defined by the Commission, Carlstadt and Paramus, N.J., and points in Pennsylvania east of the Susquehanna River, under contract with Millville Dyeing Finishing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 136289, filed December 9, 1971. Applicant: FACTORY BUILDING SUPPLY, INC., Post Office Drawer 2327, Fairlane Station, Columbus, MS 39701. Applicant's representative: E. Stephen Heisley, 705 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers*, designed to be drawn by passenger automobiles, in initial movements and *buildings*, in sections when moving on their own undercarriages, and *modular homes*, from points in Lowndes County, Miss., to points in the United States (except Alaska and Hawaii), and (2) *refused, rejected, disabled, wrecked, and repossessed trailers*, designed to be drawn by passenger automobiles and *buildings*, in sections when moving on their own undercarriages and *modular homes*, from points in the United States (except Alaska and Hawaii) to points in Lowndes County, Miss., under contract with New Dimension Homes, Inc., a division of MacKay Industries, Ltd. Restrictions: (1) The above authority is restricted to traffic moving from or to the facilities of New Dimension Homes, Inc., a division of MacKay Industries, Ltd., in Lowndes County, Miss., and (2) the above authority is restricted to the transportation of traffic moving under a continuing contract or contracts with New Dimension Homes, Inc., a division of MacKay Industries, Ltd. NOTE: Applicant states that it is commonly controlled by the shipper and the purpose of this application is to substitute the commonly controlled contract carrier for its private carriage. If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 136307, filed December 22, 1971. Applicant: BURKEWITZ TRANSPORT, INC., Post Office Box 47, Coventry, VT 05825. Applicant's representative: Frederick T. O'Sullivan, 622 Lowell Street, Peabody, MA 01960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fencing, wood lath, and hardwood squares, fencing parts and fencing accessories* (except commodities which because of size or weight require the use of special equipment), from the port of entry on the international boundary line between the United States and Canada, at or near Derby Line, Vt., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, Ohio, Virginia, North Carolina, and the District of Columbia. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt.

MOTOR CARRIER OF PASSENGERS

No. MC 59238 (Sub-No. 67), filed December 27, 1971. Applicant: VIRGINIA STAGE LINES, INCORPORATED, 114 Fourth Street SE., Charlottesville, VA 22902. Applicant's representative: James W. Wilson, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street, Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers* and *their baggage, and express and newspapers* in the same vehicle with passengers, between Roanoke and Christiansburg, Va., from Roanoke over Interstate Highway 581 to junction Interstate Highway 81, thence over Interstate Highway 81 to junction Virginia Highway 8, thence over Virginia Highway 8 to Christiansburg, and return over the same routes, serving all intermediate points. NOTE: Applicant holds contract carrier authority under MC 135567, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 29886 (Sub-No. 277), filed December 24, 1971. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, IN 46621. Applicant's representative: Charles Pieroni (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Parabolic antennas, plastic domes, antenna parts and related transmission equipment*, from the plantsite of Gabriel Electronics, Inc., in Scarboro, Maine, to points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved.

No. MC 127264 (Sub-No. 2), filed December 20, 1971. Applicant: AMERICAN PARCEL SERVICE, INC., 1800 East Bessemer Avenue, Greensboro, NC 27405. Applicant's representative: Guy H. Postell, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise, equipment, and supplies, sold, used or distributed by a manufacturer of cosmetics*, from Greensboro, N.C., to points in Person, Granville, Orange, Alamance, Yadkin, Davie, Caswell, Guilford, Rockingham, Stokes, Surry, Forsyth, Davidson, Randolph, Moore, and Chatham Counties, N.C. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Avon Products, Inc., of Newark, Del. NOTE: Applicant states that the only purpose of this application is to broaden the existing commodity description under MC 127264 (Sub-No. 1) to allow applicant to continue rendering a complete service for the supporting shipper. Applicant further states no duplicating authority sought. This authority to replace existing authority.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-1147 Filed 1-26-72;8:45 am]

ASSIGNMENT OF HEARINGS

JANUARY 24, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The

hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 51146 Sub 217, Schneider Transport & Storage, assigned February 8, 1972, MC 51146 Sub 218, Schneider Transport & Storage, assigned February 9, 1972, MC 112304 Sub 48, Ace Doran Hauling & Rigging Co., assigned February 10, 1972, and MC 113678 Sub 423, Curtis, Inc., assigned February 11, 1972, at Chicago, Ill., will be held in Room 1086A, Everett McKinley Dirksen Building, 219 South Dearborn St.

MC 4405 Sub 485, Dealers Transit, Inc., assigned February 10, 1972, MC 69116 Sub 137, Spector Freight System, assigned February 9, 1972, MC 101474 Sub 17, Red Top Trucking, assigned February 10, 1972, Room 1430, Everett McKinley Dirksen Building, 219 South Dearborn St., Chicago, IL.

MC 118989 Sub 65, Container Transit, Inc., assigned February 7, 1972, at Chicago, Ill., will be held in Room 1430, Everett McKinley Dirksen Building, 219 South Dearborn St.

MC 68078 Sub 34, Central Motor Express, Inc., assigned January 31, 1972, at Nashville, Tenn., is canceled and application dismissed.

MC 116763 Sub 204, Carl Subler Trucking, Inc., assigned February 9, 1972, at Denver, Colo., postponed indefinitely.

MC 128173 Sub 91, Midwestern Express, Inc., heard January 17, 1972, through January 18, 1972, at Chicago, Ill., and continued to March 6, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 126276 Sub 46, Fast Motor Service, Inc., assigned for hearing February 22, 1972, at Chicago, Ill., will be held in Room 1630, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 123407 Sub 89, Sawyer Transport, Inc., assigned February 23, 1972, at Chicago, Ill., will be held in Room 1430, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC-F-11218, Home Transportation—Purchase (portion)—Machinery Transports, assigned February 28, 1972, MC-F-11235 Machinery Transports—Purchase (portion)—L. J. Wellenhofer Transfer, assigned February 28, 1972, MC-FC-72913, Russell Transportation, assigned February 25, 1972, MC-FC-72950, K & B Mounting, Transferee & Geo. F. Burnett, Transferor, assigned February 22, 1972, MC 107295 Sub 519, Pre-Fab Transit, assigned March 3, 1972, and MC 111812 Sub 424, Midwest Coast Transport assigned March 2, 1972, at Chicago, Ill., will be held in Room 1736, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 124211 Sub 187, 188, Hilt Truck Line, Inc., assigned February 7, 1972, MC 126276 Sub 53, Fast Motor Service, Inc., assigned February 9, 1972, MC 118989 Sub 67, Container Transit, Inc., assigned February 11, 1972, MC 111375 Sub 51, Pirkle Refrigerated Freight Lines, MC 21455 Sub 24, Gene Mitchell Co., assigned February 16, 1972, MC 125967, Flaggways, Inc., assigned February 18, 1972, will be held in Room 1614, Court of Claims, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Ill.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-1235 Filed 1-26-72;8:51 am]

[Notice 11]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 20, 1972.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2900 (Sub-No. 218 TA), filed January 10, 1972. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and warehouse facilities of the George C. Moore Co., located near Scottsboro, Ala., as an off-route point in connection with existing regular routes to and from Scottsboro, Ala., for 180 days. NOTE: Applicant intends to tack the above authority with that presently held in MC 2900 and subs thereto. Supporting shipper: George C. Moore Co., Westerly, R.I. Send protests to: District Supervisor, G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay St., Jacksonville, FL 32202.

No. MC 18535 (Sub-No. 52 TA), filed January 10, 1972. Applicant: HICKLIN MOTOR LINE, INC., Box 377, U.S. Highway 601, St. Matthews, SC 29135. Applicant's representative: Lawrence M. Gressett, Jr., Post Office Box 346, St. Matthews, SC 29135. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, and stabilizer, and aggregates*, in bulk and bags, from the plantsite of Southern Products and Silica Co., Inc., at or near Hoffman, N.C., to points in South Carolina, for 180 days. Supporting shipper: Southern Products and Silica Co., Inc., Hoffman, N.C. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, SC 29201.

No. MC 66886 (Sub-No. 24 TA), filed January 11, 1972. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, MO 64108. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Suite 812, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and/or plastic tubing*, including plastic fittings for same, from the plantsite of Tex-Tube Division, 1503 North Post Road, Houston, TX, to points in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, and Wyoming, for 180 days. Supporting shipper: Tex-Tube Division, Detroit Steel Corp., Post Office Box 7705, Houston, TX 77007. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 113267 (Sub-No. 276 TA) (Correction), filed November 29, 1971, published FEDERAL REGISTER December 10, 1971, corrected and republished and corrected this issue. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, coconuts, and pineapples*, from Morehead City, N.C., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Kansas, Michigan, Minnesota, Mississippi, Missouri, North Carolina, North Dakota, Nebraska, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, Texas, and Wisconsin, and the District of Columbia, for 150 days. Supporting shipper: Ben E. Klein, Vice President Marketing, West Indies Fruit Co., Post Office Box 1940, Miami, FL 33101. Send protests to: Harold C. Jolliff, District Supervisor, Bureau of Operations, 325 West Adams Street, Room 476, Springfield, IL 62704. NOTE: The purpose of this republication is to broaden the territorial scope.

No. MC 117233 (Sub-No. 9 TA), filed January 7, 1972. Applicant: MERCURY MOTOR FREIGHT, INC., 415 Waddell Avenue, Clairton, PA 15025. Applicant's representative: Stephen T. Wardzinski, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Roof trusses, precut and prefabricated building sections, and components and materials* used in the construction of prefabricated buildings, from Belle Vernon and Elizabeth, Pa., to points in Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Virginia, and

West Virginia, under continuing contracts with Lincoln Homes Co., Wylie Construction & Development, Inc., and Swift Development Co., for 180 days. Supporting shippers: Lincoln Homes Co., 241 Curry Hollow Road, Pittsburgh, PA 15236; Wylie Construction & Development, Inc., 241 Curry Hollow Road, Pittsburgh, PA 15236; Swift Development Co., 241 Curry Hollow Road, Pittsburgh, PA 15236. Send protests to: John J. England, District Supervisor, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 117991 (Sub-No. 3 TA), filed December 30, 1971. Applicant: ZAVITZ BROTHERS LTD., Rural Route No. 1, Wainfleet, ON Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Albany, N.Y., to the United States-Canada international boundary at the Niagara and St. Lawrence River Crossings in New York, for 150 days. Supporting shipper: Chiquita Brands Inc., 1250 Broadway, New York, NY 10001. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 612 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

No. MC 119493 (Sub-No. 87 TA), filed January 6, 1972. Applicant: MONKEM COMPANY, INC., West 20th Street Road, Post Office Box 1196, Joplin, MO 64801. Applicant's representative: Walter E. Kempt (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed, feedstuffs, health and related products, insecticides and pesticides, empty bags and containers, advertising matter and premiums*, from the plant of Columbian Hog & Cattle Powder Co., in Kansas City, Mo., to points in Iowa, Illinois, and Nebraska; from the plant of Columbian Hog & Cattle Powder Co., in Geneseo, Ill., to Norfolk, Nebr., Atlantic and Storm Lake, Iowa; and Kansas City, Mo.-Kans., commercial zone; from the plant of Columbian Hog & Cattle Powder Co., in Norfolk, Nebr., to Kansas City, Mo.-Kans., commercial zone and Atlantic and Storm Lake, Iowa; for 180 days. Supporting shipper: Columbian Hog & Cattle Powder Co., 1457 Genesee Street, Kansas City, MO 64102. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 119880 (Sub-No. 50 TA), filed January 10, 1972. Applicant: DRUM TRANSPORT, INC., Post Office Box 2056, East Peoria, IL 61611. Applicant's representative: B. N. Drum (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from Penin, Ill., to Cincinnati, Ohio, for 180 days. Supporting shipper: National Distillers Products Co., 99 Park Avenue, New York, NY 10016. Send protests to: Raymond E. Mauk, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 123025 (Sub-No. 3 TA), filed January 10, 1972. Applicant: LUVERNE MARCUSSION, 307 Oak Street, Red Oak, IA 51566. Applicant's representative: James E. Ryan, 214 Sharp Building, Lincoln, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and rock*, from points in Johnson County, Kans., to Red Oak, Iowa, for 180 days. Supporting shipper: Wilson Concrete, Post Office Box 56, Red Oak, IA 51566. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Building, Omaha, Nebr. 68102.

No. MC 124078 (Sub-No. 506 TA), filed January 13, 1972. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Applicant's representative: Richard H. Prevette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, from the site of Bulk Distribution Centers, Inc., at Chattanooga, Tenn., to points in Alabama, Georgia, North Carolina, and Tennessee, for 150 days. Supporting shipper: Bulk Distribution Centers, Inc., Post Office Box 19022, Louisville, Ky. 40219 (K. G. Helfrich, President). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 125474 (Sub-No. 32 TA), filed January 10, 1972. Applicant: BULK HAULERS, INC., Post Office Box 3601, U.S. Highway 421 North, Wilmington, NC 28401. Applicant's representative: Ralph G. Simmons (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dimethyl terephthalate*, from the plantsite of Hercules, Inc., in New Hanover County, N.C., to points in Virginia, Tennessee, and South Carolina, for 180 days. Supporting shipper: Hercules Inc., 900 Life of Georgia Tower, Atlanta, Ga. 30308. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 26896, Raleigh, N.C. 27611.

No. MC 127099 (Sub-No. 17 TA), filed January 10, 1972. Applicant: ROBERT NEFF & SONS, INC., 132 Shawnee Avenue, Post Office Box 2015, Zanesville, OH 43701. Applicant's representative: Edwin H. Van Deusen, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Blower wheels, and assemblies, and propeller fans*, from Cleveland and Dayton, Ohio, and Indianapolis, Ind., to Totowa and Trenton, N.J., Chicago, Ill., Witchita, Kans., Blackville, S.C., and Lewisburg, Tenn., *and containers on return*, for 180 days. Supporting shipper: Lau Inc., 2027 Home Avenue, Dayton, OH 45407. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 255 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 127337 (Sub-No. 7 TA), filed January 10, 1972. Applicant: CHET'S TRANSPORT, INC., Charlotte, Maine 04666, Charlotte, West Pembroke, Maine 04688. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, and meat products*, from New York, N.Y., to ports of entry on the international boundary, between the United States and Canada at or near Calais, Houlton, Vanceboro, Bar Harbor, and Portland, Maine, for 180 days. Supporting shipper: W. Shattuck Co., Inc., 30 10th Avenue, New York, NY 10014. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Post Office Box 167 PSS, Portland, ME 04112.

No. MC 128285 (Sub-No. 11 TA), filed January 10, 1972. Applicant: MELLOW TRUCK EXPRESS, INC., Post Office Box 17063, 9801 North Vancouver Way, Portland, Oreg. 97217. Applicant's representative: David C. White, Farley Building, 2400 Southwest Fourth Avenue, Portland, OR 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Western red cedar panels and shakes*, for Shakertown Corp., from Lebam, Winlock, Toledo, and Cathlamet, Wash., and Independence, Oreg., to points in Oregon, California, and Nevada, for 180 days. Supporting shipper: Shakertown Corp., Post Office Box 400, Winlock, Wash. 98596. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 99204.

No. MC 133161 (Sub-No. 8 TA), filed January 11, 1972. Applicant: GRIESER TRUCKING CO., Route 1, Box 151A, Archbold, OH 43502. Applicant's representative: Paul F. Berry, Suite 1600, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, furniture parts, and furniture stock*, from the plantsite of Sauder Designare International, Inc., Stryker, Ohio, to Wappingers Falls, N.Y., Fullerton, Md., McCordsville, Ind., Oxford, Nebr., Lansing, Mich., Baltimore, Md., New York, N.Y., Boston, Mass., and Pittsburgh, Pa., for 180 days. Supporting shipper: Sauder Designare International, Inc., Box 200, Archbold, OH. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5234 Federal Office Building, 235 Summit Street, Toledo, OH 43604.

No. MC 133436 (Sub-No. 15 TA), filed January 10, 1972. Applicant: DUDDEN ELEVATOR, INC., Post Office Box 60, 121 East Second Street, Ogallala, NE 69153. Applicant's representative: Richard A. Dudden (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, for the account of NII Metal Services Corp., a division of National Industries, Inc., from Chicago, Ill., and its commercial zone to points in Nebraska (except Columbus, Nebr., and its commercial zone), for 180 days. Supporting shipper: Bernard J. Senelick, Sales Manager, NII Metals Services, 1919 West 74th Street, Chicago, IL 60636. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building and Courthouse, Lincoln, Nebr. 68508.

No. MC 133646 (Sub-No. 10 TA), filed January 10, 1972. Applicant: YELLOWSTONE MOLASSES SERVICE, INC., Post Office Box 404, Billings, MT 59103. Applicant's representative: J. F. Meglen, Post Office Box 1581, Billings, MT 59103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses*, in bulk, in specialized tank vehicles, from Bayard and Mitchell, Nebr., to South Torrington, Wyo., for 180 days. Supporting shipper: The Great Western Sugar Co., 1530 16th Street (Box 5308 Terminal Annex, Denver, Colo. 80217), Denver, CO. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 134060 (Sub-No. 8 TA), filed January 6, 1972. Applicant: DAVINDER FREIGHTWAY'S LTD., 2739 James Street, Duncan, BC, Canada. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium chlorate*, in bulk, in tank vehicles, from the port of entry on the United States-Canada boundary at or near Blaine, Wash., to Everett, Wash., for 180 days. Supporting shipper: Electric Reduction Company of Canada, Ltd., 2 Gibbs Road (Toronto), Islington 678, Ontario. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 135363 (Sub-No. 2 TA), filed January 10, 1972. Applicant: CONSOLIDATED PACKAGE DELIVERY, INC., Post Office Box 50926, 1036 Baronne Street, New Orleans, LA 70150. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cleaning compounds, waxes, polishes, brushes, handles, gift items, cosmetics, premiums*, and (2) *merchandise, equipment and supplies*, sold, used or distributed by a manufacturer of home products, from New Orleans, La., to the Louisiana parishes of Iberia, St. Mary, Iberville, part of St. Martin, Assumption, Ascension, Livingston, East Feliciana, St. Helena, Tangipohoa, St. James, Terrebonne, Lafourche, St. Charles, St. Tammany, St. John the Baptist, Orleans, Jefferson, St. Bernard, and Plaquemines, and the counties of Jefferson, Adams, Wilkinson, Franklin, Amite, Lincoln, Pike, Lawrence, Walthall, Jefferson Davis, Marion, Covington, Lamar, Jones, Forrest, Perry, Wayne, Greene, Stone, Pearl River, Hancock, Harrison, George, and Jackson, in the State of Mississippi, for 180 days. Supporting shipper: Stanley Home Products, Inc., Easthampton, Mass. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room T-4009, Federal Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 135371 (Sub-No. 1 TA), filed January 10, 1972. Applicant: PACIFIC INLAND TRANSPORT COMPANY, 5902½ East Sharp, Spokane, WA, 6545 Fifth Avenue, South Seattle, WA 98188. Applicant's representative: Edward T. Lyons, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from points in Spokane County, Wash., to points in Idaho located in and north of Idaho County, and points in Lincoln County, Mont., for 180 days. Supporting shipper: Ideal Cement Co., Division of Ideal Basic Industries, Inc., 821 17th Street, Denver, CO 80202. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 136079 (Sub-No. 1 TA), filed January 10, 1972. Applicant: INDUSTRIAL INDUSTRIES, INC., doing business as INDUSTRIAL TRUCKING, 6 Southeast 80th Avenue, Portland, OR 97216. Applicant's representative: Kenneth A. Lewis (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Concrete mixing plants and two-wheel concrete delivery trailers*, not exceeding 2 cubic yards in carrying capacity, for the account of U-Cart Concrete Systems, Inc., from Vancouver, Wash., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: U-Cart Concrete Systems, Inc., Post Office Box 1863, Vancouver, Wash. 98663. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 136267 (Sub-No. 1 TA), filed January 10, 1972. Applicant: BELS PRODUCE CO., INC., 11357 Vienna Road, Montrose, MI 48457. Applicant's representative: Robert A. Sullivan, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in containers from the plant and warehouse sites of the Vlasic Foods, Inc., at Bridgeport and Imlay City, Mich., to points in Maine, Rhode Island, Vermont, New Hampshire, Connecticut, and Massachusetts, for 180 days. Supporting shipper: Vlasic Foods, Inc., 28820 Southfield, Lathrup Village, MI 48070. Send protests to: Melvin F. Kirsch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell, Detroit, Mich. 48226.

No. MC 136305 (Sub-No. 1 TA), filed January 7, 1972. Applicant: GAIL CISSELL AND ALICE CISSELL, a partnership, doing business as CISSELL TRANSFER AND STORAGE CO., 112 East Railroad Avenue, Portales, NM 88130. Applicant's representative: Edwin E. Piper, Jr., 715 Simms Building, Albuquerque, N. Mex. 87101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods, unaccompanied baggage and personal effects*, between points in Curry, DeBaca, Guadalupe, Quay, Roosevelt Counties, N. Mex., and Bailey, Pamer Counties, Tex., Restriction: The service authorized herein is restricted to the transportation of traffic having a prior or subsequent movement in interstate commerce beyond the points authorized; or to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, for 180 days. Supporting shipper: Department of the Army, Office of the Judge Advocate General, Washington, D.C. 20310. Send protests to: William R. Murdoch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

No. MC 136310 TA, filed January 6, 1972. Applicant: R. WALKER TRUCKING, INC., 1409 East 19th, The Dalles, OR 97058. Applicant's representative: Douglas A. Wilson, Suite 2 Yakima Legal Center, 303 East D Street, Yakima, WA 98901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Polyethelyn resin* in bulk, from Torrance and Los Angeles, Calif., to Yakima, Wash.; and (2) *polyethelyn bags and sheets* in rolls, boxes or bundles, from Yakima, Wash., to points in California, Oregon, Idaho, Montana, Colorado, Arizona, Nevada, and Utah, for 180 days. Supporting shipper: Sheilds Bag and Printing Co., 1009 Rock Avenue, Yakima, WA 98902. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 136311 TA, filed January 10, 1972. Applicant: M & W TRANSPORTS, INC., Post Office Box 25794, Oklahoma City, OK 73125. Applicant's representative: H. P. Montgomery (same address

as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting* and *carpet padding*, from Anadarko, Davis, Pawhuska, Oklahoma City, and Watonga, Okla., to points in Arizona, California, Nevada, Utah, Oregon, Washington, Idaho, Montana, Wyoming, North Dakota, South Dakota, Nebraska, Minnesota, Iowa, Wisconsin, Illinois, Michigan, Ohio, Pennsylvania, Maryland, New York, Rhode Island, Delaware, New Jersey, Connecticut, Massachusetts, Vermont, New Hampshire, and Maine, for 180 days. Supporting shipper: Sequoyah Industries, Inc., John C. Perkins, 4545 Lincoln Boulevard, Oklahoma City, OK 73105. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 240 Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 136317 (Sub-No. 1 TA), filed January 10, 1972. Applicant: KENNETH DONALD DUNKER, doing business as KEN DUNKER TRUCKING, 2698 Carlow Street, El Cajon, CA 92020. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Vehicles* in haulaway highway service, from San Diego and Los Angeles to points in Arizona, California, and Nevada, for 180 days. Supporting shipper: Intercontinental Equipment Corp., 5383 Overland Avenue, San Diego, CA 92123. Send protests to: District Supervisor Philip Yallowtiz, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 136319 TA, filed January 11, 1972. Applicant: GUSTOM TRANSIT, INC., 2406 Glenbrook South, Garland, TX 75040. Applicant's representative: Darrell McNatt (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass, automobile or boat, cut to shape; mineral wool; mineral wool conduit or pipe*, from Dallas, Tex., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Tennessee, and Texas, for 180 days. Supporting shipper: PPG Industries, Inc., 410 Braniff Building, Box 35966, Dallas, TX 75235. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-1237 Filed 1-26-72;8:52 am]

[Notice 6]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 24, 1972.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-35441. By order of January 19, 1972, the Motor Carrier Board approved the lease to Allen Transportation, Inc., Beaumont, Tex., of certificate of registration No. MC-121587, issued to Gulf Coast Transportation, Inc., Winnie, Tex., evidencing the right of the holder to engage in interstate or foreign commerce, in the transportation of commodities specified in areas solely within the State of Texas. William D. Lynch, attorney, Post Office Box 912, Austin, TX 78767.

No. MC-FC-73362. By order of January 20, 1972, the Motor Carrier Board approved the transfer to E. K. Motor Service, Inc., a Missouri corporation, Joliet, Ill., of the operating rights in permit No. MC-107129 (Sub-No. 6) issued September 9, 1968 to E. K. Motor Service, Inc., Joliet, Ill., authorizing the transportation of various commodities between Kansas City, Mo., on the one hand, and, on the other, points in specified counties in Kansas. Tom B. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106, attorney for applicants.

No. MC-FC-73372. By order of January 20, 1972, the Motor Carrier Board approved the transfer to William P. Caruso, doing business as B & C Transportation, Medford, Mass., of certificate of registration No. MC-120976 (Sub-No. 1) issued July 19, 1968, to Sheehan's Express, Inc., Brookline, Mass., evidencing a right to engage in transportation in interstate commerce as described in certificate No. 1954, dated May 13, 1961, transferred and reissued November 1, 1967, by the Massachusetts Department of Public Utilities. John F. Curley, 15 Court Square, Boston, MA 02108, attorney for applicants.

No. MC-FC-73381. By order of January 14, 1972, the Motor Carrier Board approved the transfer to Tillman Transfer, Inc., Omaha, Nebr., of certificate of registration No. MC-120504 (Sub-No. 1), issued November 23, 1971, to Helen L. Tillman, Fremont, Nebr., evidencing a right to engage in transportation in interstate commerce corresponding in scope to Certificate of Public Convenience and Necessity No. M-11094, dated February 16, 1960, transferred, renumbered M-11094, Supplement No. 1, and reissued August 2, 1971, by the Nebraska State Railway Commission. Einar Viren, 904 City National Bank Building, Omaha, Nebr. 68102, attorney for applicants.

No. MC-FC-73389. By order of January 20, 1972, the Motor Carrier Board approved the transfer to Bolduc's Express, Inc., Dudley, Mass., of the operating rights in certificate No. MC-56092 issued March 27, 1968, to Leonard E. Langevin, doing business as Langevin's Express, Webster, Mass., authorizing the transportation of general commodities, with exceptions, over regular routes, between Sturbridge, Mass., and Providence, R.I. George J. Robinson, 297 Main Street, Webster, MA 01570, attorney for applicants.

No. MC-FC-73390. By order of January 19, 1972, Dual Operations Involved, the Motor Carrier Board approved the transfer to Scott Transfer Co., Inc., Atlanta, Ga., certificate No. MC-117956 and subs thereunder, and permit No. MC-116947 and subs thereunder issued to Hugh H. Scott, doing business as Scott Transfer Co., Atlanta, Ga., authorizing the transportation of: Various specifically named commodities, i.e., metal containers, lacquer, sheet plastic, etc., between points in Alabama, Georgia, Maryland, South Carolina, North Carolina, Kentucky, Virginia, Pennsylvania, Florida, Tennessee, and Indiana.

No. MC-FC-73401. By order of January 20, 1972, the Motor Carrier Board approved the transfer to Foglia Bros., Inc., Newark, N.J., of the operating rights in permit No. MC-65106 issued October 27, 1959 to M. E. Flemming & Sons, Inc., Brooklyn, N.Y., authorizing the transportation of various commodities between specified points and areas in New York and New Jersey. Robert B. Pepper, 174 Brower Avenue, Edison, NJ 08817, representative for transferee. Martin Werner, 2 West 45th Street, New York, NY 10036, attorney for transferor.

No. MC-FC-73404. By order of January 14, 1972, the Motor Carrier Board approved the transfer to James Baker, doing business as Baker Motor Service, Bridgeton (St. Louis), Mo. 63044, of the operating rights in certificate No. MC-7099 (Sub-No. 2) issued August 28, 1967, to Flash Motor Service, Inc., St. Louis, Mo. 63107, authorizing the transportation of communications equipment when moving under Federal security procedures, between St. Louis, Mo., on the one hand, and on the other, points in Arkansas, Oklahoma, Kansas, and Texas. Austin C. Knetzger, 722 Chestnut Street, St. Louis, Mo. 63101, attorney for applicants.

No. MC-FC-73409. By order of January 13, 1972, the Motor Carrier Board approved the transfer to John F. Scott, doing business as River Cartage, Aurora, Ill., of the operating rights in certificate No. MC-7099 issued October 23, 1967, to Flash Motor Service, Inc., St. Louis, Mo., authorizing the transportation of general commodities, with usual exceptions, between points and places in the St. Louis, Mo.-East St. Louis, Ill., commercial zone, as defined by the Commission in 1 MCC 656. James R. Madler, Room 1608, 1255 North Sandburg Terrace, Chicago, IL 60610, attorney for applicants.

No. MC–FC–73431. By order of January 20, 1972, the Motor Carrier Board approved the transfer to Byrne Trucking, Inc., White City, Oreg., of the operating rights set forth in certificates Nos. MC–71652 and MC–71652 (Sub-No. 1), issued August 3, 1956 and April 24, 1962, respectively, to Athel Hupp Dudley, Inc., White City, Oreg., authorizing the transportation of vegetables, fruit, building materials, machinery, livestock, and specified wood products, from, to, or between specified points in California and Oregon.

Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, OR, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-1236 Filed 1-26-72;8:51 am]

CUMULATIVE LIST OF PARTS AFFECTED—JANUARY

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 January.

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PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

■

Land Registration; and Formal Procedures and Rules of Practice

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter IX—Office of Interstate Land Sales Registration, Department of Housing and Urban Development

[Docket No. R–72–149]

PART 1710—LAND REGISTRATION

On February 24, 1971, the Department published a proposed revision of 24 CFR Part 1710, providing registration requirements under the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701). Various comments were received and on August 16 and 17, 1971, informal hearings were held in accordance with a notice published in the FEDERAL REGISTER on August 5, 1971.

Upon consideration of the comments filed and the statements of record presented at the hearings, certain substantive modifications, editorial clarifications, and changes of format were considered, and a second proposed revision of Part 1710 was published on November 3, 1971. Further comments were invited and received. Careful consideration was given to each comment, and certain suggestions were adopted, in whole or in part, as reflected in this Part 1710.

The following paragraphs describe changes effected by these regulations. Any pertinent changes made from the second revision are also described. Additionally, as reflected in the present heading, this revision of Part 1710 will now appear as an amendment of Chapter IX of Title 24, rather than Chapter V, as a result of the recent reorganization of the title.

In § 1710.1, new definitions of "date of filing," "exemption advisory opinion," "exemption order," and "sale" are included, and the former definition of "unimproved land" is deleted. The definitions of "exemption determination" and "property report" which appeared in the second revision, have been omitted because these terms are adequately explained in their respective sections.

"Date of filing" is a term that has been used in the former regulations without formal definition. Although that term was defined in the second revision, it was also expanded considerably. In response to comments received objecting to the expanded definition, it was reexamined, and the comments were found justifiable. The definition has been modified accordingly.

Section 1710.2 gives the official address of the Office of Interstate Land Sales Registration.

Section 1710.5 *General applicability*, which was omitted from the second revision, has been reinstated in clearer language.

Former § 1710.10, which dealt with exemptions, is now divided into five separate sections. The separation differentiates statutory exemptions which do not require a determination (§ 1710.10) from the statutory exemption that does require a determination (§ 1710.11), and regulatory exemptions that do not require an order (§ 1710.13) from the regulatory exemption that does require an order (§ 1710.14). Section 1710.10 sets forth the first nine exemptions contained in former § 1710.10.

Section 1710.11 is basically former § 1710.10(j) and requires that developers submit a Statement of Reservations, Restrictions, Taxes, and Assessments to the Secretary for approval. This section has been changed from the former regulations and the second revision to reflect the statutory requirement that a developer submit an affirmation concerning purchasers' on-the-lot inspections after sales have been made. The fee requirement set forth in the second revision has been eliminated. Also, paragraph (d), which appeared in the second revision as a prohibition against sales made prior to receipt of the Secretary's determination, is eliminated.

The prohibition against disposition for the purpose of evasion of the Act, which appeared in the introductory paragraph of former § 1710.10 and the same section of the second revision, is now set forth in § 1710.12.

The regulatory exemptions, which appeared in § 1710.12 of the second revision and in paragraphs (k) and (m) of former § 1710.10, are now set forth in § 1710.13.

Section 1710.14, which is unchanged from the second revision, establishes a regulatory exemption dealing with limited offerings. This section, which requires an order by the Secretary, sets forth most of the criteria used in determining exemptions under former § 1710.10(1), plus certain additional criteria, most notably, a maximum offering of less than 300 lots. Comments were received which criticized the provision which limits this exemption to subdivisions of less than 300 lots, on the basis that such a requirement would not be in accord with the legislative history of the Act. We have carefully considered these comments and have concluded that the 300 lot criterion is fully consonant with the legislative history and that the inclusion of this ceiling is necessary to achieve the consumer protection objectives of the statute.

Section 1710.15 provides more detailed information on preparing and filing requests for "exemption advisory opinions."

Section 1710.17 provides for the concurrent submission of a request for either an exemption order or an exemption advisory opinion, together with a Statement of Record; it provides further that after the issuance of an exemption order or a favorable exemption advisory opinion, the Statement of Record will be deemed ineffective and withdrawn unless the developer notifies the Secretary to the contrary.

Section 1710.18 explains the use of and the criteria for the issuance of No-Action Letters.

Section 1710.20, which deals with Statements of Record and Property Reports, is simplified to cover only the form and filing requirements for those documents (including State filings), and a new § 1710.21 prescribes the basis for determining the effective dates for consolidations and amendments. A new § 1710.22 provides for the filing of consolidated Statements of Record. Consolidations were treated previously in former § 1710.30.

Section 1710.23, which deals with the form and filing of amendments, is clarified by requiring an amendment to the Property Report, as well as the Statement of Record, if a material change occurs in any representation of fact made in the Property Report or the Statement of Record. This section was designated as § 1710.30 in the second revision.

Former § 1710.25, dealing with State filings, is now separated into three sections. Section 1710.25 sets forth the criteria upon which State filings will be accepted by the Secretary as meeting the registration requirements of this part. Included in this section is the requirement that a statement from the appropriate State agency be submitted with the filing, though such statement need not be in the form of a certification, as was required in the second revision. The former section provided for an effective date "as of the date of filing." The second revision provided for the same 30-day period applicable to original filings and this provision has been retained. Section 1710.26 lists the States from which State filings may be accepted. Section 1710.27 provides for amendments and consolidations of State filings. In response to comments received this section has been changed from the second revision to permit filing of such amendments or consolidations within 10 days, rather than 5 (five), after the amendments or consolidations have become effective under the applicable State laws.

Section 1710.32 provides that use of Property Reports that contain any material misrepresentation or omission of fact is unauthorized and prohibits representations that Property Reports have been prepared or approved by HUD.

Section 1710.35 is now in tabular form to avoid possible confusion in the computation of fees. The language in the second revision providing for a fee for a determination under § 1710.11 has been deleted.

Section 1710.45, which deals with suspensions, has been clarified and changed to reflect properly the applicable section of the Act. In paragraph (a) the words, "the date of filing" have been substituted for the word, "receipt." Also, a 10-day period within which to request a hearing is now provided. In paragraph (b) the first three words of the title, "Notice of proceeding," have been eliminated. Paragraph (b) also provides for a 15-day period within which a developer may request a hearing and defines the time at which an order to suspend a Statement of Record shall be effective. The former section and the section appearing in the second revision were identical.

Section 1710.50 of the second revision, which dealt with the applicability of the regulations to effective Statements of Record, has been deleted. The effective date of this part and the applicability thereof is set forth in § 1710.130.

Section 1710.101, *Claim of exemption,* is amended to reflect the redesignation of former § 1710.10(j) as § 1710.11.

Section 1710.102, format and instructions of the Statement of Reservations, Restrictions, Taxes, and Assessments, is revised, in part, to require under paragraph 1, "Reservations and Restrictions," that the developer furnish specific recording information whenever he refers to instruments of record.

Section 1710.103 is new and sets forth a format for the affirmation required by § 1710.11.

In § 1710.105, which provides the format and instructions for the Statement of Record, Part IV has been retitled to include the word "Nuisances" and section D thereof has been retitled as "Nuisances." Section C of Part IV now includes a line for information regarding precipitation. The corresponding instructions have been changed accordingly and contain examples of the nuisances toward which this section is directed. Other instructions have been revised to explain certain terms, e.g., water quality and purity (Part VIII), and to describe in detail what information is sought to be set forth in certain parts of the Statement of Record. For example, in Part XI, "Taxes and Assessments—Common Facilities," information concerning the ownership of common facilities and the details of a property owner's association, if any, must be furnished in this part; in Part IV, "Legal Description, Topography, Climate, Nuisances, Subdivision Map," information concerning the vulnerability of the subdivision to natural hazards must be provided under section B. The "100 year flood plain" language that appeared in the second revision of this section has been deleted and except for section B, the instructions for the Statement of Record are essentially identical to those of the second revision.

In § 1710.110, the format and instructions for the Property Report and lease addendum, the order of the format and the instructions for completion of the documents have been reversed. A new paragraph 8(d) has been added to the format of the Property Report. This paragraph, which appeared in the second revision, has in the effective regulation been modified to include information concerning natural hazards as well as unusual conditions concerning noise or safety which affect the subdivision. Paragraph 15 has been changed to include the climate information set forth in Part IV C. of the Statement of Record.

The instructions have been broken into two parts, as shown in the second revision, but differ basically from that revision only in the revised instructions concerning Paragraphs 2(b) and 8(d).

Section 1710.115, which sets forth the State Property Report disclaimer, includes a new paragraph to inform recipients of a State Property Report disclaimer that the Office of Interstate Land Sales Registration has accepted a State Property Report as the Property Report for a particular subdivision.

Section 1710.120, which sets forth certain procedures for a State filing, has been changed from the second revision by deleting the duplicate paragraph in section III.

Section 1710.125, concerning partial Statements of Record, is revised to require that information filed in the heading of a partial Statement of Record shall be filed under the same format as prescribed for a complete Statement of Record under § 1710.105.

Section 1710.130 sets forth the effective date of this part and its applicability to developers who have taken some action pursuant to the former regulations. This section provides that: All initial requests, filings, and other applicable actions made after the effective date of these regulations shall be made pursuant to these regulations. Effective Statements of Record, including Statements of Record, consolidations, and amendments filed with OILSR prior to the effective date of these regulations which become effective subsequent to that date, shall be amended to comply with these regulations; compliance amendments must be submitted not later than March 31, 1972. All developers who currently hold a favorable exemption advisory opinion pursuant to § 1710.10(1) of the former regulations and whose operations are affected by these regulations shall either reapply for an exemption order pursuant to § 1710.14 or file a complete Statement of Record not later than March 31, 1972. All developers who currently hold a favorable exemption advisory opinion pursuant to § 1710.10(j) of the former regulations and whose operations are affected by these regulations shall either submit a revised Statement of Reservations, Restrictions, Taxes, and Assessments pursuant to § 1710.11 or file a complete Statement of Record not later than March 31, 1972. The submissions of affirmations required by § 1710.11(a)(2) shall not apply to sales made prior to the effective date of this part. Requests for exemptions submitted prior to the effective date but for which the Secretary has not issued an opinion will be treated as initial requests. A State filing is deemed to be a Statement of Record for the purposes of this paragraph.

Accordingly, Part 1710 is amended to read as follows:

Subpart A—General Requirements

Sec.
1710.1 Definitions.
1710.2 Official address.
1710.5 General applicability.
1710.10 Statutory exemptions.
1710.11 Statutory exemptions—determination required.
1710.12 Statutory exemptions—when inapplicable.
1710.13 Regulatory exemptions.
1710.14 Regulatory exemptions—exemption order required—limited offering.
1710.15 Exemption advisory opinions.
1710.17 Concurrent submission — request for exemption/Statement of Record.
1710.18 No-Action Letters.
1710.20 Statement of Record and Property Report—form and filing.
1710.21 Statement of Record, consolidations, amendments—effective date.
1710.22 Consolidated Statements of Record.
1710.23 Amendments—Statement of Record and Property Report—form and filing.
1710.25 State filings—in general.
1710.26 State filings—acceptable filings.
1710.27 State filings—consolidations and amendments.
1710.32 Use of Property Reports—misstatements or omissions prohibited; representation of HUD approval prohibited.
1710.35 Payment of fees.
1710.45 Suspensions.

Subpart B—Reporting Requirements

1710.101 Claim of Exemption—format of affirmation.
1710.102 Statement of Reservations, Restrictions, Taxes and Assessments—format and instructions.
1710.103 Affirmation—purchaser's on-the-lot inspection—format.
1710.105 Statement of Record—format and instructions.
1710.110 Property Report and lease addendum—format and instructions.
1710.115 State Property Report disclaimer.
1710.120 Statement of Record—State filing.
1710.125 Partial Statement of Record—request for exemption.
1710.130 Effective date.

AUTHORITY: The provisions of this Part 1710 are issued under section 1419 of the Interstate Land Sales Full Disclosure Act, 82 Stat. 598; 15 U.S.C. 1718.

Subpart A—General Requirements

§ 1710.1 Definitions.

As used in this chapter:

(a) "Act" means the Interstate Land Sales Full Disclosure Act, 82 Stat. 590, 15 U.S.C. 1701, which became effective in its original form on April 28, 1969.

(b) "Blanket encumbrance" means a trust deed, mortgage, judgment, or any other lien or encumbrance, including an option or contract to sell, or a trust agreement, affecting a subdivision or affecting more than one lot offered within a subdivision, except that such term shall not include any lien or other encumbrance arising as the result of the imposition of any tax assessments by any public authority.

(c) "Date of filing" means the date a Statement of Record, amendment or consolidation, accompanied by the applicable fee, is received by the Secretary.

(d) "Developer" means any person who, directly or indirectly, sells or leases, or offers to sell or lease, or advertises for sale or lease any lots in a subdivision.

(e) "Exemption advisory opinion" means the formal written decision of the Secretary, pursuant to § 1710.10 or § 1710.13, stating whether or not a particular method of sale is exempt from the requirements of this part. Such decision shall be issued on the basis of an

examination of the information submitted and will not be considered binding if such information is incomplete or inaccurate in any material respect.

(f) "Exemption order" means the formal written decision of the Secretary, pursuant to § 1710.14, to exempt any subdivision or any lots in a subdivision from the requirements of this part.

(g) "Interstate commerce" means trade or commerce among the several States.

(h) "Offer" means any inducement, solicitation, or attempt to encourage a person to acquire a lot in a subdivision.

(i) "OILSR" means the Office of Interstate Land Sales Registration.

(j) "Person" means an individual, or an unincorporated organization, partnership, association, corporation, trust, or estate.

(k) "Purchaser" means an actual or prospective purchaser or lessee of a lot in a subdivision.

(l) "Rules and regulations" refer to all rules and regulations adopted pursuant to the Act, including the general requirements published in this part.

(m) "Sale" and "Seller" include in their meanings "lease" and "lessor," respectively.

(n) "Secretary" means the Secretary of Housing and Urban Development or his duly authorized representatives.

(o) "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(p) "Subdivision" means any land which is divided or proposed to be divided into 50 or more lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan; and, where subdivided land is offered for sale or lease by a single developer or a group of developers acting in concert and where such land is contiguous or is known, designated, or advertised as a common unit or by a common name, such land shall be presumed, without regard to the number of lots covered by each individual offering, as being offered for sale or lease as part of a common promotional plan.

§ 1710.2 Official address.

The official address of the Secretary for delivery of all mail, telegrams, information, filings, registration, and other material required by or relating to the Act or this chapter is:

Office of Interstate Land Sales Registration, HUD Building, 451 Seventh Street SW., Washington, DC 20411.

§ 1710.5 General applicability.

Except in the case of an exempt transaction, a developer may not sell or lease land in a subdivision, making use of any means or instruments of transportation or communication in interstate commerce or of the mails, unless a Statement of Record is in effect in accordance with the provisions of this part; and the developer furnishes each purchaser with a printed Property Report, meeting the requirements of the provisions of this part, in advance of the signing of any contract or agreement for sale or lease by the purchaser. As used in this part, "land" shall include lots located in a foreign country.

§ 1710.10 Statutory exemptions.

The requirements of this part shall not apply to:

(a) The sale or lease of real estate not pursuant to a common promotional plan to offer or sell 50 or more lots in a subdivision.

(b) The sale or lease of lots in a subdivision, all of which are 5 acres or more in size.

(c) The sale or lease of any lots on which there is a residential, commercial, or industrial building, or to the sale or lease of land under a contract obligating the seller to erect such a building thereon within a period of 2 years.

(d) The sale or lease of real estate under or pursuant to court order.

(e) The sale of evidences of indebtedness secured by a mortgage or deed of trust on real estate.

(f) The sale of securities issued by a real estate investment trust.

(g) The sale or lease of real estate by any government or government agency.

(h) The sale or lease of cemetery lots.

(i) The sale or lease of lots to any person who acquires such lots for the purpose of engaging in the business of constructing residential, commercial, or industrial buildings or for the purpose of resale or lease of such lots to persons engaged in such business. The foregoing exemptions are available where the particular factual circumstances of the sale or lease meet the express requirements of the exemption provision. No formal written decision is required, but an exemption advisory opinion pursuant to § 1710.15 may be obtained if desired.

§ 1710.11 Statutory exemptions—determination required.

(a) The sale or lease of real estate shall be exempt from the requirements of this chapter if all of the following criteria are met:

(1) At the time of sale or lease the real estate is free and clear of all liens, encumbrances, and adverse claims.

(2) Each and every purchaser or his or her spouse has made a personal on the lot inspection of the real estate which he purchased or leased, prior to the signing of a contract to purchase or lease, and the developer submits his written affirmation to that effect, in the format set forth in § 1710.103.

(3) The developer has filed with the Secretary a Claim of Exemption in the form set forth in § 1710.101.

(4) The developer has obtained the Secretary's approval of the form and content of a Statement of Reservations, Restrictions, Taxes, and Assessments, prepared in accordance with the instructions in § 1710.102.

(5) Prior to the time a purchaser signs a contract for sale or lease the developer shall have furnished to such purchaser the Statement of Reservations, Restrictions, Taxes, and Assessments and shall have obtained in writing the purchaser's acknowledgment of receipt of such statement.

(b) (1) Within 31 days after the expiration of the calendar year in which the sale or lease is made, the developer shall file with the Secretary a copy of each acknowledged statement, together with the developer's affirmation required by paragraph (a) (2) of this section.

(2) If the developer has relied upon the provisions of paragraph (c) (1) of this section to establish the time of sale, he shall file with each acknowledged statement and affirmation a copy of the applicable contract of sale. Such submissions shall be bound in alphabetical order and indexed by purchaser's surname. Each bound volume shall contain only such documents as are applicable to a single subdivision and shall be identified on the outer cover by the name and location of the subdivision and the number assigned by OILSR to such subdivision. Upon demand by the Secretary, made at any time during the calendar year, the developer shall, without delay, file copies of such acknowledged statements, affirmations, and applicable contracts as the Secretary shall request.

(c) For the purposes of this section:

(1) "Time of sale or lease" means the date the sales contract or lease is signed by the purchaser except that the "time of sale" shall be deemed to be the effective date of the conveyance if both of the following conditions are met:

(i) The contract of sale requires delivery of a deed to the purchaser within 120 days following the signing of the sales contract.

(ii) Any earnest money deposit, or other payment on account of the purchase price, made by the purchaser prior to the effective date of the conveyance, is placed in an escrow account fully protecting the interest of the purchaser. Such account shall be with an institution or organization which has trust powers or in an established bank, title insurance, or abstract company, or an escrow company which is doing business in the jurisdiction in which the property is located.

(2) "Liens, encumbarnces, and adverse claims" do not include the following:

(i) Property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed.

(ii) Taxes and assessments imposed by a State, by any other public body having authority to assess and tax property or by a property owners' association which under applicable State or local law constitute liens before they are due and payable.

(iii) Beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision.

§ 1710.12 Statutory exemptions—when inapplicable.

The exemptions set forth under §§ 1710.10 and 1710.11 of this part shall not be applicable when the method of sale, lease, or other disposition of land or

an interest in land is adopted for the purpose of evasion of the Act.

§ 1710.13 Regulatory exemptions.

The requirements of this part shall not apply to:

(a) The sale or lease of lots each of which exceeds 10,000 square feet and each of which will be sold for less than $100, including closing costs.

(b) The lease of lots for a term not to exceed 5 years provided the terms of the lease do not obligate the lessee to renew.

The foregoing exemptions are available where the particular factual circumstances of the sale or lease meet the express requirements of the exemption provision. No formal written decision is required, but an exemption advisory opinion pursuant to § 1710.15 may be obtained if desired.

§ 1710.14 Regulatory exemptions—exemption order required—limited offering.

(a) The Secretary may exempt from the provisions of this part any subdivision or any lots in a subdivision which otherwise would be covered by the provisions of this part, by issuing an exemption order in writing to the effect that the enforcement of this part with respect to such subdivision or lots is not necessary in the public interest and for the protection of purchasers by reason of the small amount involved or the limited character of the public offering, if he determines that:

(1) The request for the exemption order is limited to a single transaction; or

(2) All of the following criteria are met:

(i) There are less than 300 lots in the subdivision.

(ii) The subdivision is located entirely within one State.

(iii) The offering of lots in the subdivision is entirely or almost entirely limited to the State in which the subdivision is located.

(iv) The use of all advertising and other promotional means, the distribution of which is within control of the developer or his agents, is confined to the State in which the subdivision is located. All use of billboards and similar signs, telephonic methods of communication and direct mail shall be conclusively presumed to be within the control of the developer or his agents.

(v) No more than 5 percent of the sales in the subdivision in any one year will be made to nonresidents of the State in which the subdivision is located.

(b) To obtain an order by the Secretary under paragraph (a) of this section, the developer shall:

(1) File a partial Statement of Record—Request for Exemption in accordance with § 1710.125, except that the developer may file a complete Statement of Record as provided in § 1710.17(a).

(2) Pay the filing fee required by § 1710.35(g).

(3) Submit a comprehensive statement.

(i) Identifying the lots which are the subject of the exemption request and setting forth the reasons supporting such request. The developer shall enumerate and identify prior sales, if any.

(ii) Describing the advertising and promotional media and metohds used or to be used in connection with the sale or lease or offers to sell or lease lots in the subdivision. The statement shall describe the area and States in which newspapers and periodicals are distributed, or in which broadcasts of radio or television stations are received, or to which mailings or other promotional materials are directed. If the request is for the exemption of a single transaction, the statement shall include the details of that transaction only.

(iii) Stating whether any of the holders of an ownership interest in the land, or the developer or any principals in the holder or developer, are directly or indirectly involved in any other subdivision for which they have filed a Statement of Record with or have requested an exemption order, determination or advisory opinion from the Office of Interstate Land Sales Registration. If so, the statement shall identify the subdivision by name, location and OILSR number or numbers. If any of the abovementioned persons are involved in any other subdivision for which they plan to file a Statement of Record or for which they plan to request an exemption order, determination or advisory opinion, the statement shall identify such subdivision by name and location and shall state the proposed number of lots in that subdivision.

(4) Submit such additional information as the Secretary may require in order to make his decision.

(c) Any exemption order issued pursuant to the provisions of this section shall be limited to the facts, affirmations, and methods of operation as represented in the request and any material change in or deviation therefrom shall automatically terminate the effect of such exemption order.

§ 1710.15 Exemption advisory opinions.

(a) *In general.* A developer of a subdivision may obtain an exemption advisory opinion from the Secretary stating whether or not, in the opinion of the Secretary, a particular method of sale or lease is exempt from the requirements of this part. An exemption advisory opinion is issued solely in connection with those methods of sale or lease exempted by §§ 1710.10 and 1710.13.

(b) *Supporting statement and fees.* Any opinion request shall be accompanied by the required fee, set forth in § 1710.35(g), and a comprehensive statement of facts and applicable law under which the developer believes the method of disposition to be exempt. Such statement shall:

(1) Describe the advertising and promotional media and methods used or to be used in connection with the sale or lease or offers to sell or lease lots in the subdivision.

(2) Describe the area and States in which newspapers and periodicals are distributed, or in which broadcast of radio or television stations are received, or to which mailings or other promotional materials are directed.

(3) State whether any of the holders of an ownership interest in the land, or the developer or any principals in the holder or developer, are directly or indirectly involved in any other subdivision for which they have filed a Statement of Record with or have requested an exemption order, determination or advisory opinion from the Office of Interstate Land Sales Registration. If so, the statement shall identify the subdivision by name, location, and OILSR number or numbers. If any of the above-mentioned persons are involved in any other subdivision for which they plan to file a Statement of Record or for which they plan to request an exemption order, determination or advisory opinion, the statement shall identify such subdivision by name and location and shall state the proposed number of lots in that subdivision.

§ 1710.17 Concurrent submission—request for exemption/Statement of Record.

A request for an exemption order pursuant to § 1710.14 or for an exemption advisory opinion pursuant to § 1710.15 also may be obtained by following the applicable procedure described in paragraph (a) or (b) of this section.

(a) *Exemption order or advisory opinion request—complete Statement of Record.* (1) A developer who wishes to begin promptly to offer or to sell lots in a subdivision may submit in connection with a request for an exemption order or for an exemption advisory opinion a complete Statement of Record (§ 1710.-20). Such request shall not affect the date upon which the Statement of Record shall become effective.

(2) If a Statement of Record has become effective prior to the issuance of an exemption order or an exemption advisory opinion of the Secertary to the effect that the method of disposition is exempt, the developer shall elect within 30 days of the date of such opinion whether he intends to rely upon such opinion or intends for the Statement of Record to remain in effect. Unless the developer informs the Secretary to the contrary, the Statement of Record shall be deemed ineffective and permanently withdrawn, and it will be presumed that the developer intends to rely upon the opinion of the Secretary. Thereafter, the developer shall not represent to a purchaser that:

(i) The subdivision has been registered with the Secretary,

(ii) The Statement of Record is in effect, or

(iii) The Secretary has accepted any Property Report or similar information given to a purchaser.

If the developer does not intend to rely on the exemption order or on the exemption advisory opinion and so notifies the

Secretary of his election within 30 days of the date of such opinion, he shall not thereafter represent to a purchaser that his method of sale, lease, or other disposition is exempt from the Act.

(b) *Exemption advisory opinion request—partial Statement of Record.* A developer who, for any reason, prefers not to file a complete Statement of Record may file a partial Statement of Record in connection with a request for an exemption advisory opinion. The partial Statement of Record shall be in the form required by § 1710.125. The partial Statement of Record shall not operate as registration under the Act.

§ 1710.18 No-Action Letters.

Whenever the Secretary determines on the basis of the facts presented that no affirmative action is necessary to protect the public interest or prospective purchasers, a letter stating that no action will be taken by the Secretary may be issued. Any letter by the Secretary that action shall not be taken shall not bind the Secretary with regard to his future actions relating to such matter unless the Secretary shall specifically set forth in writing his determination to be so bound and the extent and nature thereof. Any such No-Action Letter by the Secretary shall not affect any right which any purchaser may have under the Act.

§ 1710.20 Statement of Record and Property Report—form and filing.

The requirements for registering a subdivision, by filing a Statement of Record and a Property Report with the Secretary and obtaining the Secretary's determination of a date when such filing becomes effective, are as follows:

(a) *Filing.* A Statement of Record and a Property Report relating to a subdivision shall be filed with the Secretary by personal delivery or by certified mail, return receipt requested, addressed as shown in § 1710.2.

(b) *Form of Statement of Record.* The Statement of Record shall be filed in the form, and shall be supported by the documentation, required by § 1710.105. The Statement of Record shall also include such other information as the Secretary may require as being reasonably necessary or appropriate for the protection of purchasers.

(c) *Form of Property Report.* The Property Report shall be in the form set forth in § 1710.110.

(d) *State filings.* Instead of the forms required by paragraphs (b) and (c) of this section, a Statement of Record and Property Report may be in the form required by State authorities if filed in accordance with the provisions of §§ 1710.25, 1710.115, and 1710.120.

(e) *Effective date—Property Report.* The Property Report shall be considered to be a part of the Statement of Record for the purpose of determining the effective date and the suspension of the effective date thereof.

§ 1710.21 Statement of Record, consolidations, amendments—effective date.

(a) *Original filing and amendment thereto—effective date.* The effective date of a Statement of Record or any amendment thereto shall be the 30th day after the date of filing unless the Secretary shall notify the developer in writing prior to such 30th day either that:

(1) The effective date has been suspended in accordance with § 1710.45(a), or

(2) An earlier effective date has been determined by the Secretary.

(b) *Consolidated filing—effective date.* The effective date of a consolidated Statement of Record shall be governed by the provisions of paragraph (a) of this section except that the date of filing

(c) *Amendments — effective date.* Amended Statements of Record shall become effective as follows: If a Statement of Record or any amendment thereto has been filed but is not yet effective, the effective date of the Statement or amendment, as amended, shall be the 30th day after the filing of the latest amendatory material unless the Secretary shall notify the developer in writing prior to such 30th day either that:

(1) The effective date has been suspended in accordance with § 1710.45(a), or

(2) An earlier effective date has been determined by the Secretary.

§ 1710.22 Consolidated Statements of Record.

If in connection with lots previously offered for sale and covered by an effective Statement of Record, the developer intends to offer additional lots as part of a common promotional plan, either a new or a consolidated Statement of Record must be filed. The developer shall answer specifically each question in the Statement of Record and submit a new Property Report. The developer may not incorporate by reference answers to questions or suporting documentation in the previous filing, except that supporting documentation may be incorporated by reference in those instances where it is applicable specifically to both the original filing and to the additional lots to be offered. In all other respects the consolidated Statement of Record shall conform to the format requirements of an initial Statement of Record filed in accordance with these regulations.

§ 1710.23 Amendments—Statement of Record and Property Report—form and filing.

(a) An amendment to an effective Statement of Record or to a Property Report shall be filed with the Secretary if any material change occurs in any representation of fact made in such statement or report. An amendment shall be filed within 15 days of the date on which the developer knows or should have known that there has been a material change. The OILSR number of the Statement of Record shall appear at the top of each page of the material submitted.

(b) An amendment to a Statement of Record or Property Report shall incorporate by reference the prior Statement of Record or Property Report except for any material change which may have occurred. A material change shall be specifically described and shall be supported by such documentation as would be required in connection with an initial filing. Any such amendments shall be accompanied by:

(1) A letter from the developer giving a narrative statement fully explaining the purpose and significance of the amendment and referring to that part and page of the Statement of Record which is being amended.

(2) All pages of the Statement of Record, which have been amended, retyped in the approved format reflecting the amendments.

(3) A copy of the Property Report, if amended.

§ 1710.25 State filings—in general.

(a) Material filed with and found acceptable by State authorities charged with the responsibility of regulating the sale of lots in subdivisions may be accepted for filing by the Secretary as meeting the requirements of this part if the Secretary determines such action to be appropriate and such determination is set forth in § 1710.26. Material filed with the Secretary under this section must be accompanied by a statement from the appropriate State authority which states substantially that:

The Department of Real Estate (or Real Estate Commission or Securities Commission) has reviewed the copies of documents attached to this filing and finds that these copies consist of _____ pages and that they are copies of all documents upon which the Public Report (or Public Offering Statement or Public Statement), which became effective on _____, 197__, is based.

(b) Where duplicate material has been accepted for filing by the Secretary under paragraph (a) of this section and such material, or any part thereof, for any reason, is no longer acceptable to the State authorities or effective in that State, the filing with the Secretary shall be ineffective unless amended pursuant to § 1710.27.

(c) The effective date of a State filing shall be determined in accordance with the provisions of §§ 1710.20 and 1710.21.

§ 1710.26 State filings—acceptable filings.

The Secretary has determined that material initially filed with and allowed to become effective by authorities in the several States listed below may be accepted pursuant to § 1710.25:

(a) California.

(b) Florida, except as to material filed with State authorities prior to enactment of section 478, Florida statutes, effective August 1, 1967.

(c) Hawaii, except as to material filed with State authorities prior to the enactment of Act 223, Session laws of Hawaii 1967.

(d) New York.

§ 1710.27 State filings—consolidations and amendments.

(a) *Procedures.* Where material filed with State authorities also has been filed with the Secretary pursuant to § 1710.25, and subsequent thereto, the State authorities approved amendments or a consolidation to such material, copies of amended or consolidated material, as

approved, shall be filed with the Secretary. The OILSR number shall appear at the top of each page of the material submitted. Such a filing shall be made with the Secretary within 10 days after it becomes effective under the applicable State laws and shall include the following additional items:

(1) A letter or other document from the State authorities stating that the amendment or additional material has been allowed to become effective.

(2) A letter from the developer giving a narrative statement fully explaining the purpose and significance of the amendment or consolidation and referring to that part and page of the Statement of Record which is being amended.

(3) All pages of the Statement of Record, which have been amended, retyped in the approved format reflecting the amendments.

(4) A copy of the Property Report, if amended.

(b) *Requirement for amendment.* The Statement of Record and Property Report shall be immediately amended when any omission is discovered or any change occurs which causes the Statement of Record or Property Report to contain any material misstatement or omission of fact.

(c) *Effective date—State filing.* The effective date of a State filing consolidation or amendment shall be determined in accordance with the provisions of § 1710.21.

§ 1710.32 Use of Property Reports—misstatements or omissions prohibited; representation of HUD approval prohibited.

Nothing in this part shall be construed to authorize or approve any use of a Property Report containing any untrue statement of a material fact or omitting to state a material fact required to be stated therein. Nor shall anything in this part be construed to authorize or permit any representation that the Property Report is prepared or approved by the Secretary, OILSR or the Department of Housing and Urban Development.

§ 1710.35 Payment of fees.

(a) *Method of payment.* Fees shall be paid by certified check or cashier's check or postal money order. Such check or money order shall be payable to the Treasurer of the United States.

(b) *Initial filing.* The fee, not to exceed $1,000, for the initial filing of a Statement of Record, shall be, as set forth in column 1 of paragraph (f) of this section, based on the number of lots in the offering.

(c) *Consolidated filing.* The fee, not to exceed $1,000, for filing a consolidated Statement of Record, shall be, as set forth in column 2 of paragraph (f) of this section, based on the number of lots in addition to the number which were offered in the initial Statement of Record.

(d) *Initial State filing.* The fee, not to exceed $1,000, for an initial filing of a duplicate of material filed with a State (§ 1710.25), shall be, as shown in column 3 of paragraph (f) of this section, based on the number of lots in the offering.

(e) *Consolidated State filing.* The fee, not to exceed $1,000, for the filing of a duplicate of material filed with a State covering a number of lots in addition to the number contained in the initial offering approved by the State (§ 1710.27), shall be, as shown in column 4 of paragraph (f) of this section, based on the number of lots being added to the number in the initial offering. This paragraph applies only in those instances where the State has permitted the consolidation of the additional number of lots with those included in the initial offering.

(f) *Fee schedule.* The following chart shall be used in computing fees required to be paid under paragraphs (b), (c), (d), and (e) of this section.

Number of lots	Fees column			
	1	2	3	4
1–50	$300	$250	$225	$125
51–100	350	300	250	150
101–150	400	350	275	175
151–200	450	400	300	200
201–250	500	450	325	225
251–300	550	500	350	250
301–350	600	550	375	275
351–400	650	600	400	300
401–450	700	650	425	325
451–500	750	700	450	350
501–550	800	750	475	375
551–600	850	800	500	400
601–650	900	850	525	425
651–700	950	900	550	450
701–750	1,000	950	575	475
751–800	1,000	1,000	600	500
801–850	1,000	1,000	625	525
851–900	1,000	1,000	650	550
901–950	1,000	1,000	675	575
951–1,000	1,000	1,000	700	600
1,001–1,050	1,000	1,000	725	625
1,051–1,100	1,000	1,000	750	650
1,101–1,150	1,000	1,000	775	675
1,151–1,200	1,000	1,000	800	700
1,201–1,250	1,000	1,000	825	725
1,251–1,300	1,000	1,000	850	750
1,301–1,350	1,000	1,000	875	775
1,351–1,400	1,000	1,000	900	800
1,401–1,450	1,000	1,000	925	825
1,451–1,500	1,000	1,000	950	850
1,501–1,550	1,000	1,000	975	875
1,551–1,600	1,000	1,000	1,000	900
1,601–1,650	1,000	1,000	1,000	925
1,651–1,700	1,000	1,000	1,000	950
1,701–1,750	1,000	1,000	1,000	975
1,751–or more	1,000	1,000	1,000	1,000

(g) *Exemption order or exemption advisory opinion.* The fee for an exemption order or exemption advisory opinion (§ 1710.14 or § 1710.15) shall be $100, which shall not be refundable and is to be collected as follows:

(1) When the developer files a complete Statement of Record pursuant to § 1710.17(a), the fee required by paragraphs (b) through (e) of this section shall be submitted and if the Secretary advises or orders that the offering is exempt under §§ 1710.10, 1710.13 or 1710.14, the Secretary will refund the submitted fee except for $100.

(2) When the developer files a request for an exemption order or advisory opinion not accompanied by a complete Statement of Record, the fee of $100 shall be submitted. If the Secretary finds that the filing of a complete Statement of Record is required, the fee of $100 shall be applied as a credit toward the fee required for the filing of the complete Statement of Record.

§ 1710.45 Suspensions.

(a) *Suspension notice—prior to effective date.* (1) A suspension notice with respect to a Statement of Record or an amendment may be issued to a developer by the Secretary within 30 days after the date of filing if prior to its effective date, the Secretary has reasonable grounds to believe that a Statement of Record is on its face incomplete or inaccurate in any material respect; or prior to its effective date, the Secretary has reasonable grounds to believe that an amendment is on its face incomplete or inaccurate in any material respect.

(2) Suspension notices issued pursuant to this subsection shall suspend the effective date of the statement or the amendment until 30 days, or such earlier date as the Secretary may determine, after the developer files such additional information as the Secretary shall require.

(3) A developer, upon receipt of a suspension notice, may request a hearing within 10 days of receipt of such notice. Such hearing shall be held within 20 days of receipt of such request by the Secretary.

(b) *Suspension orders—subsequent to effective date.* (1) A notice of proceedings to suspend an effective Statement of Record may be issued to a developer if the Secretary has reasonable grounds to believe that an effective Statement of Record includes an untrue statement of a material fact, or omits a material fact required by the Act or the rules and regulations, or omits a material fact which is necessary to make the statements therein not misleading. The Secretary may, after notice, and after opportunity for a hearing requested within 15 days of receipt of such notice, issue and order suspending the Statement of Record. In the event that a suspension order is issued, such order shall remain in effect until the developer has amended the Statement of Record or otherwise complied with the requirements of the order. When the developer has complied with the requirements of the order, the Secretary shall so declare and thereupon the suspension order shall cease to be effective.

(2) If the Secretary undertakes an examination of a developer or his records to determine whether a suspension order should be issued, and the developer fails to cooperate with the Secretary or obstructs, or refuses to permit the Secretary to make such examination, the Secretary may issue an order suspending the Statement of Record. Such order shall remain in effect until the developer has complied with the requirements of the order.

When the developer has complied with the requirements of the order, the Secretary shall so declare and thereupon the suspension order shall cease to be effective.

(3) Upon receipt of an amendment to an effective Statement of Record, the Secretary may issue an order suspending the Statement of record until the amendment becomes effective if he has reasonable grounds to believe that such action is necessary or appropriate in the public interest or for the protection of purchasers.

(4) Suspension orders issued pursuant to this subsection shall operate to suspend the Statement of Record as of the date the order is either served on the developer or his registered agent or is delivered by certified or registered mail to the address of the developer or his authorized agent.

Subpart B—Reporting Requirements

§ 1710.101 Claim of exemption—format of affirmation.

A claim of exemption pursuant to § 1710.11 shall be made to the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, and shall be supported by an affirmation as follows:

CLAIM OF EXEMPTION

I hereby affirm on this _____ day of _____, 19__, as follows:

(1) I am the developer, or the duly authorized agent of the developer, of the subdivision known as _____, located at _____, in the State of _____, County of _____.

(2) Each and every purchaser or lessee of a lot to be covered by this exemption, or his or her spouse, prior to his signing a contract to purchase or lease will have:

(a) Made a personal on-the-lot inspection of the real estate which he purchases or leases; and

(b) Acknowledged, in writing, receipt of a statement furnished by the developer setting forth all reservations, restrictions, taxes, and assessments applicable to the lot to be purchased or leased whether or not such reservations, restrictions, taxes, or assessments are included within the term "liens, encumberances, and adverse claims" as used in paragraph (7) below.

(3) This affirmation is accompanied by a Statement of Reservations, Restrictions, Taxes, and Assessments prepared in accordance with the provisions of 24 CFR 1710.102. The Secretary's approval of such statement will be obtained prior to its distribution and use.

(4) The Statement of Reservations, Restrictions, Taxes, and Assessments is complete and correct.

(5) The receipt of such statement will be acknowledged in writing, in duplicate, by the purchaser or lessee prior to the time of the signing of the contract.

(6) A copy of the acknowledged statement will be filed with the Secretary within 31 days after the expiration of the calendar year in which the sale or lease is made. Upon demand by the Secretary made at any time during the calendar year, the developer shall file such copies of such acknowledged statements as shall be specified by the Secretary.

(7) At the time of sale or lease, the lot will be free and clear of all liens, encumbrances, and adverse claims. The term "liens, encumbrances, and adverse claims" (as used in this paragraph) is not intended to include property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, nor to taxes and assessments imposed by a State, by any other public body having authority to assess and tax property or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable, nor to beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision.

(8) For the purpose of this claim of exemption, the undersigned agrees that the "time of sale or lease" shall be deemed to be the date the sales contract or lease is signed by the purchaser or lessee except that the "time of sale" shall be deemed to be the effective date of the conveyance or lease if both of the following requirements are met:

(a) The contract of sale requires delivery of a deed to the purchaser within 120 days following the signing of the sales contract.

(b) Any earnest money deposit or other payment on account of the purchase price made by the purchaser prior to the effective date of the conveyance will be placed in an escrow account, fully protecting the interests of the purchaser, in an institution or organization which has trust powers, or in an established bank, title insurance, or abstract company, or escrow company doing business in the jurisdiction in which the property is located.

_____
_____
(Title)

(If the affirmation is made by an agent of the developer of the subdivision, submit written authorization to act as agent.)

§ 1710.102 Statement of Reservations, Restrictions, Taxes, and Assessments—format and instructions.

A Statement of Reservations, Restrictions, Taxes, and Assessments shall be prepared by the developer in accordance with the following format and instructions:

STATEMENT OF RESERVATIONS, RESTRICTIONS, TAXES, AND ASSESSMENTS

Employer's IRS Number _____
Developer_____
Owner_____

Name of developer_____
Address _____
Owner (if developer is other than owner)
_____
Address _____
Name of subdivision_____
Location _____
Number of lots in subdivision_____
Number of acres in subdivision_____

1. *Reservations and restrictions.*

(The developer shall set forth, in descriptive and concise terms, a complete statement of all reservations and restrictions affecting the property within the above-named subdivision. Where reservations or restrictions are not applicable to all lots within a subdivision the statement shall identify the lots affected. State whether such reservations and restrictions are enforceable by other lot owners or lessees of lots in the subdivision. Reference to instruments of record shall include a specific citation to the public record in which such instruments are recorded or filed by book, page, and place of record.)

2. *Taxes.*

(The developer shall set forth, in descriptive and concise terms, a complete statement listing all taxes and liens presently due and payable and those which constitute liens on the property before they become due and payable, together with the date such taxes will become due and payable. Itemize taxes, amounts and rates by lots. Where taxes, amounts or rates shown are not yet available for the current calendar year, those for the previous year should be shown with a statement that they are not for the current year and that the new taxes, amounts or rates may vary; and, if property has been rezoned or subdivided since the last taxing period, the estimated amount of changes for the current year should also be shown. Where the previous year's taxes were based other than on lots as presently subdivided, estimates should be shown and so identified.)

3. *Assessments.*

(The developer shall set forth in descriptive and concise terms a statement of all assessments which are made or may be made by State or local authorities or by a property owners' association or similar organization. The statement shall include any dues or fees paid in the last year or payable to a property owner's association. Itemize assessments, dues, fees, amounts and rates. State the authority under which the assessments, dues, and fees are imposed.)

WARNING: This subdivision is not registered with the Office of Interstate Land Sales Registration nor has that Office passed upon the accuracy or adequacy of this statement, nor does this statement serve as an endorsement or recommendation by that Office of the above offering.

The undersigned by his signature hereby acknowledges that he has received a Statement of Reservations, Restrictions, Taxes, and Assessments, on (identify subdivision and location) from (name of developer) located at (address) and that he has made a personal on-the-lot inspection of (at the time of delivery to the purchaser or lessee insert a legal description of the particular lot) which is the lot upon which the undersigned plans to execute a contract of sale or lease.

_____
(Date)

_____
(Signature of purchaser or lessee)

§ 1710.103 Affirmation—purchaser's on-the-lot inspection—format.

The affirmation required by § 1710.11 (a)(2) shall be submitted in the form set forth below and may be submitted as a separate document or as an attachment to the purchaser's acknowledgment of receipt of the Statement of Reservations, Restrictions, Taxes, and Assessments.

AFFIRMATION RE PURCHASER'S ON-THE-LOT INSPECTION

I hereby affirm on this _____ day of _____, 19__, that:

(1) I am the developer, or the duly authorized agent of the developer, of the subdivision known as _____, located at _____, in the State of _____, County of _____.

(2) On _____, 19__, Mr. and Mrs. _____, of _____ signed a contract for the purchase (lease) of lot _____ in section _____ of said subdivision.

(3) Prior to signing the contract Mr. and Mrs. (Mr. or Mrs.) _____ made a personal on-the-lot inspection of the lot described in paragraph (2) above.

_____
_____
(Title)

(If the affirmation is made by an agent, submit written authorization to act as agent. Only one authorization per agent need be submitted for a calendar year, though copies of such authorization may be submitted with each affirmation.)

§ 1710.105 Statement of Record—format and instructions.

The Statement of Record required by § 1710.20 shall be prepared in accordance with the format and instructions as follows:

Employer's IRS number: _____
Developer: _____
Owner: _____

STATEMENT OF RECORD

Name of subdivision: _____
Location: _____
Name of developer: _____
Developer's address: _____
Authorized agent: _____
Authorized agent's address: _____

PART I. ADMINISTRATIVE INFORMATION

A. Identification and filing information:
1. _____
2. _____
3. _____
B. General information:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Acres owned _____
Acres under option or other similar arrangement _____
Total _____
C. Filings with State authorities:
1. _____
2. _____
D. Supporting documentation:
1. _____
2. _____

PART II. DEVELOPERS AND HOLDERS OF OWNERSHIP INTERESTS IN LAND

A. Holder of ownership interest _____
Type of legal entity _____
Extent and type of interest _____
B. Holder of interest in developer _____
Type of legal entity _____
Extent and type of interest _____
C. Supporting documentation _____

PART III. IDENTITY OF INTEREST IN MORE THAN ONE FILING

A. Subdivision _____
Location _____
OILSR number _____
Date of filing _____
B. Suspensions _____

PART IV. LEGAL DESCRIPTION, TOPOGRAPHY, CLIMATE, NUISANCES, SUBDIVISION MAP

A. Legal description _____
B. Topography and physical characteristics:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
C. Climate and temperature:
1. _____
2. _____
3. _____
D. Nuisances:
1. _____
2. _____
E. Subdivision map:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
F. Supporting documentation:
1. _____
2. _____

PART V. CONDITION OF TITLE, ENCUMBRANCES, DEED RESTRICTIONS, AND COVENANTS

A. _____
B. _____
C. _____
D. _____

PART VI. GENERAL TERMS AND CONDITIONS OF OFFER, PROPOSED RANGE OF SELLING PRICES OR RENTS

A. Summary of General Terms and Conditions of Offer:
1. _____
2. _____
3. _____
B. Proposed range of selling prices or rents _____
C. Supporting documentation:
1. _____
2. _____
3. _____

PART VII. ACCESS, NEARBY COMMUNITIES, ROAD SYSTEM WITHIN THE SUBDIVISON

A. Access—Nearby communities:
1. _____
2. _____
3. Name of community _____
Population _____
Distance over paved roads _____
Distance over unpaved roads _____
Total _____
B. Road system within the subdivision:
1. _____
2. _____
3. _____
C. Supporting documentation:
1. _____
2. _____
3. _____

PART VIII. UTILITIES

A. Water:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. Supporting documentation:
a. _____
b. _____
c. _____
d. _____
B. Electricity:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Supporting documentation:
a. _____
b. _____
c. _____
C. Gas:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Supporting documentation:
a. _____
b. _____
c. _____
D. Telephone:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Supporting documentation:
a. _____
b. _____
c. _____
E. Sewage disposal:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. Supporting documentation:
a. _____
b. _____
F. Drainage and flood control:
1. _____
2. _____
3. _____
4. _____
5. Supporting documentation:
a. _____
b. _____
G. Television:
1. _____
2. _____

PART IX. RECREATIONAL AND COMMON FACILITIES

A. _____
1. _____
2. _____
3. _____
4. _____
5. _____
B. _____

PART X. MUNICIPAL SERVICES

A. Fire protection:
1. _____
2. _____
3. _____
B. Police protection _____
C. Garbage and trash collection:
1. _____
2. _____
3. _____
D. Public schools:
1. Elementary school:
a. _____
b. _____
c. _____
2. Junior high school:
a. _____
b. _____
c. _____
d. _____
3. High school:
a. _____
b. _____
c. _____
d. _____
E. Medical and dental facilities:
1. Hospital facilities:
a. _____
b. _____
c. _____
d. _____
e. _____
2. Physicians and dentists:
a. _____
b. _____
F. Public transportation:
1. _____
2. _____
3. _____
4. _____

PART XI. TAXES AND ASSESSMENTS—COMMON FACILITIES

A. _____
B. _____
C. _____
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

PART XII. OCCUPANCY STATUS

A. _____
B. _____
C. _____

PART XIII. SHOPPING FACILITIES

A. _____
B. _____

PART XIV. FINANCIAL STATEMENT

A. _____
B. _____

PART XV. AFFIRMATION

Affirmation

I hereby affirm that I am the developer of the lots herein described or will be the developer at the time lots are offered for sale or lease to the public, or that I am the agent authorized by such developer to complete this statement (if agent, submit written authorization to act as agent):

That the statements contained in this Statement of Record and any supplement thereto, together with any documents submitted herewith, are full, true, complete, and correct;

That the fees accompanying this application are in the amount required by the rules and regulations of the Office of Interstate Land Sales Registration.

_____	_____
(Date)	(Signature)
_____	_____
(Corporate seal if applicable)	(Title)

WARNING: Section 1418 of the Housing and Urban Development Act of 1968 (82 Stat. 598, 15 U.S.C. 1717) provides: "Any person who willfully violates any of the provisions of this title or of the rules and regulations or any person who willfully, in a statement of record filed under, or in a property report issued pursuant to, this title, makes any untrue statement of a material fact * * *, shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both."

INSTRUCTIONS FOR COMPLETION OF STATEMENT OF RECORD

These instructions must be followed in completing the Statement of Record. All spaces in the specified format must be completed. The format must not be changed in any respect, except as follows:

a. Spaces provided in the format may be enlarged or extended for the purpose of providing a comprehensive explanation.

b. In addition to the information expressly required to be stated in the Statement of Record, there shall be added such further material information, if any, as may be necessary to make the required statements in the light of the circumstances under which they are made, not misleading.

c. If a filing is to be consolidated pursuant to § 1710.22, the developer shall answer specifically each question in the Statement of Record and submit a new Property Report. The developer shall not incorporate by reference the answers to questions or supporting documentation in the previous filing, except that supporting documentation may be incorporated by reference in those instances where it is applicable specifically to both the original filing and to the additional lots to be offered. This shall be accomplished by placing after the applicable part or subpart in the format the OILSR number of the previous filing identifying the appropriate part, subpart, exhibit, and page number. In all other respects the consolidated Statement of Record shall conform to the format requirements of an initial Statement of Record filed under these regulations.

To facilitate proper filing, Statements of Record shall be filed on good quality, unglazed, white paper, approximately 8½ by 13 inches in size, with a 2-inch margin at the top and a 1½-inch margin on each side. They shall be in black ink in standard elite or pica type. They may be printed, lithographed, mimeographed, or typewritten; but the standard size of elite or pica type must be used. Deeds, title policies, subdivision maps or plats, and other supporting documents may be on different size paper but should be folded to the 8½- by 13-inch size. A copy of the Property Report containing the text in its entirety as it is intended to be reproduced for delivery to prospective purchasers shall be attached to the Statement of Record. Statements of Record shall be properly signed and dated.

In the upper right hand corner, the developer shall give his employer's IRS number as well as that of the owner of the subdivision, if the developer is not the owner. The name at the heading of the Statement of Record shall be the common promotional name used for the subdivision. The name and address of the authorized agent shall be the name and address of the party designated by the developer to receive correspondence and to receive service of process or notice of any action taken by OILSR. In all filings, including filings by foreign developers, the authorized agent shall be a resident of the United States.

The supporting documents required by the various parts of these instructions shall be attached as exhibits at the back of the Statement of Record. Each exhibit shall be identified by affixing a tab on the right side of the cover sheet of the exhibit and by identifying thereon the applicable part and subpart by Roman numeral, letter and Arabic number. The pages of each exhibit shall be numbered beginning with the number one for the first page in each exhibit and numbering the remaining pages in the exhibit sequentially. If, at a later time, additional data is furnished to be incorporated into, or to amend, an exhibit, the pages of the additional data shall be numbered beginning with the number following the last page number in the exhibit and following sequentially therefrom. If the information in an exhibit is applicable to more than one part, the developer may incorporate that information by reference to the appropriate exhibit and to the applicable page or pages within that exhibit.

If an item in the Statement of Record is supported by information in an exhibit, place the appropriate exhibit and page number in the right margin immediately adjacent to the item. Whenever the Statement of Record requires a summary or statement of terms or items, such summary or statement must be presented in a clear and concise manner.

Where the documentation required by the Statement of Record cannot be obtained, a letter stating the reasons therefore must be furnished by the developer, along with the best alternative assurance available.

The following instructions correspond to the part and subpart letters and numbers set forth in the Statement of Record format.

PART I. ADMINISTRATIVE INFORMATION

A. Identification and filing information.

1. State whether the filing is an initial filing with the Office of Inte state Land Sales Registration on the subdivision or an additional offering of lots to be consolidated with a Statement of Record previously filed for lots offered under the same common promotional plan. If the filing is to be consolidated, identify the OILSR filing number assigned to the original Statement of Record.

2. Do you intend to make subsequent filings for additional lots within the subdivision?

3. Are you submitting documentation to support a request for an exemption?

B. General information.

1. Name the State, Commonwealth, territory, or possession of the United States or the country in which the subdivision is located.

2. Name the county or counties or other political subdivision or subdivisions within which the subdivision is located.

3. State the number of lots in this offering.

4. If more than one offering of lots in the subdivision has been made or will be made, state the number of lots to be offered in the entire subdivision. See instruction D.2 of this part.

5. State the number of acres included in this offering.

6. If more than one offering of lots in the subdivision has been made or will be made, state the number of acres owned, the number of acres under option or other similar arrangement for acquisition of title to the land and the total number of acres to be offered pursuant to the same common promotional plan.

C. Filings with State authorities:

1. If a Statement of Record or similar instrument for the subdivision has been filed in any State or States, list the State or States.

2. If any of the States listed in answer to figure 1 above has not permitted the filing to become effective or has suspended the filing, give reasons cited by the State and also the developer's reasons, if different from those cited by the State.

D. Supporting documentation.

2. If the present offering is a subdivision which is or will be offered with one or more additional subdivisions having recreational and/or other common facilities, submit the general or total plan. Include a map showing the total land owned or under option or other similar arrangement for acquisition of title to the land; and delineate thereon the land included in this offering.

PART II. DEVELOPERS AND HOLDERS OF OWNERSHIP INTERESTS IN LAND

A. List the name and address and the type and extent of interest of each holder of any ownership interest in the land included in this offering. (Individual lot owners or lessees who have purchased or leased lots from the developer need not be listed.) If the holder is other than an individual, name the type of legal entity and list the interest and the extent thereof, of each principal. For the purposes hereof, "principal" shall mean any person or entity having a 10 percent or more financial interest.

B. If the developer does not own an interest in the land, list name and address of each individual or entity having an ownership interest in the developer. If the developer is other than an individual, name the type of legal entity and list the interest, and the extent thereof, of each principal. For the purposes hereof, principal shall mean any person or entity having a 10 percent or more financial interest.

C. If the developer is a corporation, submit a copy of the Articles of Incorporation,

with all amendments thereto; and a list of the officers and directors of the corporation.

If the developer is a trust, submit copies of the instruments creating the trust.

If the developer is a partnership, unincorporated association, joint-stock company, or any other form of organization, submit copies of articles of partnership or association and all other documents relating to its organization.

If the holder of any ownership interest in the land being offered is a person or entity other than the developer, submit copies of the above documents for such holder. (For purposes of this subpart C, it is not necessary to include the sales agent if the sales agent is a legal entity other than a holder of an ownership interest in the land.)

PART III. IDENTITY OF INTEREST IN MORE THAN ONE FILING

A. Are any of the holders of an ownership interest in the land or the developer, or any principals in the holder or developer, directly or indirectly involved in any other subdivision or development which has been filed with the Office of Interstate Land Sales Registration? If so, identify by subdivision name, location, OILSR number or numbers, and date of filing. If not applicable, state "None."

B. Has a suspension order been issued with respect to any Statement of Record identified in subpart A? If so, give reasons. (Do not include the suspension of a Statement of Record prior to its effective date or the suspension of an amendment prior to its effective date.)

PART IV. LEGAL DESCRIPTION, TOPOGRAPHY, CLIMATE, NUISANCES, SUBDIVISION MAP

A. Legal description. Include an adequate legal description acceptable in the political subdivision for conveyancing of the land included in this offering; and if additional offerings have been made or will be made pursuant to a common promotional plan, include a legal description of the total area offered or to be offered pursuant to the common promotional plan.

B. Topography and physical characteristics.

1. Describe the general topography and physical characteristics of the subdivision; for example, level, hilly, rocky, etc.; soil conditions, for example, loose sand, alkaline, etc.

2. State whether any of the lots or portions thereof, in the offering are covered by water at any time during the year or are subject to floods, hurricanes, tornadoes, earthquakes, mudslides, brushfires, forest fires, avalanches, volcanic eruptions or other natural hazards. The existence, severity and frequency of natural hazards should be fully explained. If any of the natural hazards of the type illustrated in this paragraph are present, state whether the area in which the subdivision is located has been formally identified by any Federal, State, or local agency as being in an area subject to a special natural hazard and whether the area is or will be subject to any special land use requirements which will restrict development or entail unusual development or maintenance expense.

3. Is any part of the subdivision subject to any type of flood control easement?

4. Will any unusual construction techniques be necessary to build on any part of the land? If so, describe.

5. What percentage of the land will require fill before construction? If any, describe plans for fill, including composition and estimated cost to lot buyer or lessee.

6. What percentage of the land in the subdivision will require corrective work, other than fill, before construction of a one-story residential structure? If any, describe type of work and plans for correction; and state the estimated cost to buyer or lessee.

7. State elevation of the highest and lowest lots in the subdivision.

C. Climate and temperature.

1. Describe general weather conditions of the area and state whether the area is sub-

2. State temperature ranges for summer and winter, including high, low, and mean.

3. State annual average rainfall and, if applicable, snowfall, in inches.

D. Nuisances.

1. Is the land affected by any unusual or unpleasant noises, odors, pollutants, or other nuisances? (Examples of unusual noises which might affect the subdivision include proposed or existing industrial activity, airports or other transportation facilities, animal pens, entertainment centers or the like. Examples of unpleasant odors include noxious smoke, chemical fumes, stagnant ponds or marshes, slaughter houses, sewage treatment facilities, and the like.) Any such conditions should be accurately described and fully explained identifying their origin and location and stating whether they are proposed or existing—if existing, whether temporary (estimate duration) or permanent.

2. Do you know of any unusual safety factors or any proposed plans, private or governmental, for construction of any facility which may create a nuisance or adversely affect the use of the land? (Examples of unusual safety factors which might affect the subdivision would include a physical hazard such as dilapidated or abandoned properties, unsafe construction, air or vehicular traffic hazards, danger from fire, or explosion, radiation hazards and the like.) Any such conditions should be accurately described and fully explained identifying their origin and location and stating whether they are proposed or existing—if existing, whether temporary (estimate duration) or permanent.

E. Subdivision map.

1. State whether a subdivision map has been filed with and accepted for recording by local authorities. If so, give recording data.

2. Has each lot in the subdivision been surveyed?

3. Has each individual lot been staked or marked so that the buyer can identify the boundary lines of his lot? If not, state estimated cost to purchaser or lessee to obtain a survey and to have boundary lines staked or marked.

4. Will all streets shown on the tract map, if any, be public streets?

5. Has legal access been provided to each of the individual lots within the subdivision?

6. State minimum width of legal access to the lots.

F. Supporting documentation.

1. Copy of an accurate map prepared to scale showing the dimensions of the lots and their relation to existing streets and roads. (To comply with this requirement, supply a map or maps which have been submitted to local authorities, if available.) If the land has not been divided, include a map showing the proposed division, lot dimension and their relationship to existing streets and roads.

2. Copy of the current Geological Survey Topographic Map or Maps of the largest scale available from the U.S. Geological Survey, Washington, D.C., with an outline of the subdivision area clearly indicated thereon.

PART V. CONDITION OF TITLE, ENCUMBRANCES, DEED RESTRICTIONS AND COVENANTS

A. State condition of the title to the land comprising the subdivision, including all encumbrances, easements, covenants, conditions, reservations, limitations or restrictions applicable thereto. This requirement may be met only by submission of title evidence in the form of (1) an original or copy of a fee or owners policy of title insurance, a guaranty or guarantee of title, or a certificate of title, or an interim title binder or commitment for title insurance, or similar instrument issued by a title company, duly authorized by law to issue such instruments in the State in which the subdivision is located; or (2) a legal opinion, stating the condition of title, prepared and signed by an attorney at law experienced in the examination of titles and a member of the Bar in the State in which the property is located.

The title evidence shall be dated as of a date no earlier than 20 business days preceding the date of this filing and shall include:

1. A legal description of all of the property included in this offering together with a legal description of the property upon which there is or will be located any common areas or facilities which will be advertised as being available for the benefit or use of purchasers of lots. (Where the legal description does not specifically describe as individual parcels each of the lots included in this offering, an affirmative statement, to the effect that each of the lots included in the offering is encompassed by the description, is required.)

2. The name of the person(s) or other legal entity(ies) holding fee title to the property described.

3. The name of any person(s) or other legal entity(ies) holding a leasehold estate or other interest of record in the property described.

4. A listing of any and all exceptions or objections to the title, estate or interest of the person(s) or legal entity(ies), referred to in 2 or 3 above, including any encumbrances, easements, covenants, conditions, reservations, limitations, restrictions of record. (Any reference to exceptions or objections to title shall include specific references to the instruments in the public records upon which the exception is based.) When an objection or exception to title affects less than all of the property included in this offering, the title evidence should specifically note which lots are affected.

5. Copies of all instruments in the public records specifically referred to in 4 above. (Abstracts of such instruments are acceptable if prepared by an attorney or professional or official abstracter qualified and authorized by law to prepare and certify to abstracts and if the abstracts contain the material portion of the recorded instruments to determine the nature and effect of such instruments.)

Where the title evidence is dated earlier than 20 days prior to the date of filing, the requirement for a statement of the condition of title may be met by submitting that evidence together with an attorney's opinion of title covering the period from the date of the title evidence to a date no earlier than 20 business days preceding the date of the filing. The attorney's opinion shall be prepared and signed by an attorney at law experienced in the examination of titles and a member of the Bar in the State in which the property is located.

B. Describe and furnish copies of any instrument, not of public record, known to the developer, which if recorded would affect the condition of title. (Copies of instruments to individual lot owners or lessees who have purchased or leased lots from the developer need not be described or furnished.)

C. State the consequences for an individual purchaser of a failure, by the person or persons bound, to fulfill obligations under any instrument or instruments, referred to under A or B above, which create a blanket encumbrance upon the property, or any portion thereof, described under A, above.

D. Describe and furnish copy(ies) of any trust deed(s), deed(s) in trust, escrow agreement(s) or other instrument(s) which purport to protect the purchaser in the event of default by the person or persons bound to fulfill obligations under any instrument or instruments, referred to under A or B, above, which create a blanket encumbrance upon the property or any portion thereof, described under A, above.

PART VI. GENERAL TERMS AND CONDITIONS OF OFFER, PROPOSED RANGE OF SELLING PRICES OR RENTS

A. Summarize the terms and conditions of the offer and of the contract of sale or lease. The summary must include, but shall not be limited to:

1. A statement of the terms of release of lots from the blanket encumbrance, if the subdivision, or any portion thereof, is subject to a blanket encumbrance. If there is no provision for release, describe any legal steps taken to protect the purchaser or lessee in the event the obligor on the blanket encumbrance defaults.

2. A statement of the disposition which will be made of earnest money or good faith deposits and downpayments or other payments received from buyers or lessees including any steps taken to protect the buyer or lessee in the event the seller or lessor does not perform his obligations under the contract.

3. A statement of the disposition which will be made of earnest money or good faith deposits and downpayments and other payments received from buyers or lessees who default under the terms of the contract.

B. State the range of selling prices or rents for lots in the subdivision.

C. Supporting documentation.

1. A copy of all forms of contracts or agreements to be used in selling or leasing lots. (The contracts or agreements must contain language (a) giving the purchaser the option to void the contract or agreement if he does not receive a Property Report prepared pursuant to the rules and regulations of the U.S. Department of Housing and Urban Development, in advance of, or at the time of, his signing the contract or agreement; and (b) giving the purchaser the right to revoke the contract or agreement within 48 hours after signing the contract or agreement if he did not receive the Property Report at least 48 hours before signing the contract or agreement. [The contract or agreement may stipulate that the revocation authority shall not apply in the case of a purchaser who (i) has received the Property Report and inspected the lot to be purchased or leased in advance of signing the contract or agreement, and (ii) acknowledges by his signature that he has made such inspection and has read and understood such report.])

2. A copy of the agreement, if not included in the sales contract, in which seller agrees with buyer to secure release of lots from any blanket encumbrance.

3. Copies of deeds and leases by which the developer will lease or convey title to the lots to purchasers or lessees.

PART VII. ACCESS, NEARBY COMMUNITIES, ROAD SYSTEM WITHIN THE SUBDIVISION

A. Access—nearby communities.

1. Describe present condition of access routes to the subdivision, including type and width of road surface and number of lanes.

2. Are any improvements proposed to access routes? If so, state who will bear the cost of the improvements and the estimated completion date. If the improvements are to be made by a local governmental authority, state the name of the authority, and the source of funds to complete the improvements. If lot owners will be subject to a special assessment or similar charge for such improvements which shall be a lien on the lots in the subdivision, so state.

3. List nearest large cities and the county seat, and the population of each. List the total distance to the center of the subdivision from each and the portion of that distance which is paved and unpaved. If the geographical center of the subdivision is located more than 50 miles from a large city or the county seat, list also the nearest established community or communities.

B. Road system within the subdivision.

1. Describe the present condition of the road system within the subdivision, including the type and width of road surface, number of lanes and approximate dedicated width of roads. State whether all of the lots in the subdivision can be reached by conventional automobile.

2. State any proposed improvements to the road system within the subdivision, the percentage completed, and the estimated schedule for completion. State who will bear the cost of the improvements; and if any of the cost is to be borne by the purchaser, state the estimated cost to the purchaser.

3. State whether the roads within the subdivision have been dedicated to and accepted by a public authority responsible for maintenance. If not dedicated and accepted, state who will be responsible for maintenance. If the lot owner will be responsible for maintenance, state the estimated cost to the purchaser.

C. Supporting documentation.

1. If the developer is to complete access routes, submit copies of contracts and copy of any bonds or escrow agreements to guarantee completion thereof. If the access routes are to be completed by the local government, a copy of a letter from the local authorities setting forth the plan for the completion of access routes and maintenance thereof.

2. Copies of contracts for the completion of the road system within the subdivision and copies of the bond or escrow agreements to assure completion thereof.

3. Copy of letter from local authority setting forth the plan for maintenance of the road system with the subdivision.

PART VIII. UTILITIES

A. Water.

1. State the availability of the water supply and whether the supply will be adequate to serve the anticipated population of the area.

2. Is the water supplied or to be supplied by a public or private utility company? If so, state the name and address and whether the company is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates?

3. State whether the waterlines will be extended to the individual lots. If they are to be extended, state the estimated schedule for the extension and the assurance of completion.

4. State estimated cost of installation or construction to be borne by the purchaser, if any.

5. Is the water supply to be obtained from private well? If so, indicate (1) probable depth and (2) results of test borings or other data establishing that a sufficient quantity of potable water is available to each buyer or lessee and (3) estimated total completion cost to buyer or lessee.

6. If water is provided by a supplier not regulated by a public body, state the rate schedule.

7. If privately supplied water or individual wells are to be the source of water for human use, has the cognizant State or county health authority issued a report on the quality of the water?

8. Supporting documentation.

a. Copy of a letter from water company stating that it will supply the water.

b. Copy of the contract for construction, if any, and the bond or escrow agreement to assure completion of the facility, if any.

c. If available, copy of engineer's report or geological report or any other data indicating the source and quantity of water. If it is stated that there will be an adequate supply of available water to serve the anticipated population of the area, submit a copy of an engineer's report or hydrological survey supporting such statement.

d. Copy of letter or report from cognizant health officer which includes an analysis of the chemical quality and bacteriological purity of water.

B. Electricity.

1. State whether electricity is available and, if so, the name and address of the supplier from which it may be obtained.

2. Is the supplier a public or private utility company? State whether the supplier is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates.

3. Have the electrical facilities been extended to the individual lots?

4. If the electrical facilities have not been extended to the individual lots, what is the estimated schedule for installation and what estimated costs, if any, will be borne by the purchaser?

5. State the assurance of completion if the electrical facilities are to be installed by the developer.

6. Supporting documentation.

a. Copy of a letter from the electric company stating that it will supply the electricity.

b. If electricity is provided by a supplier not regulated by a public body, state the rate schedule.

c. Copy of the contract for construction of electrical facilities, if any, and any bond or escrow arrangements to assure completion of the facilities.

C. Gas.

1. State the availability of gas including the name and address of the supplier.

2. Is the supplier a public or private utility company? State whether the supplier is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates?

3. Have gaslines been extended to the individual lots?

4. If the gas facilities have not been extended to the individual lots, what is the estimated schedule for installation and what estimated costs will be borne by the purchaser?

5. State the assurance of completion if the gas facilities are to be installed by the developer.

6. Supporting documentation.

a. Letter from the gas supplier stating that it will provide the service.

b. If gas is provided by a supplier not regulated by a public body, state rate schedule for the service.

c. Copy of the contract for construction of the gas facilities, if any, and any bond or escrow arrangements to assure completion of the facilities.

D. Telephone.

1. State the availability of telephone service including the name and address of the supplier.

2. Is the supplier a public or private utility company? State whether the supplier is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates?

3. Have the telephone facilities been extended to the individual lots?

4. If the telephone facilities have not been extended to the individual lots, what is the estimated schedule for installation and what cost will be borne by the purchaser?

5. State the assurance of completion of the telephone facilities if those facilities are to be installed by the developer.

6. Supporting documentation.

a. Copy of a letter from the telephone company stating that the company will supply the service.

b. If telephone service is provided by a supplier not regulated by a public body, state the rate schedule.

c. Copy of the contract for the construction of the telephone services, if any, and any bond or escrow arrangements to assure completion of the facilities.

E. Sewage disposal.

1. State whether sewers are available and, if so, the name and address of the entity responsible for installation and maintenance.

2. Is the entity a public or private utility company? State whether entity is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates?

3. Have the sewage facilities been extended to the individual lots?

4. If the sewage facilities have not been extended to the individual lots, what is the estimated schedule for their installation and what estimated costs will be borne by the purchaser, including construction, installation, and connection costs?

5. State the assurance of completion if the sewage facilities are to be installed by the developer.

6. If public sewers are not now installed and are not to be installed, state the alternate sewage disposal method to be used, such as septic tanks or cesspools.

7. If a public sewer is not or will not be installed, state the estimated cost of installing the alternate method of sewage disposal.

8. Will the local health authorities approve the use of an alternate method of sewage disposal? Has such approval been obtained?

9. If use of septic tanks is contemplated, state whether the land is suitable for the use of septic tanks; include in your statement the results of any percolation tests.

10. Supporting documentation.

a. Copy of the contract for construction of the sewage disposal facilities, if any, and any bond or escrow arrangements to assure the completion of the facilities.

b. Copy of a letter from local health authorities stating the methods of sewage disposal which will or will not be permitted.

F. Drainage and flood control.

1. State whether there has been or will be any drainage required to render any of the lots suitable for construction purposes. If so, list the lots, and state estimated cost to purchaser.

2. Have artificial drains, storm sewers, or flood control channels been installed?

3. If these facilities have not been installed, what is the estimated schedule for completion, if any, and what estimated costs or other assessments will the purchaser be expected to pay?

4. If the developer is to install these facilities, state the assurance of completion.

5. Supporting documentation.

a. Copy of the contract for the construction of the artificial drains, storm sewers, or flood control channels, if any, and any bonds or escrow agreements to assure completion of the facilities.

b. If drainage is provided or to be provided by a public or private company, submit a letter from the company stating that it will provide the service.

G. Television.

1. Is television reception available to the lots within the subdivision without reception cost?

2. If not, state estimated cost to user.

PART IX. RECREATIONAL AND COMMON FACILITIES

List any common or recreational facilities which have been or are to be installed for the beneficial use and enjoyment of the owners of lots in the subdivision which have not been discussed in the previous parts of the Statement of Record. Identify each facility and answer the following questions for each:

A. (Name of facility.)

1. If the facility has not been installed, what is the percentage of completion, the estimated schedule for completion and what estimated costs will the purchaser have to pay?

2. What provisions have been made for the maintenance and operation of the facility and what is the estimate of the assessments or other recurring charges to be paid by the purchaser?

3. Include a statement of the assurance of completion of the facility if the developer is responsible for construction.

4. If a property owners' association, or similar organization, owns or will own the facility, so state. If the association has not been formed as a legal entity, state when it is expected to be formed and the conditions under which the association will take title to the facility.

5. Supporting documentation. Include copy of the contract for construction of the facilities, if any, and describe any bond or escrow arrangements to assure completion of the facilities.

B. (Name of facility.)

PART X. MUNICIPAL SERVICES

A. Fire protection.

1. State the availability of fire protection and list the name and address of the particular force exercising jurisdiction over the subdivision.

2. State whether the service is provided by the municipality or by a volunteer organization.

3. State the distance in terms of road miles from the geographical center of the subdivision to the nearest fire station or substation.

B. Police protection.

State the availability of police protection and list the name and address of the particular force exercising jurisdiction over the subdivision.

C. Garbage and trash collection.

1. State the availability of garbage and trash collection service and the name and address of the company which presently furnishes the service. If garbage and trash collection service is not presently available, state whether such service is proposed; and if it is, give the date on which it will become effective.

2. State whether the cost of the service is to be paid directly by the lot owner or whether the service is to be provided by a municipal agency.

3. If the cost of the service is to be paid directly by the lot owners, state the estimated monthly cost per lot.

D. Public schools.

1. Elementary school.

a. State name and address of the nearest elementary school available to residents of the subdivision.

b. State the distance to the school in terms of road miles from the geographical center of the subdivision.

c. State whether school bus transportation will be provided.

d. State whether public transportation is available to the school.

2. Junior high school.

a. State name and address of the nearest junior high school available to residents of the subdivision.

b. State the distance to the school in terms of road miles from the geographical center of the subdivision.

c. State whether school bus transportation will be provided.

d. State whether public transportation is available to the school.

3. High school.

a. State name and address of the nearest high school available to residents of the subdivision.

b. State the distance to the school in terms of road miles from the geographical center of the subdivision.

c. State whether school bus transportation will be provided.

d. State whether public transportation is available to the school.

E. Medical and dental facilities.

1. Hospital facilities.

a. State the availability of hospital facilities and the name and address of the particular hospitals available to residents of the subdivision.

b. State whether the hospital is publicly or privately owned and whether the services are general or specialized.

c. State the bed capacity of the hospital.

d. State the distance in terms of road miles from the geographical center of the subdivision to the nearest general hospital.

e. State the availability of ambulance service and specify whether this service is furnished by the hospital(s) or by a volunteer organization.

2. Physicians and dentists.

a. State the distance in terms of road miles from the geographical center of the subdivision to physicians' and dentists' offices.

b. State whether or not public transportation is available from the subdivision to the general physicians' and dentists' offices.

F. Public transportation.

1. State whether public transportation is available from the subdivision to nearby municipalities including the frequency, type and estimated cost of service.

2. If no such transportation is available, state whether it will be available and give estimated date of availability.

3. Include in your statement the proposed frequency of service and estimated cost.

4. If public transportation is not presently available from the subdivision, state the distance in road miles to nearest public transportation.

PART XI. TAXES AND ASSESSMENTS—COMMON FACILITIES

A. Will the buyer or lessee be required to pay any property taxes or special assessments to any municipal, governmental or public body after signing the contract of purchase or to lease and prior to delivery of an executed deed or lease? Will the buyer or lessee be required to pay any assessments, dues or other payments to a property owners' association, the developer or any other organization or entity for the maintenance of common facilities or other purposes after signing the contract to purchase or lease and prior to delivery of an executed deed or lease? If the answer to either of the foregoing questions is affirmative, itemize the amounts or rates to be paid and to whom they must be paid.

B. Will the buyer or lessee be required to pay any property taxes or special assessments to any municipal, governmental or public body after taking title? Will the buyer or lessee be required to pay any assessments, dues or other payments to a property owners'

association, the developer or any other organization or entity for the maintenance of common facilities or other purposes after taking title? If the answer to either of the foregoing questions is affirmative, itemize the amounts or rates to be paid and to whom they must be paid.

C. If a property owners' association, the developer, or any other organization or entity, exercises or will exercise any control over or provides or will provide any services or maintenance on any lots or common facilities or areas in or adjacent to the development, include:

1. A statement that the association, organization or other entity has been formed or setting forth the steps to be taken to form such association or organization or other entity.

2. A statement setting forth the requirements for membership in the association, organization or other entity and stating whether all lot owners will be members of the association, organization or other entity and if not whether nonmember lot owners will be liable for assessments levied by that association, organization or other entity.

3. Financial statements or pro forma financial statements of any property owners' association, including a Statement of Sources and Application of Funds for the 12-month period ending not earlier than the 60th day prior to the date of the submission of the Statement of Record and a pro forma Statement of Sources and Application of Funds for the period of time that the developer will control the association. If moneys paid by buyers or lessees as assessments, dues or other payments for the purpose of providing any services or maintenance on any lots or common facilities or areas are received by the developer or any other organization or entity other than a property owners' association, a Statement of Sources and Application of Funds and a pro forma Statement of Sources and Application of Funds covering funds received for such purposes shall be submitted. A financial statement or pro forma financial statement of the developer or other organization or entity shall also be submitted. In no event shall a pro forma Statement of Sources and Application of funds be required to extend beyond 5 years from the date of submission of the Statement of Record. If the developer has no control over the property owners' association or other organization or entity and cannot obtain this information, so state.

4. A statement as to who may use the facilities.

5. A statement of the degree and duration of control of the developer in the association, organization, or other entity.

6. If the association, organization, or other entity has been formed as a legal entity, attach as exhibits copies of articles of association and bylaws or similar documents and a statement from the appropriate State authority confirming that the charter is in effect. If not formed, attach proposed articles of association and bylaws or similar documents, if available.

7. Copy of membership agreement or similar documents.

PART XII. OCCUPANCY STATUS

A. State the approximate number of dwellings in the subdivision at the time of filing.

B. State the number of dwellings which are proposed and the estimated completion date of those dwellings.

C. State the approximate number of dwellings presently occupied, if any.

PART XIII. SHOPPING FACILITIES

A. State what shopping facilities are available to the subdivision. Include available types of stores and consumer services and the distance in terms of road miles from the geographical center of the subdivision to the facilities.

B. State whether public transportation is available to the facility, the frequency of the service and the estimated cost.

PART XIV. FINANCIAL STATEMENT

A. Submit a copy of the latest financial statement of the developer. Such financial statement shall not be more than 6 months old and shall include a balance sheet and a statement of profit and loss.

B. State the means by which the developer will finance the obligations undertaken or proposed and as set forth in this Statement of Record. A statement of past performance in completing obligations undertaken by the developer may be included.

PART XV. AFFIRMATION

§ 1710.110 Property Report and lease addendum—format and instructions.

The Property Report and, if applicable, the lease addendum to be filed with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, as a part of the Statement of Record, and as provided in § 1710.20, shall be prepared in question and answer form. The Property Report shall state verbatim the questions in this section. The developer should then answer the questions directly and completely in accordance with the instructions and format as follows:

PROPERTY REPORT

NOTICE AND DISCLAIMER BY OFFICE OF INTERSTATE LAND SALES REGISTRATION, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

This report is not a recommendation or endorsement of the offering herein by the Office of Interstate Land Sales Registration, nor has that office made an inspection of the property nor passed upon the accuracy or adequacy of this report or any promotional or advertising materials used by the seller.

It is in the interest of the buyer or lessee to inspect the property and carefully read all sale or lease documents.

Prospective buyers and lessees are notified that unless they have received this Property Report prior to, or at the same time they enter into a contract, they may void the contract by notice to the seller.

Unless a buyer or lessee acknowledges in writing that he has read the report and personally inspected the lot prior to signing his contract, he may revoke his contract within 48 hours from the signing of his contract, if he has received the Property Report less than 48 hours prior to signing such contract.

1. Name(s) of developer _____
   Address _____
2. Name of subdivision _____
   Location _____ County, State of _____
   a. Effective date of Property Report _____
   b. This offering consists of _____

3. List names and populations of surrounding communities and list distances over paved and unpaved roads to the subdivision.

Name of community	Population	Distance over paved roads	Unpaved roads	Total
a.				
b.				
c.				
d.				
e.				

4. If periodic payments are to be made by a buyer (as in the case of installment sales contracts) complete all items under this paragraph 4. If not, enter "Not Applicable."

a. Will the sales contract be recordable? Yes or No?

b. In the absence of recording, could the developer's creditors or others acquire title to the property free of any obligation to deliver a deed to the buyer when final payment has been made under the sales contract? Yes or No? _____ Explain. _____

c. What provision, if any, has been made for refunds if buyer defaults?

d. State prepayment penalties or privileges, if any.

5. Is there a blanket mortgage or other lien on the subdivision or portion thereof in which the subject property is located? Yes or No? If yes, list below and describe arrangements, if any, for protecting interests of the buyer or lessee if the developer defaults in payment of the lien obligation. If there is such a blanket lien, describe arrangements for release to a buyer of individual lots when the full purchase price is paid.

	Type of lien	*Effect on buyers if developer defaults*
a.		
b.		
c.		

6. Does the offering contemplate leases of the property in addition to, or as distinguished from, sales? Yes or No? If yes, a lease addendum must be completed, attached, and made a part of the Property Report.

7. Is buyer or lessee to pay taxes, special assessments, or to make payments of any kind for the maintenance of common facilities in the subdivision (a) before taking title or signing of lease or (b) after taking title or signing of lease? If yes, complete the schedule below:

	Approximate amount of buyer's or lessee's annual payments
Taxes	$_____
Special assessments	_____
Payments to property owner's association	_____
Other	_____
Specify _____	_____

8. (a) Will buyer's downpayment and installment payments be placed in escrow or otherwise set aside? Yes or No? If yes, with whom? If not, will title be held in trust or in escrow?

(b) Except for those property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, will buyer receive a deed free of exceptions? Yes or No? If no, list all restrictions, easements, covenants, reservations and their effect upon buyer.

(c) Buyer should determine permissible uses of the property from local zoning authorities.

(d) List all existing or proposed unusual conditions relating to the location of the subdivision and to noise, safety or other nuisances which affect or might affect the subdivision.

9. (a) List all recreational facilities currently available (e.g. television, sports, beaches, etc.). State any costs or assessments to buyer or lessee.

(b) If facilities are proposed or partly completed, state promised completion date, provisions to assure completion, and all estimated costs or assessments to buyer or lessee. If there are no provisions to assure completion, so state.

10. State whether or not the following are now available in the subdivision: Garbage and trash collection, sewage disposal, paved streets, electricity, gas, water, telephone. If yes, state any estimated costs to buyer or lessee. If proposed or partly completed, state promised completion date, provisions to assure completion and give estimate of all costs including maintenance costs to buyer or lessee.

11. Will the water supply be adequate to serve the anticipated population of the area?

12. Is any drainage of surface water, or use of fill necessary to make lots suitable for construction of a one-story residential structure? Yes or No? If yes, state whether any provision has been made for drainage or fill and give estimate of any costs buyer would incur.

13. State whether any of the following are currently available in the subdivision: Schools; medical facilities (hospitals, doctors, dentists); shopping facilities. List availability of public transportation to, and distance of facility from geographical center of subdivision. If facility is proposed or partly completed, state promised completion date and any provisions to insure completion.

14. Approximately how many homes were occupied as of _____ (insert date of filing)?

15. (a) State elevation of the highest and lowest lots in the subdivision had briefly describe topography and physical characteristics of the property.

(b) State in inches the average annual rainfall and, if applicable, the average annual snowfall for the subdivision or the area in which it is located.

(c) State temperature ranges for summer and winter, including highs, lows and means.

16. Will any subsurface improvement, or special foundation work be necessary to construct one story residential or commercial structures on the land? Yes or No? If yes, state if any provision has been made and estimate any costs buyer would incur.

17. Are all lots and common facilities legally accessible by public road or street? Yes or No? If not, explain.

18. Has land, in the subdivision been platted of record? Yes or No? If not, has it been surveyed? Yes or No? If not, state estimated cost to buyer to obtain a survey.

19. Are lots staked or marked so that buyer can locate his lot(s)? Yes or No?

Lease Addendum

1. State term of lease.

2. Will the lease be recordable? Yes or No?

3. Is there any prohibition or penalty against the lessee for recording the lease? Yes or No? If yes, explain.

4. Can the owner's or developer's creditors or others acquire title to the property free of any obligation to continue the lease? Yes or No? Explain.

5. Describe whether rental payments are flat sums or graduated. Describe any provisions for increase of rental payments during the term of the lease.

6. Are there any provisions in lease prohibiting assignment and/or subletting? Yes or No? If yes, describe.

7. Summarize termination provisions in the lease.

8. Does the lease prohibit the lessee from mortgaging or otherwise encumbering the leasehold? Yes or No?

9. Will lessee be permitted to remove improvement when lease expires?

Instructions for Completing Property Report and Lease Addendum

These instructions must be followed in completing the Property Report and lease addendum. All spaces must be completed. This format may not be changed in any respect, except as follows:

a. All references to leases, lessees, and rents should be deleted if no leasing is proposed and the offering is exclusively for sales. In this event, the lease addendum may be disregarded.

b. Spaces provided in the format may be enlarged or extended for the purpose of providing a summary explanation of the subject under discussion but may not be used to insert promotional or advertising matter designed to counteract facts adverse to the interests of the buyer or lessee.

c. Questions on the Property Report must be answered in concise, plain language but should disclose all pertinent facts.

d. The Property Report shall contain information in addition to that elicited by the questions appearing therein if at any time it appears to the Secretary that the inclusion of additional information is necessary or appropriate in the public interest, and the Secretary so advises the developer.

Special Instructions

The instructions below correspond to the numbered paragraphs in the Property Report:

Paragraph 2a. The effective date of registration is the date the Statement of Record becomes effective under § 1710.21. This date will be left blank in the proposed Property Report. When the developer receives notification of effectiveness from OILSR this date shall be inserted. The final printed copies of the Property Report submitted in accordance with this section must state that date. If the Statement of Record has been amended or consolidated, the date the most recent amendment to the Statement of Record or consolidation became effective should be used.

Paragraph 2b. The legal description of the land offered for sale shall describe the lots adequately to permit identification from the plat maps of the developer and from the public records of the county where located. If all of the lots in a particular unit of the subdivision are not being offered for sale, the legal description shall be sufficiently detailed to permit the purchaser to determine whether his lot is included in the offering. The developer shall also state the total number of lots being offered in each unit of the subdivision.

Paragraph 3. List the nearest large city or county seat and the population of each. List the total distance to the center of the subdivision from each and the portion of that distance which is paved and unpaved. If the subdivision is located more than 50 miles from either, list also the nearest established community or communities.

Paragraph 4. If the buyer or lessee is exposed to the risk of losing his investment in the event of the developer's failure or bankruptcy, this fact must be made unmistakably clear in this paragraph. Explanations should include any measures designed to protect the buyer's interests, and they must disclose any circumstances under which the buyer would lose his investment either because of his own default or the developer's inability to perform under the sales contract. If there is any prohibition or penalty against the buyer recording the sales contract or lease, so state. Describe also any potential adverse effect on the buyer's interests which may arise from not having his contract recorded. ("Potential adverse effect" includes subordination of the buyer's interest to liens recorded against the property after the buyer has signed his contract.) A statement may be included by the developer describing his past performance in conveying free and clear titles to buyers upon their payment of the full purchase price.

Paragraph 5. Whether the offering includes only cash sales, or installment contracts and leases, explain fully how the buyer or lessee is to be protected against loss of his investment. If a blanket mortgage or other lien is foreclosed against the developer, will the holder of such mortgage or other lien be obligated to perform the agreement with the purchaser or lessee? If not, are the buyer's or lessee's payments and investments in improving the property protected through an escrow or by other means? The buyer or lessee must be told of the possible consequences in the explanation of the answer to this question.

Paragraph 7. Buyers and lessees must be told when their obligation to pay taxes, special assessments and similar charges begins. They should also be made aware of the approximate amount of buyer's or lessee's annual payments, but the items for indicating the amount of taxes and special assessments may be answered by the statement "Consult local taxing authorities."

Paragraph 8(b). Include all limitations upon the buyer's use or enjoyment of the property, including mineral rights reservations.

Paragraph 8(d). In answering this question the following guidelines shall be followed: Examples of unusual conditions relating to the location of the subdivision would include whether the subdivision, or any part thereof, is covered by water at any time during the year or is subject to floods, hurricanes, tornadoes, earthquakes, mudslides, brushfires, forest fires, avalanches, volcanic eruptions or other natural hazards. The existence, severity and frequency of natural hazards should be fully explained. If any of the natural hazards of the type illustrated in this paragraph are present, state whether insurance against such hazards is available. State whether the area in which the subdivision is located has been formally identified by any Federal, State or local agency as being in an area subject to a special natural hazard and whether the area is or will be subject to any special land use requirements which will restrict development or entail unusual development or maintenance expense. Examples of unusual noises which might affect the subdivision would include proposed or existing industrial activity, airports or other transportation facilities, animal pens, entertainment centers and the like. Unusual safety factors which might affect the subdivision would include any proposed or existing conditions in the area which create physical hazards such as dilapidated or abandoned buildings, unsafe construction, air or vehicular traffic hazards, danger from fire or explosion, radiation hazards, and the like. Examples of other nuisances which might affect the subdivision include noxious odors such as smoke, chemical fumes, stagnant ponds or marshes, slaughterhouses, sewage treatment facilities, and the like. Any such conditions should be fully explained, identifying their origins and locations and stating whether they are proposed or existing—if existing, whether temporary (include estimate of duration) or permanent.

Paragraph 10. Describe arrangements made (contracts supported by completion bonds or escrows, for example) to assure completion of the improvements. If no arrangements have been made, so state. If it later becomes evident that an improvement will not be completed on or before the specified date, amendments to the Statement of Record and Property Report are required. If no sewage disposal arrangements are contemplated, state if land is suitable for the use of septic tanks, describing the results of any percolation tests. State estimated cost to buyer for septic tank. If water is to be provided by private well, indicate (1) estimated completion cost and (2) any other data establishing that a sufficient quantity of potable water is available to each buyer or lessee. If water is to be provided by a private utility, describe assurances for continuous service at reasonable rates.

Paragraph 11. If the developer states that the water supply will be adequate to serve the anticipated population of the area such statement must be supported by an engineer's report or hydrological survey which is to be submitted as Exhibit VIII A–8c of the Statement of Record. If such documentation is unavailable, the answer to this question should state that the developer has not obtained an engineer's report or a hydrological survey indicating the source and quantity of water in the subdivision and accordingly, there is no assurance that a sufficient quantity of water will be available to serve the anticipated population of the area.

Paragraph 14. The number of homes occupied can be amended to reflect periodic increases subsequent to the initial filing date.

Paragraph 15. Include statement as to nature of terrain (flat, rolling, hilly, mountainous, etc.), type of soil (sandy, swampy, rocky, etc.) and vegetation (cactus, trees, grass, etc.).

ADDITIONAL REQUIREMENTS FOR PROPERTY REPORT

a. The Property Report, as filed with the Statement of Record and in final form to be given to prospective purchasers, shall be on good quality unglazed, white or pastel paper, approximately 8½ by 11 to 13 inches in size with margins in final form to be not less than 1 inch at the top, 1 inch at the sides, and one-half inch at the bottom. It shall be in blue, blue-black or black ink, and the type size shall not be smaller than 10 point leaded type of uniform font and in an easily readable style.

b. The questions and answers shall be printed in such a manner as to be readily distinguishable from each other. For example, the distinction could be shown by two type faces, type styles, type sizes, column settings or by two margin measures. No other portion of the Property Report shall be underscored, italicized, or printed in larger, bolder or different style type than the balance of the report, except where the Secretary requires or permits it as being necessary or appropriate in the public interest or for the protection of purchasers.

c. The Secretary may require or permit such additional information to be included in a Property Report or such change in the sequence or position of information required by this section as he may consider necessary or appropriate in the public interest or for the protection of purchasers.

d. The developer shall attach to and file with the Property Report submitted as part of the Statement of Record a statement in the following form:

"The proposed Property Report attached hereto contains the text in its entirety as it is intended to be reproduced for delivery to prospective purchasers of lots in the (insert identification of subdivision)."

e. Within 20 days of the date upon which the Statement of Record is allowed to become effective by the Secretary, 10 copies of the Property Report, in the identical form in which it will be distributed to prospective purchasers, shall be filed with the Secretary. Ten copies of any subsequent reproduction, alteration, duplication or reprint of the Property Report shall be filed with and accepted by the Secretary prior to its use if such subsequent reproduction, duplication or reprint contains any change in content or form.

f. If the amendment to or the consolidation of the Statement of Record causes no change in the Property Report except the effective date of registration, the subsequent effective date of registration may be shown by overprinting on the front cover of the Property Report.

§ 1710.115 State Property Report disclaimer.

If the developer is filing with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, pursuant to § 1710.25, the following statement must be delivered to each purchaser simultaneously with the delivery of the State Property Report:

STATE PROPERTY REPORT DISCLAIMER

NOTICE AND DISCLAIMER BY OFFICE OF INTERSTATE LAND SALES REGISTRATION, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development has accepted this (name of State) (name of Property Report e.g., Public Offering Statement, Subdivision Report) as the Property Report on this subdivision.

This report is not a recommendation or endorsement of the offerings herein by the Office of Interstate Land Sales Registration, nor has that Office made an inspection of the property nor passed upon the accuracy or adequacy of this report or of any promotional or advertising materials used by the seller. Information contained herein has been filed with the State of_____and the Office of Interstate Land Sales Registration.

It is in the interest of the buyer to inspect the lot and to read all contract documents before signing the contract to purchase or lease.

Prospective buyers and lessees are notified that unless they have received this Property Report prior to, or at the same time they enter into a contract, they may void the contract by notice to the seller.

Unless a buyer or lessee acknowledges in writing that he has read the report and personally inspected the lot prior to signing his contract, he may revoke his contract within 48 hours from signing his contract if he has received the Property Report less than 48 hours prior to signing such contract.

Although a Statement of Record has been filed with the Office of Interstate Land Sales Registration, the filing has not been examined or verified.

§ 1710.120 Statement of Record—State filing.

If the developer is filing pursuant to § 1710.25, there shall be filed with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, a statement as follows:

SECTION I. State Filings—The following information shall preface the State Statement of Record or similar instrument and shall be done in accordance with the general instructions set forth in § 1710.105 for Part I, Administrative Information, and Part III, Identity of Interest in More Than One Filing, and shall be set forth in the following format.

Employer's IRS number_____
Developer:_____
Owner:_____

STATEMENT OF RECORD

Name of subdivision:_____
Location:_____
State of filing:_____
Name of developer:_____
Developer's address:_____
Authorized agent:_____
Authorized agent's address:_____

ADMINISTRATIVE INFORMATION

A. Identification and filing information:
1._____
2._____
3._____
B. General information:
1._____
2._____
3._____
4._____
5._____
6. Acres owned_____
Acres under option or other similar arrangement_____
Total_____
C. Filings with State authorities:
1._____
2._____
D. Supporting documentation:
1._____
2._____

IDENTITY OF INTEREST IN MORE THAN ONE FILING

Subdivision_____
Location_____
OILSR number_____
Date of filing_____

SEC. II. A. Submit all of the information, documentation, and certifications or affirmations submitted to the State.

B. If the State does not require the information and documentation required in Part II, C. of § 1710.105, submit such information and documentation.

C. The contract of sale or lease which will be executed by prospective purchasers or lessees must contain language (a) giving the purchaser the option to void the contract or agreement if he does not receive a Property Report prepared pursuant to the rules and regulations of the Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development, in advance of, or at the time of, his signing the contract or agreement, and (b) giving the purchaser the right to revoke the contract or agreement within 48 hours after signing the contract or agreement if he did not receive the Property Report at least 48 hours before signing the contract or agreeemnt. (The contract or agreement may stipulate that the revocation authority shall not apply in the case of a purchaser who (1) has received the Property Report and inspected the lot to be purchased or leased in advance of signing the contract or agreement, and (2) asknowledges by his signature that he has made such inspection and has read and understood such report.)

D. Consolidation—Incorporation by Reference: If a filing is for an offering of lots to be sold pursuant to a common promotional plan and there has been an earlier filing with OILSR for lots offered under the same promotional plan and if the State has approved a consolidation to such filing, the consolidated material, as approved, shall be filed with the Secretary. The OILSR number shall appear at the top of each page of the material submitted. Any such filing shall be made with the Secretary within 10 days after it becomes effective under the applicable State laws and shall meet the requirements of § 1710.27 of this part.

SEC. III. *Affirmation.* I hereby affirm that I am the developer of the lots herein described or will be the developer at the time lots are offered for sale or lease to the public, or that I am the agent authorized by such developer to complete this statement (if agent, submit written authorization to act as agent);

That the statements contained in this Statement of Record and any supplement

thereto, together with any documents submitted herewith, are full, true, complete, and correct;

That I have complied with the land development and disclosure requirements of the State of _____ (State of filing);

That the material submitted is a true and accurate copy of all the material filed with and accepted by the State of _____ (State of filing); and

That the fees accompanying this application are in the amount required by the rules and regulations of the Office of Interstate Land Sales Registration.

(Date)	(Signature)
(Corporate seal if applicable)	(Title)

WARNING: Section 1418 of the Housing and Urban Development Act of 1968 (82 Stat. 598, 15 U.S.C. 1717) provides: "Any person who willfully violates any of the provisions of this title or of the rules and regulations or any person who willfully, in a Statement of Record filed under, or in a Property Report issued pursuant to, this title, makes any untrue statement of a material fact or omits to state any material fact * * * shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both."

§ 1710.125 Partial Statement of Record—request for exemption.

Requests for an exemption order or an exemption advisory opinion pursuant to § 1710.14 or § 1710.17(b) shall be prepared in accordance with the following instructions:

INSTRUCTIONS FOR COMPLETION OF PARTIAL STATEMENT OF RECORD—REQUEST FOR EXEMPTION

The partial Statement of Record shall be prepared in the manner shown below and shall contain the information requested, as follows:

Employer's IRS No._____
Developer _____
Owner _____

STATEMENT OF RECORD

Name of subdivision_____
Location _____
Name of developer_____
Developer's address_____
Authorized agent_____
Authorized agent's address_____

Part I. Administrative Information, shall be filed in the form set forth in § 1710.105 followed by the affirmation and agreement as set forth below:

The filing of this information does not preclude a developer from filing a complete Statement of Record. If the developer files the material necessary to complete the Statement of Record, the date of filing shall be the date the complete Statement of Record is received by the Secretary.

AFFIRMATION AND AGREEMENT

I hereby affirm that I am the developer of the lots herein described or will be the developer at the time the lots are offered for sale or lease to the public, or that I am the agent authorized by such developer to complete this statement (if agent, submit written authorization to act as agent);

That the statements contained in this partial Statement of Record and any supplement thereto, together with any documents submitted are full, true, complete, and correct;

That, if this request is filed pursuant to 24 CFR 1710.14(a)(2) the developer hereby affirms and represents to the Secretary that the facts, affirmations and method of operation are within the requirements of 24 CFR 1710.14(a)(2) subparagraphs (i), (ii), (iii), (iv), and (v);

That the fee accompanying this application is in the amount required by the regulations of the Office of Interstate Land Sales Registration;

That I agree that this filing is a partial Statement of Record and that the receipt of this filing by the Secretary shall not be the date of filing of a Statement of Record for the purpose of determining the effective date thereof; and

That if the Secretary advises that the offering is not exempt, I agree to file the remaining portions of the Statement of Record as set forth in § 1710.105 of these rules and regulations prior to any offering and that the date of the receipt of the complete Statement of Record by the Secretary shall be the date of filing for the purpose of determining the effective date of the Statement of Record.

(date)	(signature)
(corporate seal if applicable)	(title)

WARNING: Section 1418 of the Housing and Urban Development Act of 1968 (82 Stat. 598, 15 U.S.C. 1717) provides: "Any person who willfully violates any of the provisions of this title or the rules and regulations prescribed pursuant thereto * * *, shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both."

(Sec. 1419, 82 Stat. 598, 15 U.S.C. 1718, Secretary's delegation published 36 F.R. 5006)

§ 1710.130 Effective date.

This part is effective upon publication in the FEDERAL REGISTER (1-27-72). All initial requests, filings and other applicable actions made after the effective date stated above shall be made pursuant to these regulations. Effective Statements of Record, including Statements of Record, consolidations, and amendments filed with OILSR prior to the effective date of these regulations which become effective subsequent to that date, shall be amended to comply with these regulations; compliance amendments must be submitted not later than March 31, 1972. All developers who currently hold a favorable exemption advisory opinion pursuant to § 1710.10(1) of the former regulations and whose operations are affected by these regulations shall either reapply for an exemption order pursuant to § 1710.14 or file a complete Statement of Record not later than March 31, 1972. All developers who currently hold a favorable exemption advisory opinion pursuant to § 1710.10(j) of the former regulations and whose operations are affected by these regulations shall either submit a revised Statement of Reservations, Restrictions, Taxes, and Assessments pursuant to § 1710.11 or file a complete Statement of Record not later than March 31, 1972. The submissions of affirmations required by § 1710.11(a)(2) shall not apply to sales made prior to the effective date of this part. Requests for exemptions submitted prior to the effective date but for which the Secretary has not issued an opinion will be treated as initial requests. A State filing is deemed to be a Statement of Record for the purposes of this section.

EUGENE A. GULLEDGE,
Assistant Secretary for Housing Credit—FHA Production and Mortgage Commissioner.

[FR Doc.72-1065 Filed 1-26-72;8:45 am]

[Docket No. R-72-162]

PART 1720—FORMAL PROCEDURES AND RULES OF PRACTICE

Pursuant to the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701), the Secretary of Housing and Urban Development published in the FEDERAL REGISTER a notice of proposed rule making pertaining to formal procedures and rules of practice for the conduct of investigative and adjudication proceedings in regard to land registrations (36 F.R. 985, Jan. 21, 1971).

Interested persons were invited to submit comments on all the proposed rules. Extensive comments were received which have been taken into consideration in the final regulations hereby adopted.

The comments were favorable with respect to the substantive proposals, although certain editorial changes were suggested. Accordingly the part as it is being adopted follows in substance the proposal except for technical revisions and minor changes in format to improve the coherence and organization of the material. For example, § 1720.245 concerning policy now appears as § 1720.210 and the designation of hearing examiner formerly provided for in § 1720.260 now appears in § 1720.190.

In view of the foregoing, Chapter IX of Title 24 is hereby amended to include a new Part 1720 as follows:

Subpart A—Rules and Rule Making

Sec.	
1720.1	Scope of rules in this subpart.
1720.5	Initiation of proceedings.
1720.10	Investigations and conferences.
1720.15	Notice.
1720.20	Promulgation of rules and regulations.
1720.25	Effective date of rules and regulations.

Subpart B—Filing Assistance

1720.30	Scope of this subpart.
1720.35	Prefiling assistance.
1720.40	Processing of filings.

Subpart C—Formal Investigations

1720.45	Scope of rules in this subpart.
1720.55	Violations, investigations or inquiries.
1720.70	Subpoenas in investigations.
1720.75	Investigational proceedings.
1720.80	Rights of witnesses in investigations.
1720.85	Noncompliance.
1720.90	Disposition.
1720.100	Settlements.

Subpart D—Proceedings and Hearings

1720.110	Scope of rules in this subpart.
1720.115	Applicability of sections of this subpart.
1720.120	Suspension notice under § 1710.45(a) of this chapter.
1720.125	Notice of proceedings pursuant to § 1710.45(b)(1) of this chapter.

Sec.
1720.130 Suspension order under § 1710.45 (b) (2) and (3) of this chapter.
1720.135 Motion for more definite statement.
1720.140 Time for filing answer to notice of proceedings.
1720.145 Content of answer.
1720.150 Settlements.
1720.155 Hearings—suspension notice pursuant to § 1710.45(a) of this chapter.
1720.160 Hearings—notice of proceedings pursuant to § 1710.45(b)(1) of this chapter.
1720.165 Hearings—suspension order issued pursuant to § 1710.45(b)(2) of this chapter.
1720.170 Intervention by interested persons.
1720.175 Consolidation.
1720.180 Conduct of hearings.
1720.190 Hearing examiner, powers and duties.
1720.195 Prehearing conferences.
1720.200 Reporting—prehearing conferences.
1720.205 Amendments and supplemental pleadings.
1720.210 Policy.
1720.215 Ex parte communications.
1720.220 Disqualification of hearing examiner.
1720.225 Failure to comply with hearing examiner's directions.
1720.230 Motions—filing requirements.
1720.235 Answers to motions.
1720.240 Motions for extension.
1720.245 Rulings on motions for dismissal.
1720.250 Interlocutory review of hearing examiner's rulings.
1720.255 Presentation and admission of evidence.
1720.260 Production of witnesses' statements.
1720.265 Depositions and discovery.
1720.270 Subpoenas ad testificandum.
1720.275 Subpoenas duces tecum.
1720.280 Motion to limit or quash.
1720.285 Rulings on applications for compulsory process; appeals.
1720.290 Form of and rulings on applications for subpoenas for confidential records of the Office of Interstate Land Sales Registration; for appearance of employees; appeals; review.
1720.300 Official notice.
1720.320 Reporting and transcription.
1720.325 Corrections.
1720.330 Proposed findings, conclusions, and order.
1720.345 Initial decisions: Time for filing; when effective.
1720.350 Initial decision—content.
1720.360 Reopening of proceeding by hearing examiner; termination of jurisdiction.
1720.365 Appeal from initial decision.
1720.375 Answering brief.
1720.380 Reply brief.
1720.385 Length and form of briefs.
1720.390 Oral argument.
1720.400 Decision on appeal or review.
1720.405 Reconsideration.

Subpart E—Miscellaneous Rules

1720.410 Qualifications for appearances.
1720.415 Restrictions on appearances as to former officers and employees.
1720.425 Standards of practice.
1720.430 Form and filing requirements.
1720.435 Time computation.
1720.440 Service.

Subpart F—Interstate Land Sales Board and Appeals Officers

1720.500 Functions of the Interstate Land Sales Board and appeals officers.
1720.510 Composition of the Interstate Land Sales Board.
1720.520 Decisions of appeals officer.
1720.525 Reconsideration of final decision of appeals officer.
1720.530 Department representative.

AUTHORITY: The provisions of this Part 1720 are issued under sec. 1419 of the Interstate Land Sales Full Disclosure Act, 82 Stat. 598; 15 U.S.C. 1718.

Subpart A—Rules and Rule Making

§ 1720.1 Scope of rules in this subpart.

The rules in this subpart apply to and govern procedure for the promulgation of rules and regulations under the Act. The rules in this subpart do not apply to interpretative rules, general statements of policy, rules of organization procedure, or practice or in any situation in which the Secretary for good cause finds (and incorporates the findings and brief statement of the reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest.

§ 1720.5 Initiation of proceedings.

Proceedings for the issuance of rules and regulations may be commenced by the Secretary upon his own initiative or pursuant to petition filed with the Secretary by any interested person stating reasonable grounds therefor. If the Secretary determines that a petition is not sufficient to warrant the holding of a rule making proceeding, the petitioner shall be promptly notified and given an opportunity to submit additional data. Procedures for the amendment or repeal of a rule or regulation are the same as for the issuance thereof.

§ 1720.10 Investigations and conferences.

(a) In connection with a rule making proceeding, the Secretary may conduct such investigations, make such studies and hold such conferences as he may deem necessary. All or any part of such investigations may be conducted under the provisions of Subpart C of this part.

(b) At any such conferences, interested persons may appear to express views and suggest amendments relative to proposed rules and regulations.

§ 1720.15 Notice.

General notice of proposed rule making shall be published in the FEDERAL REGISTER and, to the extent practicable, otherwise made available to interested persons. Such notice shall include a statement of the time, place and nature of the proceeding; reference to the authority under which the rule or regulation is proposed; either the terms or substance of the proposed rule or regulation or a description of the subjects and issues involved and the manner in which interested persons shall be afforded the opportunity to participate in the proceeding. If the rule making proceeding was instituted pursuant to petition, a copy of the notice shall be served on the petitioner.

§ 1720.20 Promulgation of rules and regulations.

The Secretary, after consideration of all relevant matters of fact, law, policy and discretion, including all relevant matters presented by interested persons in the rule making proceedings, shall adopt and publish in the FEDERAL REGISTER an appropriate rule or regulation together with a concise general statement of its basis and purpose and any necessary findings; or the Secretary shall give other appropriate public notice of disposition of the rule making proceeding.

§ 1720.25 Effective date of rules and regulations.

The effective date of any rule or regulation or of an amendment, suspension, or repeal of any rule or regulation shall be specified in a notice published in the FEDERAL REGISTER. Such date shall not be less than 30 days after the date of such publication unless the Secretary specifies an earlier effective date for good cause found and published with the rule or regulation.

Subpart B—Filing Assistance

§ 1720.30 Scope of this subpart.

The rules in this subpart apply to and govern procedures under which developers may obtain prefiling assistance and be notified of and permitted to correct deficiencies in the Statement of Record.

§ 1720.35 Prefiling assistance.

Persons intending to file with the Office of Interstate Land Sales Registration may receive advice of a general nature as to the preparation of the filing, including information as to proper format to be used and the scope of the items to be included in the format. Inquiries and requests for informal discussions with staff members should be directed to the Administrator, Office of Interstate Land Sales Registration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20411.

§ 1720.40 Processing of filings.

(a) Statements of Record and accompanying filing fees will be received on behalf of the Secretary by the Administrator, Office of Interstate Land Sales Registration, for determination of (1) completeness of the statement, (2) adequacy of the filing fee and (3) adequacy of disclosure. Where it appears that all three criteria are satisfied and it is otherwise practicable, acceleration of the effectiveness of the Statement of Record will normally be granted.

(b) Filings intended as Statements of Record but which do not comply in form with §§ 1710.105 and 1710.120 of this chapter, whichever is applicable, and Statements of Record accompanied by inadequate filing fees will not be accepted as Statements of Record within the meaning of the Act and will not be effective to accomplish any purpose under the Act. At the discretion of the Administrator, such filings and any moneys accompanying them may be immediately returned to the sender or after notification

may be held pending the sender's appropriate response.

(c) Persons filing incomplete or inaccurate Statements of Record which are, nevertheless, correct in form and accompanied by adequate filing fees will be notified and given reasonable opportunity to correct deficiencies. Failure to correct will result in the application of the suspension procedures in § 1710.45 of this chapter.

Subpart C—Formal Investigations

§ 1720.45 Scope of rules in this subpart.

(a) The rules in this subpart apply to and govern procedures for the conduct of formal inquiries and investigations undertaken by the Secretary and the manner in which persons alleged to have violated the Act or the rules and regulations may be afforded an opportunity to comply voluntarily with the Act and the rules and regulations.

(b) The Secretary or his designee may make inquiries and investigations to determine whether any person has violated or is about to violate any provision of the Act or the rules and regulations, or to aid in the enforcement of the Act, or in prescribing rules and regulations thereunder or in securing information to serve as a basis for recommending further legislation. The Secretary or his designee shall have the authority to administer oaths and affirmations in any matter under investigation.

§ 1720.55 Violations, investigations or inquiries.

In connection with a formal investigation or inquiry involving an alleged or suspected violation or threatened violation of the Act or rules and regulations, the Secretary may require or permit any person to file with him a signed statement setting forth facts and circumstances known to such person and relevant to the investigation or inquiry. The Secretary may publish or otherwise divulge information concerning any violation of the Act or the rules and regulations.

§ 1720.70 Subpoenas in investigations.

(a) The Secretary or his designee may issue subpoenas relating to any matter under investigation for any or all of the following purposes:

(1) Requiring testimony to be taken by interrogatories.

(2) Requiring the attendance and testimony of witnesses at a specific time and place.

(3) Requiring access to, examination of and the right to copy documents, books, records, and papers.

(4) Requiring the production of documents, books, records, and papers at a specified time and place.

(b) A motion to limit or quash any such subpoena may be filed with the Secretary or his designee within 10 days after service of the subpoena, and in no event less than 72 hours prior to the return date and hour of such subpoena.

§ 1720.75 Investigational proceedings.

(a) For the purpose of hearing the testimony of witnesses and receiving documents and other data relating to any subject under investigation, investigational proceedings, as distinguished from adjudicative hearings, may be conducted in the course of any investigation including rule making proceedings under Subpart A of this part.

(b) Investigational proceedings shall be presided over by the Secretary or his designee and shall be stenographically or mechanically reported. A transcript shall be a part of the record of the investigation.

(c) Unless the Secretary or his designee determines otherwise investigational proceedings shall be public.

§ 1720.80 Rights of witnesses in investigations.

(a) Any person compelled to testify or to submit data in connection with any investigational proceedings shall be entitled to retain a copy or, on payment of lawfully prescribed costs, procure a copy of any data submitted by him and of his own testimony as stenographically or mechanically reported, except that in a nonpublic proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

(b) Any witness compelled to appear in person in an investigational proceeding may be accompanied, represented, and advised by counsel as follows:

(1) Counsel for a witness may advise his client, in confidence, and upon initiative of either himself or the witness, with respect to any question asked of his client; and if the witness refuses to answer a question, then counsel may briefly state on the record if he has advised his client not to answer the question and the legal grounds for such refusal.

(2) Where it is claimed that the testimony or other evidence sought from a witness is outside the scope of the investigation, or it is claimed that the witness is privileged to refuse to answer a question or to produce other evidence, counsel for the witness may object on the record to the question or requirement and may state briefly and precisely the grounds thereof.

(3) Objections interposed under the rules in this subpart will be continuing objections throughout the course of the proceeding, and repetitious or cumulative statement of an objection or of the grounds therefore, in such cases, is unnecessary and impermissible.

(4) Counsel for a witness may not, for any purpose or to any extent not allowed by subparagraphs (1) and (2) of this paragraph, interrupt the examination of the witness by making any objections or statements on the record. Motions challenging the authority of the Secretary to conduct the investigation or the sufficiency or legality of the subpoena must have been addressed to the Secretary in advance of the proceeding. Copies of such motions may be filed with the presiding official at the proceeding as part of the record of the investigation, but no arguments in support thereof will be allowed at the proceeding.

(5) Upon completion of the examination of a witness, counsel for the witness may request that on the record the presiding official permit the witness to clarify any of his answers in order that specified points of ambiguity, equivocation, or incompleteness may be corrected. The granting or denial of such request, in whole or in part, shall be within the sole discretion of the presiding official.

(6) The presiding official shall take all necessary action to regulate the course of the proceeding to avoid delay and to prevent or restrain disorderly, dilatory, obstructionist or contumacious conduct or contemptuous language. Such official shall, for reasons stated on the record, immediately report to the Secretary any instances where an attorney or witness has failed or refused to comply with his directions, lawful rules, regulations or orders in the course of the proceedings or has engaged in disorderly, dilatory, obstructionist, or contumacious conduct or contemptuous language. The Secretary or his designee may exclude the attorney or witness from further participation in the particular investigation.

§ 1720.85 Noncompliance.

Failure to comply with the Secretary's investigational process may result in action pursuant to section 1415 of the Act.

§ 1720.90 Disposition.

(a) When investigation by the Secretary indicates that corrective action is warranted, the Secretary pursuant to § 1710.45(b) (2) of this chapter may issue a suspension order: *Provided, however,* That any person being investigated may be afforded an opportunity to submit to the Secretary a proposal for disposition of the matter in the form of an executed settlement agreement complying with the requirements of § 1720.100 for consideration by the Secretary.

(b) When an investigation discloses that corrective action is not necessary or warranted in the public interest for the protection of purchasers or lessees, the investigational file will be closed. The matter may at any time thereafter be reinvestigated if circumstances so warrant.

§ 1720.100 Settlements.

(a) *Offer of settlement.* At any time during a proceeding, parties may be afforded an opportunity to submit to the Secretary or his designee a written proposal for disposition of the matter in the form of a settlement offer.

(b) *Settlement agreements.* When the Secretary or his designee determines the public interest will be fully safeguarded thereby he may accept an executed offer of settlement. Where the Secretary or his designee rejects an offer of settlement, the party making the offer shall be notified and the offer of settlement shall be deemed withdrawn and such offer and any documents relating thereto shall not constitute a part of the record.

Subpart D—Proceedings and Hearings

§ 1720.110 Scope of rules in this subpart.

The rules in this subpart are applicable to adjudicative proceedings which involve a hearing or opportunity for a hearing under the Interstate Land Sales Full Disclosure Act.

§ 1720.115 Applicability of sections of this subpart.

Succeeding sections of this subpart not specifically limited in applicability either to hearings conducted subsequent to a suspension notice under § 1710.45(a) of this chapter, to a notice of proceedings under § 1710.45(b)(1) of this chapter, or to hearings conducted subsequent to a suspension order issued pursuant to paragraph (2) of § 1710.45(b) of this chapter, shall apply to all such hearings.

§ 1720.120 Suspension notice under § 1710.45(a) of this chapter.

A suspension pursuant to § 1710.45(a) of this chapter shall be effected by service of a suspension notice which shall contain:

(a) An identification of the filing to which the notice applies.

(b) A specification of the deficiencies of form, disclosure, accuracy, documentation or fee tender which constitute the grounds, under § 1710.45(a) of this chapter, of the suspension, and of the additional or corrective procedure, information, documentation, or tender which will satisfy the Secretary's requirements.

(c) A notice of the hearing rights of the developer under § 1720.155, and of the procedures for invoking those rights.

(d) A notice that, unless otherwise ordered, the suspension shall remain in effect until 30 days after the developer cures the specified deficiencies as required by the notice.

§ 1720.125 Notice of proceedings pursuant to § 1710.45(b)(1) of this chapter.

A proceeding pursuant to § 1710.45-(b)(1) of this chapter is commenced by issuance and service of a notice which shall contain:

(a) A clear and accurate identification of the filing or filings to which the notice relates.

(b) A clear and concise statement of material facts, sufficient to inform the respondent with reasonable definiteness of the statements, omissions, conduct, circumstances or practices alleged to constitute the grounds for the proposed suspension order under § 1710.45(b)(1) of this chapter.

(c) Specification of a time and place at which the developer shall have opportunity for hearing.

(d) Designation of the hearing examiner appointed to preside over prehearing procedures and over the hearings.

(e) A notice that failure to file an answer or motion as provided under § 1720.140 will result in an order suspending the Statement of Record.

§ 1720.130 Suspension order under § 1710.45(b) (2) and (3).

A suspension pursuant to subparagraphs (2) and (3) of § 1710.45(b) of this chapter shall be effected by service of a suspension order which shall contain:

(a) An identification of the filing to which the order applies.

(b) Bases for issuance of order.

(c) A notice of the hearing rights of the developer under § 1720.165 and of the procedures for invoking those rights.

(d) A statement that the order shall remain in effect until the developer has complied with the Secretary's requirements.

§ 1720.135 Motion for more definite statement.

Where a reasonable showing is made by a respondent of his inability to respond to the allegations in a suspension notice or a notice of proceedings, motion may be made requesting a more definite statement of the allegations before filing an answer. Such motion shall be filed with the Secretary or his designee within 5 days after service of the notice and shall specifically indicate in what manner the notice is indefinite or defective.

§ 1720.140 Time for filing answer to notice of proceedings.

(a) Within 15 days after service of the notice of proceedings, the respondent shall file with the Secretary or his designee an answer and six copies thereof signed by the respondent or his attorney. Unless a different time is fixed by the Secretary or his designee, the filing of a motion for a more definite statement of the allegations shall alter the period of time in which to file an answer as follows:

(1) If the motion is denied, the answer shall be filed within 10 days after service of the denial or 15 days after service of the notice of proceedings, whichever is later; or

(2) If the motion is granted, in whole or in part, the more definite statement of allegations shall be filed after service of the order granting the motion and the answer shall be filed within 10 days after service of the more definite statement of allegations.

(b) If a notice of proceedings is amended, the respondent shall have 15 days after service of the amended notice of proceedings within which to file an answer thereto.

§ 1720.145 Content of answer.

An answer to a suspension notice or a notice of proceedings shall contain:

(a) A brief statement of the facts constituting each defense; and

(b) Specific admission, denial or explanation of each fact alleged in the notice, or if the respondent is without knowledge thereof a statement to that effect. Allegations not answered in this matter shall be deemed to have been admitted.

§ 1720.150 Settlements.

Parties may propose in writing, at any time during the course of a proceeding, offers of settlement which shall be submitted to and considered by the Secretary or his designee. If determined to be appropriate, the party making the offer may be given an opportunity to make an oral presentation in support of such offer. If an offer of settlement is rejected, the party making the offer shall be so notified and the offer shall be deemed withdrawn and shall not constitute a part of the record in the proceeding. Final acceptance by the Secretary or his designee of any offer of settlement will automatically terminate any proceeding related thereto.

§ 1720.155 Hearings—suspension notice pursuant to § 1710.45(a) of this chapter.

(a) A developer, upon receipt of a suspension notice issued pursuant to § 1710.45(a) of this chapter, may obtain a hearing by filing a written request in accordance with the instructions regarding such request contained in the suspension notice. Such request must be filed within 10 days of receipt of the suspension notice and must be accompanied by an answer and six copies thereof signed by the respondent or his attorney conforming to the requirements of § 1720.145. Filing of a motion for a more definite statement pursuant to § 1720.135 shall alter the period of time to request a hearing as follows:

(1) If the motion is denied, the request for hearing accompanied by the answer must be filed within 10 days after service of the denial or 15 days after service of the suspension notice whichever is later; or

(2) If the motion is granted, in whole or in part, the more definite statement of allegations shall be filed after service of the order granting the motion and the request for hearing accompanied by the answer shall be filed within 10 days after service of the more definite statement of allegations.

(b) When a hearing is requested pursuant to paragraph (a) of this section, such hearing shall be held within 20 days of receipt of the request. The time and place for hearing shall be fixed with due regard for the public interest and the convenience and necessity of the parties or their representatives.

(c) A request for hearing filed pursuant to paragraph (a) of this section shall not interrupt on annul the effectiveness of the suspension notice, and suspension of the effective date of the statement or amendment shall continue until vacated by order of the Secretary. Except in cases in which the developer shall waive or withdraw his request for such hearing, or shall fail to pursue the same by appropriate appearance at a hearing duly scheduled, noticed and convened, the suspended filing shall be reinstated in the event of failure of the Secretary or his designee to schedule, give notice of or hold a duly-requested hearing within the time specified in paragraph (b) of this section, or in the event of a finding that the Secretary has failed to support at such hearing the propriety of the suspension with respect to the material

issues of law and fact raised by the answer. Such reinstatement shall be effective on the date on which the filing would have become effective had no notice of suspension been issued with respect to it.

§ 1720.160 Hearings—notice of proceedings pursuant to § 1710.45 (b) (1) of this chapter.

(a) A developer, upon receipt of a notice of proceedings issued pursuant to § 1710.45(b) (1) of this chapter, may obtain a hearing by filing a written request in accordance with the instructions regarding such request contained in the notice of proceedings. Such a request must be filed within 15 days of receipt of the notice of proceedings or in the case of a request for a more definite statement within 15 days after receipt of either the more definite statement or the denial thereof. The request must be accompanied by an answer conforming to the requirements of § 1720.145.

(b) When a hearing is requested pursuant to paragraph (a) of this section, a date for such hearing shall be scheduled within 20 days of receipt of the request. The time and place for hearing shall be fixed with due regard for the public interest and the convenience and necessity of the parties or their representatives.

(c) Failure to answer within the time allowed by § 1720.140 shall result in an appropriate order under § 1710.45(b) of this chapter suspending the Statement of Record.

§ 1720.165 Hearings—suspension order issued pursuant to § 1710.45(b)(2) of this chapter.

(a) A developer, upon receipt of a suspension order issued pursuant to subparagraph (2) of § 1710.45(b) of this chapter, may obtain a hearing by filing a written request in accordance with the instructions regarding such request contained in the suspension order. Such request must be filed within 10 days of receipt of the suspension order and must be accompanied by an answer conforming to the requirements of § 1720.145.

(b) When a hearing is requested pursuant to paragraph (a) of this section, a date for such hearing shall be scheduled within 20 days of receipt of the request. The time and place for hearing shall be fixed with due regard for the public interest and the convenience and necessity of the parties or their representatives.

§ 1720.170 Intervention by interested persons.

(a) Upon timely application, the Secretary or his designee upon petition in writing and for good cause shown, and if deemed to be in the public interest, may permit any person to participate by intervention in the proceeding. The petition shall contain (1) the petitioner's relationship to and interest in the matters contained in the proceeding; (2) a concise statement of his position with respect to each specific issue upon which he proposes to intervene, and of the facts which he proposes to adduce in support of each such position; and (3) an assent to exercise of jurisdiction by the Department with respect to the petitioner.

(b) The Secretary or his designee shall determine the propriety of such intervention and the extent to which such intervener may participate, basing such determination upon applicable law, the directness and substantiality of the petitioner's interest in the proceeding and the effect upon the proceeding of allowing such participation.

§ 1720.175 Consolidation.

When more than one proceeding involves a common question of law or fact, the Secretary or his designee may order a joint hearing of any or all of the matters in issue in the proceedings and may make such orders concerning the proceedings as may tend to avoid unnecessary costs or delay.

§ 1720.190 Hearing examiner, powers and duties.

(a) Hearings in adjudicative proceedings shall be presided over by a duly qualified hearing examiner who shall be designated by the Secretary in a notice to the parties in the proceeding.

(b) Hearing examiners shall have the duty to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of proceedings and to maintain order. They shall have all powers necessary to those ends including all powers granted under 5 U.S.C. 556(c), and also including but not limited to the following:

(1) To administer oaths and affirmations.

(2) To issue subpoenas and orders requiring access.

(3) To take or to cause depositions to be taken.

(4) To rule upon offers of proof and receive evidence.

(5) To regulate the course of the hearings and the conduct of the parties and their counsel.

(6) To hold conferences for simplification and clarification of the issues or any other purpose.

(7) To consider and rule upon, as justice may require, all procedural and other motions appropriate in an adjudicative proceeding, including motions to open defaults.

(8) To make and file initial decisions.

(9) To certify questions to an appeals officer on the Interstate Land Sales Board for his determination.

(10) To take any action authorized by the rules in this part or other appropriate action.

§ 1720.195 Prehearing conferences.

(a) In any proceeding in which it appears that such procedure will expedite the proceeding, the hearing examiner may direct or allow the parties or their representatives to appear before him for a conference to consider: (1) Simplification and clarification of the issues; (2) necessity or desirability of amendments to the pleadings; (3) stipulations and admissions of fact and the contents and authenticity of documents; (4) expedition in the discovery and presentation of evidence; (5) matters of which official or judicial notice will be taken; and (6) such other matters as may aid in the orderly and expeditious disposition of the proceeding, including disclosure of the names of witnesses and of documents or other exhibits which will be introduced in evidence in the course of the proceeding. Prior to the conference, the hearing examiner may direct or allow the parties or their representatives to file memorandums specifying the issues of law and fact to be considered.

(b) If the circumstances are such that a conference is impracticable, the hearing examiner may request the parties to correspond with him for the purpose of accomplishing any of the objectives set forth in this section.

§ 1720.200 Reporting—prehearing conferences.

Prehearing conferences shall be stenographically or mechanically reported; and the hearing examiner shall prepare and file for the record a written summary of the action taken at the conference, which shall incorporate any written agreements or stipulations made by the parties at the conference or as a result of the conference.

§ 1720.205 Amendments and supplemental pleadings.

(a) *Amendments.* The hearing examiner may, upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties, allow appropriate amendments to pleadings whenever determination of a controversy on the merits will be facilitated thereby.

(b) *Variances of proof.* When issues not raised by the pleadings but reasonably within the scope of the suspension notice or notice of proceedings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings; and such amendments of the pleadings as may be necessary to make them conform to the evidence and to raise such issues shall be allowed at any time.

(c) *Supplemental pleadings.* The hearing examiner may, upon reasonable notice and such terms as are just, permit service of a supplemental pleading setting forth transactions or events which have occurred since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

§ 1720.210 Policy.

(a) All hearings in adjudicative proceedings shall be public.

(b) Hearings shall proceed with all reasonable speed; and, insofar as practicable, shall be held at one place and shall continue without recess or suspension until concluded. The hearing examiner shall have the authority to order brief intervals of the sort normally involved in judicial proceedings and, in unusual and exceptional circumstances for good cause stated on the record, he shall have the authority to order hearings at more than one place and to order brief intervals to permit discovery necessarily deferred during the prehearing procedures.

§ 1720.215 Ex parte communications.

(a) No person shall communicate with any hearing examiner or any appeals officer on the Interstate Land Sales Board either directly or indirectly concerning any pending proceeding unless prior to or simultaneously with such communication its contents are disclosed in detail to all persons interested in the proceeding; nor shall any hearing examiner or appeals officer request or consider any such unauthorized ex parte communication. This prohibition shall not apply to a simple request for information respecting the status of the proceeding, nor to any ex parte communication expressly authorized by these rules.

(b) Any hearing examiner or appeals officer, who receives an ex parte communication which he knows or has reason to believe is unauthorized, shall promptly place the communication, or its substance, in the public file and shall inform all persons interested in the proceeding of its existence and general contents. Facts or arguments so communicated shall not be taken into account in deciding any matter in issue unless such facts or arguments shall be brought properly before the hearing examiner.

(c) Opportunity to answer allegations or contentions contained in an unauthorized ex parte communication may be afforded any interested person upon his motion for leave to do so, wherever such leave will operate to assure a fair hearing or decision.

§ 1720.220 Disqualification of hearing examiner.

(a) When a hearing examiner deems himself disqualified to preside in a particular proceeding, he shall withdraw therefrom by notice on the record and shall notify the Secretary of such withdrawal.

(b) Whenever any party believes that the hearing examiner should be disqualified to preside, or to continue to preside, in a particular proceeding, such party may file with the hearing examiner a motion that the hearing examiner disqualify and remove himself. Such motion shall be supported by affidavits setting forth the alleged grounds for disqualification. If the hearing examiner does not disqualify himself, he shall proceed with the hearing and the question of fair hearing and due process may be raised on appeal to the appeals officer on the Interstate Land Sales Board who shall determine the matter as a part of the record and decision.

§ 1720.225 Failure to comply with hearing examiner's directions.

Any party who refuses or fails to comply with a lawfully issued order or direction of a hearing examiner may be considered to be in contempt of the Secretary. The circumstances of any such neglect, refusal or failure, together with a recommendation for appropriate action, shall be promptly certified by the hearing examiner to the Secretary or his designee who may make such orders in regard thereto as the circumstances may warrant.

§ 1720.230 Motions—filing requirements.

During the time a proceeding is before a hearing examiner, all motions therein shall be in writing; and, except as otherwise provided in this part, a copy of each motion shall be served on the other party or parties. Such motions shall be signed, addressed to and filed with the hearing examiner and shall be ruled upon by him.

§ 1720.235 Answers to motions.

Within 5 days after service of any motion, an opposing party shall answer or shall be deemed to consent to the granting of the relief asked for in the motion. The moving party shall have no right to reply except as permitted by the hearing examiner or the designated officer on the Interstate Land Sales Board.

§ 1720.240 Motions for extension.

As a matter of discretion, the hearing examiner or the designated officer on the Interstate Land Sales Board may waive the requirements of § 1720.235 as to motions for extensions of time, and may rule upon such motions ex parte. Extensions of time or continuances in any proceeding may be ordered for sufficient cause in the discretion of the hearing examiner, on his own motion, or on the motion of either party; but the policy of the Secretary under § 1720.210 shall be observed and enforced.

§ 1720.245 Rulings on motions for dismissal.

(a) When a motion is granted with the result that the proceeding before the hearing examiner is terminated, the hearing examiner shall file an initial decision in accordance with the provisions of § 1720.345. If such a motion is not granted as to all allegations and as to all respondents, the hearing examiner shall enter his ruling on the record and take it into account in his initial decision. When a motion to dismiss, based upon alleged failure to establish a prima facie case, is made at the close of the evidence offered in support of the notice of proceedings or suspension notice, the hearing examiner may defer ruling thereon until the close of the case for the reception of evidence.

(b) A motion to dismiss may be made by any party within 5 days after the close of the case for the reception of evidence. The hearing examiner shall enter his ruling on the record and take it into account in his initial decision.

§ 1720.250 Interlocutory review of hearing examiner's rulings.

The designated appeals officer on the Interstate Land Sales Board will not review a ruling of the hearing examiner prior to his consideration of the entire proceeding in the absence of extraordinary circumstances. Except as provided in § 1720.190 a hearing examiner shall not certify a ruling for interlocutory review to an appeals officer unless a party so requests and the hearing examiner finds, either on the record or in writing, that in his opinion (a) a subsequent reversal of his ruling would cause unusual delay or expense, taking into consideration the probability of such reversal, or (b) substantial rights are at stake and the final decision might be materially affected. The certification by the hearing examiner shall be in writing and shall specify the material relevant to the ruling involved. The appeals officer may decline to consider the ruling certified if he determines that interlocutory review is not warranted or appropriate under the circumstances. If the hearing examiner does not certify a matter, a party who had requested certification may apply to the appeals officer for review. An application for review shall be in writing and shall briefly state the grounds relied on and shall be filed within 2 days after notice of the ruling complained of. Review will not be granted unless the appeals officer concludes that the hearing examiner erred in failing to certify the matter. Unless otherwise ordered by the hearing examiner, the hearing shall continue whether or not such certification or application is made. Failure to request certification or to make such application will not waive the right to seek review of the ruling of the hearing examiner after the close of the hearing.

§ 1720.255 Presentation and admission of evidence.

(a) All witnesses at a hearing for the purpose of taking evidence shall testify under oath or affirmation which shall be administered by the hearing examiner. Every party shall have the right to present such oral or documentary evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The hearing examiner shall receive relevant and material evidence, rule upon offers of proof and exclude all irrelevant, immaterial or unduly repetitious evidence.

(b) Evidence shall not be excluded merely by application of technical rules governing its admissibility, competency, weight or foundation in the record; but evidence lacking any significant probative value, or substantially tending merely to confuse or extend the record, shall be excluded.

(c) When offered evidence is excluded, the party offering the same shall be permitted to state on the record an offer of proof with respect thereto and rejected exhibits, adequately marked, shall on request of the party offering the same be retained in the record for purposes of review. Evidence may be received subject to deferred ruling on objections to its admissibility.

(d) Objections to evidence shall be interposed timely and shall specify the particular ground of objection without argument except as argument may be expressly required by the hearing examiner. Formal exception to an adverse ruling is unnecessary.

§ 1720.260 Production of witnesses' statements.

After a witness called by the attorney for the Office of Interstate Land Sales

Registration has given direct testimony in a hearing, any other party may request and obtain the production of any statement, or part thereof, of such witness pertaining to his direct testimony in the possession of the Office of Interstate Land Sales Registration, subject, however, to the limitations applicable to the production of witnesses' statements under the Jencks Act, 18 U.S.C. 3500.

§ 1720.265 Depositions and discovery.

(a) At any time during the course of a proceeding, the hearing examiner, in his discretion, may order the taking of a deposition and the production of documents by the deponent. Such order may be entered upon a showing that the deposition is necessary for the purpose of discovery and that such discovery could not be accomplished by voluntary methods. Such order may also be entered in extraordinary circumstances to preserve relevant evidence upon a showing that there is substantial reason to believe that such evidence could not be presented through a witness at the hearing. Insofar as consistent with considerations of fairness and the requirements of due process and the rules of this subpart, a deposition shall not be ordered when it appears that it will result in undue burden to any other party or in undue delay of the proceeding. A deposition shall not be ordered to obtain evidence from a person relating to matters with regard to which he is expected to testify at the hearing, or to obtain evidence which there is reason to believe can be presented at a hearing without the need for deposition or to circumvent the orderly presentation of evidence at the hearing. Depositions may be taken orally or upon written interrogatories and cross-interrogatories before any person having power to administer oaths who may be designated by the hearing examiner.

(b) Any party desiring to take a deposition shall make application in writing to the hearing examiner setting forth the justification therefor and the time and place proposed for the taking of the deposition. The application shall include also the name and address of each proposed deponent and the subject matter concerning which each is expected to depose and shall be accompanied by an application for any subpoenas desired.

(c) Such order as the hearing examiner may issue for taking a deposition shall state the circumstances warranting its being taken, and shall designate the time and place and shall show the name and address of each person who is expected to appear and the subject matter with regard to which each is expected to depose. The time designated shall allow not less than 5 days from date of service of the order when the deposition is to be taken within the United States, and not less than 15 days when the deposition is to be taken elsewhere.

(d) After an order is served for taking a deposition, upon motion timely made by any party or by the person to be deposed and for good cause shown, the hearing examiner may issue any of the following orders which he considers to be appropriate:

(1) That the deposition shall not be taken.

(2) That it may be taken only at some designated place other than that stated in the order.

(3) That it may be taken only on written interorgatories.

(4) That certain matters shall not be inquired into.

(5) That the examination shall be held with no one present except the parties to the action, their counsel and a person qualified in the designated place to administer oaths and affirmations.

(e) The hearing examiner may make any other order which justice requires to protect the party or deponent from annoyance, embarrassment or oppression, or to prevent the unnecessary disclosure or publication of information contrary to the public interest and beyond the requirements of justice in the particular proceeding.

(f) Each deponent shall be duly sworn, and any adverse party shall have the right to cross-examine. Objections to questions or documents shall be in short form, stating the grounds of objections relied upon. The questions and the answers, together with all objections made, but excluding argument or debate, shall be reduced to writing and certified by the person before whom the deposition was taken. Thereafter such person shall forward the deposition and one copy thereof to the party at whose instance the deposition was taken, and shall forward one copy thereof to the representative of each party who was present or represented at the taking of the deposition.

(g) A deposition taken to preserve relevant evidence which any party intends to offer in evidence may be corrected in the manner provided by § 1720.325. Any such deposition shall, in addition to the other required procedures, be read to or by the deponent and subscribed by him if the party intending to offer it in evidence so notifies the person before whom the deposition was taken. Subject to appropriate rulings on such objections to the questions and answers as were noted at the time the deposition was taken or as may be valid when it is offered, a deposition taken to preserve relevant evidence, or any part thereof, may be used or offered in evidence as against any party who was present or represented at the taking of the deposition or who had due notice thereof if the hearing examiner finds any of the following:

(1) That the deponent is dead.

(2) That the deponent is out of the United States or is located at such a distance that his attendance would be impractical unless it appears that the absence of the deponent was procured by the party offering the deposition.

(3) That the deponent is unable to attend or testify because of age, sickness, infirmity or imprisonment.

(4) That the party offering the deposition has been unable to procure the attendance of the deponent by subpoena.

(5) That such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

§ 1720.270 Subpoenas ad testificandum.

Application for issuance of a subpoena requiring a person to appear and depose or testify at the taking of a deposition or at an adjudicative hearing shall be made to the hearing examiner who may issue such subpoena.

§ 1720.275 Subpoenas duces tecum.

(a) Application for issuance of a subpoena requiring a person to appear and depose or testify and to produce specific documents, papers, books, or other physical exhibits at the taking of a deposition, or at a prehearing conference, or at an adjudicative hearing shall be made in writing to the hearing examiner who may issue such subpoena and shall specify as exactly as possible the general relevancy of the material and the reasonableness of the scope of the subpoena.

(b) Subpoenas duces tecum may be used by any party for purposes of discovery or for obtaining documents, papers, books, or other physical exhibits for use in evidence, or for both purposes. When used for discovery purposes, a subpoena may require a person to produce and permit the inspection and copying of nonprivileged documents, papers, books, or other physical exhibits which constitute or contain evidence relevant to the subject matter involved and which are in the possession, custody or control of such person.

§ 1720.280 Motion to limit or quash.

Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 5 days after the date of service of such subpoena, apply to the hearing examiner to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefor. The hearing examiner shall have the discretion of granting, denying or modifying said motion.

§ 1720.285 Rulings on applications for compulsory process; appeals.

(a) Applications for orders requiring the production of witnesses' statements pursuant to the provisions of § 1720.260, applications for orders requiring the taking of depositions pursuant to the provisions of § 1720.265 and applications for the issuance of subpoenas pursuant to the provisions of §§ 1720.270 and 1720.275 (other than as provided in § 1720.290) may be made ex parte, and, if so made, such applications and the rulings thereon shall remain ex parte unless otherwise ordered by the hearing examiner. Such applications shall be ruled upon by the hearing examiner assigned to hear the case or, in the event he is not available, by another hearing examiner designated by the Secretary.

(b) Appeals to an appeals officer on the Interstate Land Sales Board from rulings denying applications within the scope of paragraph (a) of this section, or from rulings on motions to limit or quash

process issued pursuant to such applications (other than as provided in § 1720.290) will be entertained by the appeals officer only upon a showing that the ruling complained of involves substantial rights and will materially affect the final decision, and that a determination of its correctness before conclusion of the hearing is essential to serve the interests of justice. Such appeals shall be made on the record, shall briefly state the grounds relied on and shall be filed within 5 days after notice of the ruling complained of. Appeals from denials of ex parte applications shall have annexed thereto copies of the applications and rulings involved. Any answer to such appeal shall not operate to suspend the hearing unless otherwise ordered by the hearing examiner or the appeals officer.

§ 1720.290 Form of and rulings on applications for subpoenas for confidential records of the Office of Interstate Land Sales Registration; for appearance of employees; appeals; review.

(a) An application for issuance of a subpoena requiring the production of documents, papers, books, physical exhibits or other material, or the disclosure of confidential information in the records of the Office of Interstate Land Sales Registration, other than material or information to which the applicant is entitled by law, or for the issuance of a subpoena requiring the appearance of an official or employee of the Office of Interstate Land Sales Registration shall be made in the form of a written motion filed in accordance with the provisions of § 1720.230.

(b) The motion shall specify as exactly as possible the material to be produced, the nature of the material to be produced, the nature of the information to be disclosed or the expected testimony of the official or employee of the Office of Interstate Land Sales Registration and shall contain a statement showing the general relevancy of the material, information, or testimony and the reasonableness of the scope of the application, together with a showing that such material, information, or testimony is not available from other sources by voluntary methods or through other provisions of the rules in this subpart.

(c) Applications in the form of written motions shall be ruled upon by the hearing examiner and to the extent that such a motion is granted provision shall be made for such terms and conditions relating to the production of the material, the disclosure of the information or the appearance of the official or employee of the Office of Interstate Land Sales Registration as may appear necessary and appropriate for the protection of the public interest.

(d) Appeals to the appeals officer on the Interstate Land Sales Board from rulings on motions to limit or quash subpoenas within the scope of paragraph (a) of this section shall be made on the record and shall be in the form of a brief not to exceed 30 pages in length which shall be filed within 5 days after notice of the ruling is received by the objecting party. Any answer to such appeal shall be filed within 5 days after service of the appeal brief. The appeal shall not operate to suspend the hearing unless otherwise ordered by the hearing examiner or the appeals officer.

§ 1720.300 Official notice.

Official notice may be taken of any material fact which might be judicially noticed by a District Court of the United States, any matter in the public official records of the Office of Interstate Land Sales Registration or any matter which is peculiarly within the knowledge of the appeals officer on the Interstate Land Sales Board; provided, that when any decision of a hearing examiner or of an appeals officer on the Interstate Land Sales Board rests, in whole or in part, upon the taking of official notice of a material fact not appearing in evidence of record opportunity to disprove such noticed fact shall be granted any party making timely request therefor.

§ 1720.320 Reporting and transcription.

Hearings shall be stenographically or mechanically reported and transcribed under the supervision of the hearing examiner. The original transcript shall be a part of the record and the sole official transcript. Copies of transcripts are available from the reporter at rates not to exceed the maximum rates fixed by contract between the Secretary or his designee and the reporter.

§ 1720.325 Corrections.

Corrections of the official transcript ordered by the hearing examiner shall be included in the record. Corrections shall not be ordered by the hearing examiner except upon notice and opportunity for the hearing of objections. Such corrections shall be made by the reporter by furnishing substitute pages, under the usual certificate of the reporter, for insertion in the official record.

§ 1720.330 Proposed findings, conclusions, and order.

The hearing examiner may fix a reasonable time, not to exceed 30 days after the close of the evidence, during which any party may file with the hearing examiner proposed findings of fact, conclusions of law and rules or orders together with briefs in support thereof. Such proposals shall be in writing, shall be served upon all parties and shall contain adequate references to the record and to authorities relied on. The record shall show the hearing examiner's ruling on each proposed finding and conclusion, except when his rule or order disposing of the proceeding otherwise informs the parties of the action taken by him thereon.

§ 1720.345 Initial decisions: Time for filing; when effective.

(a) The hearing examiner shall make and file an initial decision within 60 days after the close of the taking of evidence in cases in which a hearing is held.

(b) The initial decision shall become the decision of the Secretary 30 days after service thereof upon the parties unless one of the following occurs:

(1) An appeal is perfected under § 1720.365.

(2) The appeals officer on the Interstate Land Sales Board by order stays the effective date of the decision.

§ 1720.350 Initial decision—content.

The initial decision shall include a statement of (a) findings, with specific references to principal supporting items of evidence in the record and conclusions, as well as the reasons or bases therefor, upon all of the material issues of fact, law or discretion presented on the record, and (b) an appropriate order. The initial decision shall be based upon a consideration of the whole record and supported by reliable, probative and substantial evidence.

§ 1720.360 Reopening of proceeding by hearing examiner; termination of jurisdiction.

(a) At any time prior to the filing of his initial decision, a hearing examiner may reopen the proceeding for the reception of further evidence.

(b) Except for the correction of clerical errors, the jurisdiction of the hearing examiner is terminated upon the filing of his initial decision unless and until the proceeding is remanded to him by the appeals officer on the Interstate Land Sales Board.

§ 1720.365 Appeal from initial decision.

(a) *Notice of intention.* Any party to a proceeding may appeal an initial decision to an appeals officer on the Interstate Land Sales Board: *Provided,* That within 10 days after the completion of service of the initial decision such party files a notice of intention to appeal.

(b) *Appeal brief.* The appeal shall be perfected by filing and serving on all parties to the proceeding a brief conforming to § 1720.385 to be filed within 30 days after completion of service of the initial decision. In addition, the appeal brief shall contain a proposed form of rule or order for the consideration of the appeals officer on the Interstate Land Sales Board in lieu of the rule or order contained in the initial decision.

§ 1720.375 Answering brief.

Within 20 days after service of an appeal brief upon a party, such party may file an answering brief conforming to the requirements of § 1720.385.

§ 1720.380 Reply brief.

A brief in reply to an answering brief, limited to rebuttal of matters in the answering brief, may be filed and served by a party within 7 days after receipt of the answering brief or the day preceding oral argument, whichever is earlier. No answer to a reply brief will be permitted.

§ 1720.385 Length and form of briefs.

No brief shall exceed 60 pages in length except with the permission of the hearing examiner or the appeals officer on the Interstate Land Sales Board and shall contain, in the order indicated, the following:

(1) The title of the proceeding, file number, the name of the party on whose behalf it is submitted and the name and address of his attorney in the matter on the front cover or title page.

(2) Subject index with page references.

(3) Table of cases alphabetically arranged, statutes, texts, and other authorities and materials cited, with page references.

(4) A concise statement of the facts of the case, without argument.

(5) A concise statement of the questions sought to be raised.

(6) The argument, presenting clearly the points of fact and law relied upon in support of the position taken on each question with specific page references to the record so far as available, and to legal authority or other material relied upon in support of statements contained in the argument.

§ 1720.390 Oral argument.

Oral arguments will not be heard in cases on appeal to the appeals officer on the Interstate Land Sales Board unless the officer otherwise orders, and stenographic or mechanical record of such oral argument may be made, in the officer's discretion. The purpose of oral argument is to emphasize and clarify the written argument appearing in the briefs and to answer questions.

§ 1720.400 Decision on appeal or review.

(a) Upon appeal from or review of an initial decision, the appeals officer on the Interstate Land Sales Board will consider such parts of the record as are cited or as may be necessary to resolve the issues and, in addition, will, to the extent necessary or desirable, exercise all the powers which he could have exercised if he had made the initial decision. Unless exceptional circumstances are present, however, all appeals and reviews will be determined upon the record made before the hearing examiner.

(b) In rendering his decision, the appeals officer may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, the initial decision by the hearing officer, and shall include in his decision a statement of the reasons or bases for his action and any concurring or dissenting opinions.

(c) In those cases where the appeals officer believes that he should have further information or additional arguments of the parties as to the form and content of the rule or order to be issued, he may withhold final decision pending the receipt of such additional information or argument under procedures specified.

(d) The decision of the appeals officer shall be final, and shall become the decision of the Secretary 30 days after service thereof upon the parties, unless the appeals officer determines that the protection of the public interest necessitates an earlier effective date under the circumstances, in which event he will specify in the order his specific findings as to such circumstances.

§ 1720.405 Reconsideration.

Within 10 days after completion or service of a decision by an appeals officer on the Interstate Land Sales Board, any party may file with the Interstate Land Sales Board a petition for reconsideration of such decision, setting forth the relief desired and the grounds in support thereof. Any petition filed hereunder must relate to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before an appeals officer on the Interstate Land Sales Board. Any party desiring to oppose such a petition shall file an answer thereto within 10 days after service upon him of the petition. The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order to toll the running of any statutory period affecting such decision or order unless specifically so ordered by the Interstate Land Sales Board.

Subpart E—Miscellaneous Rules

§ 1720.410 Qualifications for appearances.

(a) Members of the bar of a Federal Court or of the highest court of any state or of the United States are eligible to practice before the Secretary. No register of attorneys will be maintained.

(b) Any individual or member of a partnership involved in any proceeding or investigation may appear on behalf of himself or of such partnership upon adequate identification. A corporation or association may be represented by a bona fide officer thereof upon a showing of adequate authorization.

(c) A person shall not be represented except as stated in paragraphs (a) and (b) of this section unless otherwise permitted.

§ 1720.415 Restrictions on appearances as to former officers and employees.

(a) Except as specifically authorized by the Secretary, no former officer or employee of the Department of Housing and Urban Development shall appear as attorney or counsel or otherwise participate through any form of professional consultation or assistance in any proceeding or investigation, formal or informal, which was pending in any manner in the Office of Interstate Land Sales Registration while such former officer or employee served with the Department of Housing and Urban Development.

(b) In cases to which paragraph (a) of this section is applicable, a former officer or employee of the Department of Housing and Urban Development may request authorization to appear or participate in a proceeding or investigation by filing with the Secretary a written application disclosing the following relevant information: (1) The nature and extent of the former officer's or employee's participation in, knowledge of, and connection with the proceeding or investigation during his service with the Department of Housing and Urban Development; (2) whether the files of the proceeding or investigation came to his attention; (3) whether he was employed in the same office, division, or administrative unit in which the proceeding or investigation is or has been pending; (4) whether he worked directly or in close association with Office of Interstate Land Sales Registration personnel assigned to the proceeding or investigation; (5) whether during his service with the Department of Housing and Urban Development he was engaged in any matter concerning the individual, company, or industry in the proceeding or investigation.

(c) The requested authorization will not be given in any case (1) where it appears that the former officer or employee during his service with the Department of Housing and Urban Development participated personally and substantially in the proceeding or investigation, or (2) where the application is filed within one (1) year after termination of the former officer's or employee's service with the Department of Housing and Urban Development and it appears that within a period of one (1) year prior to the termination of his service the proceeding or investigation was within the official responsibility of the former officer or employee. In other cases, authorization will be given where the Secretary is satisfied that the appearance or participation will not involve any actual conflict of interest or impropriety thereof.

(d) In any case in which a former officer or employee of the Department of Housing and Urban Development is prohibited under this section from appearing or participating in a proceeding or investigation, any partner or legal or business associate of such former officer or employee shall likewise be so prohibited, unless: (1) Such partner or legal or business associate files with the Secretary an affidavit that in connection with the matter the services of the disqualified former officer or employee will not be utilized in any respect and the matter will not be discussed with him in any manner, and that the disqualified former officer or employee shall not share, directly or indirectly, in any fees or retainers received for services rendered in connection with such proceeding or investigation; (2) the disqualified former officer or employee files an affidavit stating that he will not participate in the matter in any manner, and that he will not discuss it with any person involved in the matter; and (3) upon the basis of such affidavits, the Secretary determines that the appearance or participation by the partner or associate would not involve any actual conflict of interest or impropriety thereof.

§ 1720.425 Standards of practice.

(a) Attorneys shall conform to the standards of professional and ethical conduct required by practitioners in the courts of the United States and by the bars of which the attorneys are members.

(b) The privilege of appearing or practicing may be denied, temporarily or permanently, to any person who is found after notice and opportunity for hearing

which at his request or in the discretion of the Secretary may be private, and for presentation of oral argument in the matter (1) not to possess the requisite qualifications to represent others, or (2) to be lacking in character or integrity or (3) to have engaged in unethical or improper professional conduct.

(c) Contemptuous conduct at any hearing shall be grounds for summary exclusion from said hearing for the duration of the hearing.

§ 1720.430 Form and filing requirements.

(a) *Filing.* Except as otherwise permitted, six copies of all documents shall be filed with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, Washington, D.C. 20411, on official work days between the hours of 8:45 a.m. and 5:15 p.m.

(b) *Title.* Documents shall clearly show the file, docket number, and title of the action in connection with which they are filed.

(c) *Form.* Except as otherwise permitted, all documents shall be printed, typewritten, or otherwise processed in clear, legible form and on good unglazed paper.

§ 1720.435 Time computation.

Computation of any period of time prescribed or allowed by the rules and regulations in this part, or by order of the Secretary or his designee or of a hearing examiner, shall begin with the first business day following that on which the act, event, development or default initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday, or national holiday, or other day on which the Department of Housing and Urban Development is closed, the period shall run until the end of the next following business day. Except when any prescribed or allowed period of time is 7 days or less, each of the Saturdays, Sundays, and national holidays shall be included in the computation of the prescribed or allowed period.

§ 1720.440 Service.

Service of notices, orders, processes, determinations and other documents required or permitted to be served under these rules may be effected as follows:

(a) *Upon the Secretary.* By personal delivery at the office, or by registered or certified mail addressed to the office of any of the following officials in the Office of Interstate Land Sales Registration: Administrator; Deputy Administrator; Director, Examination Division; or Director, Administrative Proceedings Division.

(b) *Upon any other person.* By delivery of a copy of the documents to the person to be served wherever he may be found, or by leaving such copy at his office or place of business with a person apparently in charge thereof, or, if there is no one in charge or if the office is closed or if he has no office, by leaving a copy at his residence with some person of suitable age and discretion then residing therein, or by sending a copy by registered or certified mail, return receipt requested, addressed to the person at his last known residence, or at his or its last know principal office or place of business. If the address of the residence, principal office, or place of business is unknown and cannot with due diligence be ascertained, service by mail may be made to any office at which the person to be served is known to be employed.

(c) *Service on corporations, partnerships, associations, other entities.* Service may be made upon any corporation, partnership, business association or other entity by serving any officer, director, partner, trustee, agent for service or managing agent thereof. A managing agent, within the meaning of this subsection, is an agent having the principal managerial responsibility in connection with the regular operation of a distinct office or activity of the enterprise.

(d) *Service through attorney.* When a person other than the Secretary and his staff shall have appeared of record in a proceeding, generally or specially, by attorney, all subsequent services of notices, orders, processes, and other documents in connection with such proceeding may be made upon such person by serving the attorney, except that subpoenas and other orders by which such person may be brought in contempt shall be served upon him by one of the methods described in paragraphs (b) and (c) of this section. In any case, copies of documents not served by serving such attorney shall be promptly sent to him; but service on such person shall be effective without proof that copies so sent were received.

(e) *Proof of service.* Proof of service shall not be required unless the fact of service is seasonably put in issue by appropriate motion or objection on the part of the person allegedly served or other party. In such cases, service may be established by written admission signed by or on behalf of the person to be served, or may be established prima facie by affidavit or certificate of service or mailing, as appropriate. When service is by registered or certified mail, it is complete upon delivery of the document by the post office.

Subpart F—Interstate Land Sales Board and Appeals Officers

§ 1720.500 Functions of the Interstate Land Sales Board and appeals officers.

There is hereby established within the Department of Housing and Urban Development an Interstate Land Sales Board, the members of which are designated as appeals officers and may be appointed from time to time by the Secretary. The functions, powers, and responsibilities delegated to an appeals officer designated from the Board as the authorized representative of the Secretary shall be to hear, consider and determine fully and finally appeals from decisions made pursuant to the rules in this part by hearing examiners and to conduct hearings pursuant to 15 U.S.C. 1715.

§ 1720.510 Composition of the Interstate Land Sales Board.

The Board shall consist of four (4) appointed employees of the Department of Housing and Urban Development designated as appeals officers, other than employees in the Office of Interstate Land Sales Registration. An appeals officer on the Board shall be available at all times for the hearing of each appeal. Records of proceedings before an appeals officer shall be kept by a Secretary to the Board who shall be an employee of the Office of General Counsel.

§ 1720.520 Decisions of appeals officer.

A decision of an appeals officer shall be considered the final action on behalf of the Secretary on matters properly before such officer pursuant to the rules in this part.

§ 1720.525 Reconsideration of final decision of appeals officer.

Any hearing for reconsideration pursuant to § 1720.405 of this part shall be heard by any three of the four appeals officers who shall sit in review as the Interstate Land Sales Board.

§ 1720.530 Department representative.

In each case being heard before a hearing examiner or an appeals officer, pursuant to this part, the Department shall be represented by a Department hearing attorney. The General Counsel shall designate one or more attorneys under his jurisdiction to act as Department hearing attorneys.

Effective date. This part shall be effective on publication in the FEDERAL REGISTER (1–27–72).

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

[FR Doc.72–1066 Filed 1–26–72;8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

■

Income Tax

Proposed Depreciation Allowances Using Class Life Asset Depreciation Range System

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Depreciation Allowances Using Class Life Asset Depreciation Range System; Notice of Hearing

Proposed amendments to the regulations under section 167 of the Internal Revenue Code of 1954, relating to depreciation allowances using the class life asset depreciation range system, appear in the FEDERAL REGISTER for January 27, 1972 (37 F.R. 1328).

A public hearing on the provisions of these proposed regulations will be held on Tuesday, February 29, 1972, at 10 a.m., e.s.t., and if necessary, will continue on Wednesday, March 1, 1972, beginning at 10 a.m., 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 at such hearing should by February 23, 1972, 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 February 25, 1972. 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.

LEE H. HENKEL, JR.,
Acting Chief Counsel.

[FR Doc.72-1278 Filed 1-26-72;8:52 am]

[26 CFR Part 1]

INCOME TAX

Depreciation Allowances Using Class Life Asset Depreciation Range System

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by February 28, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by February 28, 1972. A public hearing will be held, and notice of the time, place, and date is simultaneously published herewith. The proposed regulations are to be issued under the authority contained in sections 167(m) (85 Stat. 508; 26 U.S.C. 167), 263(f) (85 Stat. 509; 26 U.S.C. 263), and 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) to the provisions of section 109 of the Revenue Act of 1971 (85 Stat. 508), and to make other changes, the regulations are amended as follows:

PARAGRAPH 1. The title of § 1.167(a)-11 is revised to read "Depreciation based on class lives and asset depreciation ranges for property placed in service after December 31, 1970."

PAR. 2. Paragraph (a)(1) of § 1.167(a)-11 is revised by adding "and class life" after "range" in the first sentence, by deleting "will" and inserting in lieu thereof "must" in the fifth sentence, and by deleting "(within the asset depreciation range)" from the seventh sentence.

PAR. 3. Paragraph (a)(2) of § 1.167(a)-11 is revised by deleting "(b)(5)(iii)(*a*)" and inserting in lieu thereof "(b)(5)(iii)(*c*)".

PAR. 4. Paragraph (b)(2) of § 1.167(a)-11 is revised by inserting "tangible" after "means" in the first sentence, by inserting "asset guideline" immediately after "and" in subdivision (i), by deleting "paragraph" and inserting in lieu thereof "subparagraph" in subdivision (i), by deleting subdivision (ii) and redesignating subdivision (iii) as subdivision (ii), by adding a new subdivision (iii), by deleting subdivision (iv), by deleting the first sentence of the flush language following subdivision (iv), and by deleting "(*a*)", and inserting in lieu thereof "(*c*)" in the second sentence of the flush language following subdivision (iv).

PAR. 5. Paragraph (b)(3) of § 1.167(a)-11 is revised by inserting "(determined without regard to a convention described in paragraph (c)(2) of this section)" and deleting the comma immediately after "election" the first time it appears in the fourth sentence of subdivision (i), by deleting "paragraphs" and inserting in lieu thereof "paragraph" in the fifth sentence of subdivision (i), by adding a new sentence at the end of subdivision (i), and by inserting two new sentences at the beginning of subdivision (ii).

PAR. 6. Paragraph (b)(4)(i) of § 1.167(a)-11 is revised by adding "and periods" after "ranges" in the title, by deleting "the asset depreciation period selected by the taxpayer from the asset depreciation range for the assets in such account" from the first sentence and inserting in lieu thereof new subdivisions (*a*) and (*b*), by deleting "and asset depreciation range" from the second sentence, by adding "for the taxable year" after "effect" in the second sentence, and by deleting the third and fourth sentences and inserting in lieu thereof six new sentences.

PAR. 7. Paragraph (b)(4)(ii) of § 1.167(a)-11 is revised by inserting "the asset guideline" after "and" the first time it appears in the first sentence, by inserting a comma after "periods" the second time it appears in the first sentence, by deleting "and" the third time it appears in the first sentence and inserting in lieu thereof ", asset guideline", by deleting "71-25" and inserting "72-10" in the first sentence, and by deleting "year" the second time it appears in the third sentence.

PAR. 8. Paragraph (b)(4)(iii)(*a*) of § 1.167(a)-11 is revised by inserting ", solely with respect to property for which an asset depreciation range is in effect for the taxable year," after "may" in the first sentence, by deleting "as provided in Revenue Procedure 64-21" and inserting "by applying the provisions of Revenue Procedure 64-21 to such property" at the end of the first sentence, by deleting "for" the second time it appears in the second sentence and inserting in lieu thereof "at the beginning of", and by adding "Except as provided in paragraph (d)(2)(iii) of this section with respect to buildings and other structures," after the second sentence.

PAR. 9. Paragraph (b)(4)(iii)(*b*) of § 1.167(a)-11 is revised by inserting ", including a change in use which results in section 1250 property becoming section 1245 property" at the end thereof.

PAR. 10. Paragraph (b)(4)(iii)(*c*) of § 1.167(a)-11 is revised by adding "or characterization" after "classification" each time it appears, by deleting the comma after "characterization" the third time it appears, and by inserting "or (3)(ii)" after "(2)" in the first sentence.

PAR. 11. Paragraph (b)(4)(iii)(*d*) of § 1.167(a)-11 is revised by inserting "Generally," at the beginning of the first sentence, by inserting "not described in section 167(b) (1), (2), (3), or (k), such as a method" after "depreciation" the second time it appears in the first sentence, and by deleting "described in subparagraph (5)(v)(*a*) of this paragraph" and inserting in lieu thereof "not described in section 167(b) (1), (2), (3), or (k)" after "depreciation" the first time it occurs in the second sentence.

PAR. 12. Paragraph (b)(4)(iv) of § 1.167(a)-11 is revised by deleting "personal property," "predominantly used with the United States," in the third sentence of example (1) and inserting in lieu thereof "property", by deleting "71-25" and inserting in lieu thereof

"72–10" in the fourth sentence of example (1), by deleting the second sentence and inserting in lieu thereof four new sentences in example (2), by deleting "(iii)" and inserting in lieu thereof "(ii)" in the fourth sentence of example (3), by deleting "71–25" and inserting in lieu thereof "72–10" in the sixth and ninth sentences of example (3), by deleting "good faith mistakes" and inserting in lieu thereof "mistake" in the eighth sentence of example (3), by deleting "repair and" and inserting in lieu thereof "repair. Also by mistake, corporation Y" in the eighth sentence of example (3), by adding "(a)" after "Example (4)." in example (4), by deleting "71–25" and inserting in lieu thereof "72–10" in the second and third sentences of example (4), by adding a new sentence after the third sentence of example (4), by adding "all" immediately after "on" in the fifth sentence of example (4), by deleting "can" and inserting in lieu thereof "may, at its option (see subparagraph (5)(v) of this paragraph)," in the 12th sentence of example (4), by adding a new sentence at the end to example (4), and by adding a new subdivision (b) to example (4).

PAR. 13. Paragraph (b)(5)(i) of § 1.167(a)–11 is revised by adding "and certain conditions to an election," after "election," in the second sentence, and by deleting "subdivisions (v) and (vi)" and inserting in lieu thereof "subdivision (v)" in the third sentence.

PAR. 14. Paragraph (b)(5)(ii) of § 1.167(a)–11 is revised by adding a comma after "property" the second time it appears, and by adding "in subdivision (vi) of this subparagraph dealing with certain section 1250 property, in subdivision (vii) of this subparagraph dealing with certain subsidiary assets," after "amortization,".

PAR. 15. Subdivision (iii) of paragraph (b)(5) of § 1.167(a)–11 is deleted and a new subdivision (iii) inserted in lieu thereof.

PAR. 16. Paragraph (b)(5)(iv) of § 1.167(a)–11 is revised by adding "and which is not property described in section 50" after "49" in subdivision (a), and by deleting subdivision (b) and inserting a new subdivision (b) in lieu thereof.

PAR. 17. Paragraph (b)(5)(v) of § 1.167(a)–11 is revised by deleting subdivision (a) and inserting a new subdivision (a) in lieu thereof, by adding "183" after "187," in the first sentence of subdivision (b), and by deleting "d" and inserting "(e)" in the last sentence of subdivision (b).

PAR. 18. Paragraph (b)(5) of § 1.167(a)–11 is revised by deleting subdivision (vi) and by adding new subdivisions (vi) and (vii).

PAR. 19. Paragraph (b)(6) of § 1.167(a)–11 is revised by adding "a period for depreciation no less than the lesser of" immediately after "using" in the first sentence of subdivision (ii), deleting subdivision (ii)(a), by adding "(b)" immediately after "or" in the first sentence of subdivision (b), by deleting "a period for depreciation no less than the lesser of" from the first sentence of subdivision (b), by redesignating subdivision (ii)(b) as subdivision (ii)(a), by deleting the first sentence of subdivision (iii) and inserting a new sentence in lieu thereof, by deleting "(d)" and inserting in lieu thereof "(e)" in the fifth sentence of subdivision (iii), by deleting "modified" from the fifth sentence of example (1) of subdivision (iv), by deleting "(ii)" and inserting in lieu thereof "(iii)" in the fifth sentence of example (1) of subdivision (iv), by deleting the portion of the fifth sentence in example (1) of subdivision (iv) which follows "section)", by deleting "$171,428" and inserting in lieu thereof "$114,285" in the sixth sentence of example (1) of subdivision (iv), by deleting the portion of the seventh sentence in example (1) of subdivision (iv) which follows "period)", by deleting "($171,428)" and "$125,974" in the ninth sentence in example (1) of subdivision (iv) and inserting in lieu thereof "($114,258)" and "$68,831", respectively, by deleting "$125,974, or $60,467" and inserting in lieu thereof "$68,831, or $33,039" in the 10th sentence of example (1) of subdivision (iv), and by deleting example (2) and redesignating examples (3) and (4) as examples (2) and (3).

PAR. 20. Paragraph (b)(7) of § 1.167(a)–11 is revised by deleting the first sentence of the flush language following subdivision (ii), by deleting "held" the second time it appears in the third sentence of the flush material following subdivision (ii) and inserting in lieu thereof "used", by deleting the period at the end of subdivision (ii) and inserting a colon in lieu thereof, and by deleting example (1) and inserting a new example (1).

PAR. 21. Paragraph (c)(1)(i) of § 1.167(a)–11 is revised by deleting "selected by the taxpayer from the asset depreciation range" from the first sentence of subdivision (a), by inserting "and (j)" immediately after "(c)" in the second sentence of subdivision (a), by adding "(b)" after "(iii)" in the second sentence of subdivision (b), by deleting "selected" each time it appears in subdivision (c), by adding a new sentence at the end of subdivision (c), by deleting "(including any depreciation allowed under section 179)" from the first sentence of subdivision (e), by deleting "for all purposes of this section" and inserting in lieu thereof "under section 167.", and by adding a new sentence at the end of subdivision (e).

PAR. 22. Paragraph (c)(1)(ii) of § 1.167(a)–11 is revised by adding "under this section" immediately after "allowable" in the third sentence, by deleting "(c)" and inserting in lieu thereof "(d)" in the third sentence, and by adding "paragraph" immediately before "(d)(3)(iv)" in the third sentence, and by deleting "(vi) and paragraph (b)" from the third and seventh sentences.

PAR. 23. Paragraph (c)(1)(iii) of § 1.167(a)–11 is revised by adding "(a)" immediately after the title of the subdivision, by adding a new sentence immediately after the first sentence, by deleting "such change" from the second sentence and inserting in lieu thereof, "any change in depreciation method permitted under this section", by deleting the last sentence, by inserting "(b)" immediately after the third sentence, and by adding new subdivisions (c), (d), (e), and (f).

PAR. 24. Paragraph (c)(1)(iv) of § 1.167(a)–11 is deleted and a new paragraph (c)(1)(iv) inserted in lieu thereof.

PAR. 25. Paragraph (c)(1)(v) of § 1.167(a)–11 is revised by adding "(other than depreciation under section 179)" after "amortization" in the first sentence of subdivision (a), by adding "under this section" immediately after "asset" the third time it appears in the second sentence of subdivision (b), and by deleting "(including any depreciation allowed under section 179 for the asset)" from the second sentence of subdivision (b).

PAR. 26. Paragraph (c)(2) of § 1.167(a)–11 is revised by deleting "second half of the" from the first sentence of subdivision (ii)(b) and inserting in lieu thereof "succeeding", by deleting "last half of the" from the second sentence of subdivision (ii) and inserting in lieu thereof "succeeding", by deleting the last sentence of subdivision (ii), and by deleting the last four sentences of subdivision (iv) and inserting in lieu thereof four new sentences.

PAR. 27. Paragraph (c)(3) of § 1.167(a)–11 is revised by adding "for any such taxable year" after "may" in the third sentence, and by deleting "application" and inserting in lieu thereof "convention" in the third sentence.

PAR. 28. Paragraph (c)(4) of § 1.167(a)–11 is revised by deleting examples (1) through (7) and inserting in lieu thereof new examples (1) through (6).

PAR. 29. Paragraph (d)(1) of § 1.167(a)–11 is revised by adding a new example (4) to subdivision (vi).

PAR. 30. Paragraph (d)(2)(i) of § 1.167(a)–11 is redesignated as (d)(2)(i)(a), and by adding a new subdivision (b).

PAR. 31. Paragraph (d)(2)(ii) of § 1.167(a)–11 is revised by adding "In the case of an asset guideline class which consists of 'repair allowance property' as defined in subdivision (iii) of this subparagraph," at the beginning of the first sentence.

PAR. 32. Paragraph (d)(2)(iii) of § 1.167(a)–11 is revised by adding "which consists of 'repair allowance property'" after "class" the first time it appears in subdivision (a), by deleting "(as described in this subdivision)" immediately after "property" the first time it appear in subdivision (a)(1), by deleting "during the taxable year" from subdivision (a)(2) and inserting in lieu thereof, "(including ordinary retirements during the taxable year)", by inserting two new sentences at the beginning of the flush material following subdivision (b), by deleting "71–25" and inserting in lieu thereof "72–10" immediately after "Procedure" in the first sentence of the flush material following subdivision (b), by deleting "(iii)" and inserting in lieu thereof "(ii)" in the sixth sentence of the flush material following subdivision (b), by adding "in an asset guideline class for which a repair allowance percentage is in effect for the taxable year" after "1970)" in the sixth sentence of the flush material following subdivision (b), and by adding

two new sentences at the close of the flush material following subdivision (*b*).

PAR. 33. Paragraph (d)(2)(iv) of § 1.167(a)–11 is revised by deleting "repair allowance" and inserting "eligible" in lieu thereof in the first sentence, by adding "determined without regard to paragraph (b)(2)(ii) of this section)," immediately after "property" in the first sentence, by adding "If such property is repair allowance property and" at the beginning of subdivision (*a*), by adding "If such property is not repair allowance property or" at the beginning of subdivision (*b*), and by adding "or expenditures for which a deduction is allowed under section 167(k)" at the close of the first sentence of the flush material, following subdivision (*b*).

PAR. 34. Paragraph (d)(2)(v) of § 1.167(a)–11 is revised by deleting "with respect to" in the first sentence of subdivision (*a*) and inserting in lieu thereof "for the repair, maintenance, rehabilitation or improvement of", by deleting "in the asset guideline class" from the first sentence of subdivision (*a*), by adding a new sentence at the close of subdivision (*a*), by deleting subdivision (*b*) and inserting a new subdivision (*b*) in lieu thereof, by deleting "used" immediately after "used" the first time it appears in subdivision (*c*)(2), and by deleting "such expenditures shall not be treated as expenditures for the repair, maintenance, rehabilitation or improvement of property for the purposes of this subparagraph and" immediately after "event," in the last sentence of subdivision (*c*)(2).

PAR. 35. Paragraph (c)(2) of § 1.167(a)–11 is revised by deleting subdivision (vi) and inserting a new subdivision (vi) in lieu thereof.

PAR. 36. Paragraph (c)(2)(vii) of § 1.167(a)–11 is revised by deleting "repair allowance" immediately after "of" the third time it appears in subdivision (*b*).

PAR. 37. Paragraph (c)(2)(ix) of § 1.167(a)–11 is revised by deleting "71–25" and inserting in lieu thereof "72–10" in the second sentence of example (1), by deleting "Example" and inserting in lieu thereof "example" in the first sentence of example (2), and by deleting "equipment" and inserting in lieu thereof "machines" in the third sentence of example (2).

PAR. 38. Paragraph (d)(3)(i) of § 1.167(a)–11 is revised by deleting "In general," at the beginning of the second sentence, and by deleting the last sentence.

PAR. 39. Paragraph (d)(3) of § 1.167(a)–11 is revised by deleting subdivision (ii) and inserting a new subdivision (ii) in lieu thereof.

PAR. 40. Paragraph (d)(3)(iii) of § 1.167(a)–11 is revised by adding "optional" immediately after "for" in the fourth sentence, by adding "(*a*)" immediately after "(v)" in the last sentence, by deleting "ordinary" from the last sentence, and by adding a new sentence at the end thereof.

PAR. 41. Paragraph (d)(3) of § 1.167(a)–11 is revised by redesignating subdivision (iv) as subdivision (iv)(*a*), by deleting the comma after "337" in the first sentence and inserting in lieu thereof "or is one to which subdivision (v)(*b*) of this subparagraph applies,", by adding a comma after "165" in the first sentence, by deleting "section 1245" and inserting "sections 1245 and 1250" at the end of the first sentence, by adding a new second sentence, by adding "In all other cases," at the beginning of the second sentence, by deleting "account." and inserting "account, and" at the end of the second sentence, by adding "in the case of an account containing section 1245 property" immediately after "gain" in the fourth sentence, by adding "such" immediately after "for" the second time it appears in the fifth sentence, by adding a new sentence after the fifth sentence, and by adding a new subdivision (*b*).

PAR. 42. Paragraph (d)(3)(v) of § 1.167(a)–11 is revised by deleting subdivision (v) and inserting a new subdivision (v) in lieu thereof.

PAR. 43. Paragraph (d)(3)(vi) of § 1.167(a)–11 is revised by deleting "selected" from the third sentence, by deleting the comma after "C" in the first sentence of the example, by deleting "subparagraph" and inserting in lieu thereof "paragraph" the second time it appears in the second sentence of the example, and by deleting "to" the last time it appears in the last sentence of the example and inserting in lieu thereof "from".

PAR. 44. Paragraph (d)(3)(vii) of § 1.167(a)–11 is revised by designating the third and fourth sentences as subdivision (*b*), by deleting "in lieu thereof" and inserting ", at his option," in the third sentence of subdivision (*a*), by inserting "ordinary" immediately before "retirements" in the fourth sentence of subdivision (*a*), by redesignating subdivision (*b*) as subdivision (*c*), by deleting "or by any other reasonable method which is consistently applied" from the last sentence of subdivision (*b*) and inserting in lieu thereof "or any other method consistently applied which reasonably reflects that portion of the salvage value for the account originally attributable to the retired asset.", by deleting subdivision (*c*) and inserting in lieu thereof a new subdivision (*d*), by redesignating subdiviison (*d*) as subdivision (*e*), by deleting "(vi) or paragraph (b)" from the first sentence of subdivision (*d*), by deleting the comma from the first sentence of subdivision (*d*), and by deleting (*b*) and inserting in lieu thereof (*c*) in the last sentence of subdivision (*d*).

PAR. 45. Paragraph (d)(3)(viii) of § 1.167(a)–11 is revised by inserting "*Special optional*" at the beginning of the title to the subdivision, by deleting "follows" and inserting in lieu thereof "does not follow" in the first sentence, by deleting "(*b*) and (*c*)" and inserting in lieu thereof "(*c*) and (*d*)" in the first sentence, by deleting "for determining the basis of the retired asset in the supplies or scrap account" in the first sentence, by adding "reducing salvage value as ordinary retirements occur by transfer of assets to supplies or scrap and" immediately after "of" the fourth time it appears in the first sentence, by deleting "salvage" in the first sentence of subdivision (*b*), by deleting "subdivision (vii)(*b*) of this subparagraph" and inserting in lieu thereof "(*a*) of this subdivision" in the first sentence of subdivision (*b*), and by deleting "or" and inserting in lieu thereof "and" in the first sentence of subdivision (*b*)(*1*).

PAR. 46. Paragraph (d)(3)(ix) of § 1.167(a)–11 is revised by adding "In the case of a vintage account for section 1245 property," at the beginning of subdivision (*a*), by deleting "a vintage" in the first sentence of subdivision (*a*) and inserting in lieu thereof "such", by deleting "shall" immediately after "gain" in the second sentence of subdivision (*a*), by inserting "shall" at the beginning of subdivision (*a*)(*1*), by deleting "for all years" immediately after "reserve" in the first sentence of subdivision (*a*)(*1*), by inserting "May" at the beginning of subdivision (*a*)(*2*), by deleting the last three sentences of subdivision (*a*), by inserting "In the case of an account for section 1245 property," at the beginning of subdivision (*b*), by deleting "a particular" immediately after "in" in the first sentence of subdivision (*b*) and inserting "the" in lieu thereof, by deleting "shall" from the second sentence of subdivision (*b*) and inserting in lieu thereof "may", by adding a new sentence at the end of subdivision (*b*), and by adding a new subdivision (*c*).

PAR. 47. Paragraph (d)(3) of § 1.167(a)–11 is revised by adding a new subdivision (xi).

PAR. 48. Paragraph (d)(4) of § 1.167(a)–11 is revised by inserting "for section 1245 property" immediately after "account" in the first sentence of example (1), by deleting "$30" and "$22.50" and inserting in lieu thereof "$15" in the penultimate sentence of example (1), by adding "1971" after "a" in the first sentence of example (2), by deleting "of 1971" from the first sentence of example (2) and inserting in lieu thereof "for section 1245 property", by deleting "(3)(vii)(*b*)" and inserting in lieu thereof "(3)(vii)(*c*) and (*d*)(2)" in the ninth sentence of example (2).

PAR. 49. Paragraph (e)(1) of § 1.167(a)–11 is revised by deleting subdivision (iii) and inserting a new subdivision (iii) in lieu thereof.

PAR. 50. Paragraph (e)(2) of § 1.167(a)–11 is revised by deleting "or (v)" and inserting in lieu thereof "(v), (vi) or (vii)".

PAR. 51. Paragraph (e)(3)(i) of § 1.167(a)–11 is revised by adding "(*a*) In general the acquiring corporation in a transaction to which section 381(a) applies is for the purposes of this section treated as if it were the distributor or transferor corporation." after the title of subdivision (i), by inserting "(*b*)" at the beginning of the first sentence, by deleting "is treated as if it were the distributor or transferor corporation with respect to such prop-

erty. The acquiring corporation" at the end of the first sentence, by deleting "each" and inserting "the" in the third sentence, by deleting "selected by the" in the third sentence and inserting "in the hands of the" in lieu thereof, by deleting "from the asset depreciation range" immediately after "corporation" the first time it appears in the third sentence, by deleting "under paragraph (b) of § 1.167(e)–1 or" in the fourth sentence, by deleting "Thus, the" at the beginning of the fifth sentence and inserting in lieu thereof "(c) The", and by adding a new subdivision (*d*).

PAR. 52. Paragraph (f)(1) of § 1.167(a)–11 is revised by deleting "September 20, 1971." and inserting in lieu thereof "120 days after final regulations under this section are published in the FEDERAL REGISTER." after "(*b*)" in subdivision (i), and by revising the title of subdivision (ii) to read *"Other elections under this section."*.

PAR. 53. Paragraph (f)(2) of § 1.167(a)–11 is revised by deleting "by taking a full year's depreciation on property first placed in service in the first half of the taxable year" immediately after "convention" the second time it appears in subdivision (iv), by deleting "if such salvage value has been determined by application of section 167(f), the amount" and inserting in lieu thereof "the amount, if any," at the end of subdivision (v), by deleting "(v) or (6)" and inserting in lieu thereof "(v), (vi), or (vii) or paragraph (b)(6)," in subdivision (viii), by inserting "making an election and for" immediately after "for" in the first sentence of the flush material following subdivision (x), by adding a new sentence immediately after "required" in the flush material following subdivision (x), by deleting "and an" from the first sentence of the flush material following subdivision (i) and inserting "An" in lieu thereof, and by adding, "in good faith," immediately after "compliance" in the flush material following subdivision (x).

PAR. 54. Paragraph (f)(4)(ii) of § 1.167(a)–11 is revised by deleting the comma after "sale" in subdivision (*d*) and inserting in lieu thereof "or", by deleting "and an election" from the second sentence of the flush material following subdivision (*f*) and inserting in lieu thereof ". An election", by inserting in a new sentence immediately after "required" in the flush material following subdivision (*f*), and by inserting, "in good faith," immediately after compliance in the flush material following subdivision (*f*).

PAR. 55. Paragraph (g)(1) of § 1.167(a)–11 is revised by inserting "—(i) *In general.* Except as provided in subdivision (ii) of this subparagraph," immediately after the title of subparagraph (1), by adding "asset depreciation" immediately before "period" in the first sentence, by deleting "selected by the taxpayer" from the first sentence, and by adding a new subdivision (ii).

PAR. 56. Paragraph (g)(3)(ii) of § 1.167(a)–11 is revised by deleting "Examples" and "examples" the first time they appear and inserting in lieu thereof "Example" and "example", by deleting "(1)" after "Example" the first time it appears, and by deleting Example (2).

PAR. 57. Sections 1.167(m) and 1.167(m)–1 are added immediately before § 1.168.

PAR. 58. Sections 1.263(f) and 1.263(f)–1 are added immediately before § 1.264.

PAR. 59. The provisions of § 1.167(a)–11, as revised, read as follows:

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

(a) *In general*—(1) *Summary.* This section provides an asset depreciation range and class life 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 must 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 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)(*c*) ("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 tangible property which is subject to the allowance for depreciation provided by section 167(a) but only if—

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

(ii) 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

(iii) The property is either—

(*a*) Section 1245 property as defined in section 1245(a)(3), or

(*b*) Section 1250 property as defined in section 1250(c).

See, however, subparagraph (6) of this paragraph for special rule for certain public utility property as defined in section 167(l)(3)(A). 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)(*c*) 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 (determined without regard to a convention described in paragraph (c)(2) of this section) 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 paragraph (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. See paragraph (d)(3)(xi) of this section for special rule for treatment of certain multiple asset and item accounts.

(ii) *Special rule.* Section 1245 property may not be placed in a vintage account with section 1250 property. Each item of section 1250 property must be placed in a separate item vintage account. A building is generally an item of section 1250 property, but if two or more buildings or structures on a single tract or parcel (or contiguous tracts or parcels) of land are placed in service in the same taxable year in the same asset guideline class and are operated as an integrated unit (as evidenced by their actual operation, management, financing, and accounting), they may be treated as a single building. 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 and periods*—(i) *Selection of asset depreciation period.* An election shall specify for each vintage account of the taxable year of election—

(*a*) In the case of vintage account for property in an asset guideline class for which no asset depreciation range is in effect for the taxable year, the asset depreciation period (which shall be equal to the asset guideline period for the assets in such account), or

(*b*) In the case of a vintage account for property in an asset guideline class for which an asset depreciation range is in effect for the taxable year, 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 is in effect for the taxable year as provided in subdivision (ii) of this subparagraph. The "asset depreciation range" is a period of years which extends from 80 percent of the asset guideline period to 120 percent of such period, determined in each case by rounding any fractional part of a year to the nearer of the nearest whole or half year. In the case of an asset guideline class for which an asset depreciation range is in effect, 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 term "asset depreciation period" means the period selected from the asset depreciation range, or if no asset depreciation range is in effect for the class, the asset guideline period. The "asset guideline period" is established in accordance with subdivision (ii) of this subparagraph and is the class life under section 167(m). See Revenue Procedure 72–10 for special rules for section 1250 property and property predominately used outside the United States. In general, an asset guideline period, but no asset depreciation range, is in effect for such property.

(ii) *Establishment of asset guideline classes and periods.* The asset guideline classes and the asset guideline 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, asset guideline periods, and asset depreciation ranges, established pursuant to this section are set forth in Revenue Procedure 72–10. 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 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, solely with respect to property for which an asset depreciation range is in effect for the taxable year, elect to apply this section on the basis of a composite asset guideline class and asset guideline period determined by applying the provisions of Revenue Procedure 64–21 to such property. The asset depreciation range for such a composite asset guideline class shall be determined by reference to the composite asset guideline period at the beginning of 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. Except as provided in paragraph (d)(2)(iii) of this section with respect to buildings and other structures, 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, including a change in use which results in section 1250 property becoming section 1245 property.

(*c*) An incorrect classification or characterization by the taxpayer of property for the purposes of this section (such as under (*b*) of this subdivision or under subparagraph (2) or (3)(ii) 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 or characterization 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 or characterization 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 prop-

erty 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 or characterization of the property is determined to be incorrect.

(*d*) Generally, 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 not described in section 167 (b) (1), (2), (3), or (k), such as a method 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 not described in section 167 (b) (1), (2), (3), or (k) 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 property 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 72–10, and the asset depreciation range is 4–6 years.

Example (2). In 1972, corporation Y first places in service a factory building. Since the factory building is tangible property for which an asset guideline class and period have been established, it is eligible property. The factory building is in asset guideline class 65.11 of Revenue Procedure 72–10. Since no asset depreciation range is in effect for the asset guideline class, the asset depreciation period is the asset guideline period of 45 years. (See subparagraph (5) (vi) of this paragraph for election to exclude certain section 1250 property during transition period.)

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) (ii) 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 guideline 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 72–10 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 mistake treats the property improvement of $2,000 as a deductible repair. Also by mistake, corporation Y includes machine B in asset guideline class 24.3 under Revenue Procedure 72–10 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). (*a*) 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 72–10. Machine A is in asset guideline class 24.4 under Revenue Procedure 72–10. Machine B has an unadjusted basis equal to 80 percent of the total unadjusted basis of machines B through M. 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 all 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. These 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 may, at its option (see subparagraph (5) (v) of this paragraph), 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. If corporation X does not terminate the machine hour method with respect to machine B, machines B through M must be excluded from the election to apply this section (see subparagraph (5) (v) of this paragraph).

(*b*) The facts are the same as in (*a*) of this example except that machine B has an unadjusted basis equal to only 65 percent of the total unadjusted basis of machines B through M. In this case, corporation must terminate the machine hour method of depreciation with respect to asset B, since the provisions of subparagraph (5) (v) of this paragraph do not permit the exclusion of the property from the election to apply this section. (See paragraph (c) (1) (iv) for limitation on methods which may be adopted for property included in the election to apply this section.)

(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, and certain conditions to an election, see paragraph (f) of this section. Except as otherwise provided in subdivision (v) 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, in subdivision (vi) of this subparagraph dealing with certain section 1250 property, in subdivision (vii) of this subparagraph dealing with certain subsidiary assets, 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 (*1*) the unadjusted basis of eligible used section 1245 property (as defined in (*c*) of this subdivision) first placed in service by the taxpayer during the taxable year of election, for which no specific used property asset guideline class (as defined in (*c*) of this subdivision) is in effect for the taxable year, exceeds (2) 10 percent of the unadjusted basis of all eligible section 1245 property first placed in service during the taxable year of election, the taxpayer may exclude all (but not less than all) the property described in (*a*)(*1*) of this subdivision from the election to apply this section.

(*b*) If (*1*) the unadjusted basis of eligible used section 1250 property first placed in service by the taxpayer during the taxable year of election, for which no specific used property asset guideline class is in effect for the taxable year, exceeds (2) 10 percent of the unadjusted basis of all eligible section 1250 property first placed in service during the taxable year of election, the taxpayer may exclude all (but not less than all) the property described in (*b*)(*1*) of this subdivision from the election to apply this section.

(*c*) For the purposes of this section, the term "used property" means property the original use of which does not commence with the taxpayer. Solely for the purpose of determining whether the 10 percent rule of this subdivision is satisfied, (*1*) eligible used property first placed in service during the taxable year and excluded from the election to apply this section pursuant to subdivision (v)(*a*) of this subparagraph and (2) eligible 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. The term "specific used property asset guideline class" means a class established in accordance with subparagraph (4) of this paragraph solely for used property primarily used in connection with the activity to which the class relates.

(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 and which is not property described in section 50, or

(*b*) Property to which section 47(a)(5)(B) applies which would be section 38 property but for section 49 and which is placed in service to replace section 38 property (other than property described in section 50) disposed of prior to August 15, 1971.

(v) *Property subject to special method of depreciation or amortization.* (*a*) In the case of eligible property first placed in service in a taxable year of election (and not otherwise properly excluded from an election to apply this section) the taxpayer may not compute depreciation for any of such property in the asset guideline class under a method not described in section 167 (b) (1), (2), (3), or (k) unless he (*1*) computes depreciation under a method or methods not so described for eligible property first placed in service in the taxable year in the asset guideline class with an unadjusted basis at least equal to 75 percent of the unadjusted basis of all eligible property first placed in service in the taxable year in the asset guideline class and (2) agrees to continue to depreciate such property under such method or methods until the consent of the Commissioner is obtained to a change in method. The consent of the Commissioner must be obtained by filing Form 3115 with the Commissioner of Internal Revenue, Washington, D.C. 20224, within the first 180 days of the taxable year for which the change is desired. If for the taxable year of election the taxpayer computes depreciation under any method not described in section 167 (b) (1), (2), (3), or (k) for any eligible property (other than property otherwise properly excluded from an election to apply this section) 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, 188, 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)(*e*) of this section for treatment of salvage value when property is removed from a vintage account.

(vi) *Certain section 1250 property.* The taxpayer may exclude from an election to apply this section all, or less than all, items of eligible section 1250 property first placed in service during the taxable year of election provided that—

(*a*) The item is first placed in service before the earlier of (*1*) the effective date of the first supplemental asset guideline class including such property established in accordance with subparagraph (4) (ii) of this paragraph, or (2) January 1, 1974, and

(*b*) The taxpayer establishes that a useful life shorter than the asset guideline period in effect on January 1, 1971, for such item of property is justified for such taxable year.

A useful life shorter than the asset guideline period in effect on January 1, 1971, will be considered justified only if such life is justified in accordance with the provisions of Revenue Procedure 62–21, determined without application of the minimal adjustment rule in section 4, Part II, of Revenue Procedure 65–13. If an item of section 1250 property is excluded from an election to apply this section pursuant to this subdivision, any elevator or escalator which is a part of such item shall also be excluded from the election.

(vii) *Subsidiary assets.* The taxpayer may exclude from an election to apply this section all (but not less than all) subsidiary assets first placed in service during the taxable year of election in an asset guideline class, provided that—

(*a*) The unadjusted basis of eligible subsidiary assets first placed in service during the taxable year in the class is as much as 3 percent of the unadjusted basis of all eligible property first placed in service during the taxable year in the class, and

(*b*) Such subsidiary assets are first placed in service by the taxpayer before the earlier of (*1*) the effective date of the first supplemental asset guideline class including such subsidiary assets established in accordance with subparagraph (4)(ii) of this paragraph, or (2) January 1, 1974.

For purposes of this subdivision the term "subsidiary assets" includes jigs, dies, molds, returnable containers, glassware, silverware, textile mill cam assemblies, and other equipment included in Group 1, Class 5, of Revenue Procedure 62–21

which is usually and properly accounted for separately from other property and under a method of depreciation not expressed in terms of years.

(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 period for depreciation no less than the lesser of—

(*a*) 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

(*b*) 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 a taxpayer, which has elected to apply this section to any eligible public utility property and is required under subdivision (i) of this subparagraph to normalize the tax deferral resulting from the election to apply this section to such property, fails to normalize such tax deferral, 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 such tax deferral. 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)(*e*) of this section for treatment of salvage value when property is removed from a vintage account.

(iv) *Examples.* The principles of this subpargaraph 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 half-year convention (described in paragraph (c)(2)(iii) of this section). The depreciation allowable under this section with respect to such property in 1972 is $114,285. 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). A depreciation allowance computed in this manner 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 estimating 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 establishing its cost of service for rate making purposes and for reflecting operating results in its regulated books of account.

Example (2). 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 (3). Assume the same facts as in example (2) 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.

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 used 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(a). In 1971 corporation X sells property to corporation Y for cash. The property would meet the requirements of subparagraph (2) of this paragraph for eligible property except that it 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. (For limitations on methods of depreciation permitted with respect to property, see section 167 (c) and (j) 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) (*b*) 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 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 for the account. See subdivision (iii) (*c*) of this subparagraph for the manner of computing the depreciation allowance following a change from the declining balance method to the sum of the years-digits method.

(*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 shall constitute the amount of depreciation allowable under section 167. See section 179 for additional first-year allowance for certain property.

(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 under this section with respect to the vintage account, increased by the adjustments for ordinary retirements prescribed by paragraph (d) (3) (iii) of this section, by the adjustments for reduction of the salvage value of a vintage account prescribed by paragraph (d) (3) (vii) (*d*) 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 paragraph (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 (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 (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.* (*a*) 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. Except as provided in section 167(j) (2) and paragraph (e) (3) (i) of this section, no other changes in the method of depreciation adopted for a vintage account will be permitted. The provisions of § 1.167(e)-1 shall not apply to any change in depreciation method permitted under this section. 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.

(*b*) 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 adjusted 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.

(*c*) When a change is made from the declining balance method of depreciation to the sum of the years-digits method of depreciation, the annual allowance for depreciation of a vintage account shall be determined by multiplying the adjusted basis of the account (without reduction for salvage value) at the time as of which the change is made by a fraction, the numerator of which changes each year to a number which corresponds to the number of 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 number of years remaining in the asset depreciation period at the time as of which the change is made.

(*d*) The number of years remaining in the asset depreciation period selected for

an account is equal to the asset depreciation period less the number of years of depreciation previously allowed. For this purpose, regardless of the first year convention adopted by the taxpayer, it will be assumed that depreciation was allowed for one-half of a year in the first year.

(e) 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.

(f) The principles of this subdivision may be illustrated by the following examples:

Example (1). A, a calendar year taxpayer, places new section 1245 property in service in a trade or business as follows:

Asset	Placed in service	Unajusted basis	Estimated salvage
X	Mar. 15, 1971	$400	$20
Y	June 13, 1971	500	50
Z	July 30, 1971	100	0

The property is eligible property and is properly included in a single vintage account. The asset depreciation range for such property is 5 to 7 years and the taxpayer selects an asset depreciation period of 5½ years and adopts the 200-percent declining balance method of depreciation. The taxpayer adopts the half-year convention described in subparagraph (2)(iii) of this paragraph. After 3 years, A changes from the 200-percent declining balance method to the straight line method of depreciation. Depreciation allowances would be as follows:

Year	Unadjusted basis	Rate	Depreciation	Reserve	Adjusted basis
1971	$1,000	0.18182	$181.82	$181.82	$818.18
1972	1,000	.36363	297.52	479.34	520.66
1973	1,000	.36363	189.33	668.67	331.33
1974	1,000	[1] .33333	110.44	779.11	220.89
1975	1,000	.33333	110 44	889.56	110.44
1976	1,000	.33333	[2] 40.44	930.00	70.00

[1] Rate applied to adjusted basis of the account (without reduction by salvage) at the time as of which the change is made to the straight line method.
[2] The allowable depreciation is limited by estimated salvage.

Example (2). The facts are the same as in example (1) except that A elects to use the modified half-year convention described in subparagraph (2)(ii) of this paragraph. The depreciation allowances would be as follows:

Year	Unadjusted basis	Rate	Depreciation	Reserve	Adjusted basis
1971	$1,000	[1] 0.36363	$327.27	$327.27	$672.73
1972	1,000	.36363	244.63	571.90	428.10
1973	1,000	.36363	155.67	727.57	272.43
1974	1,000	.33333	90.81	818.38	181.62
1975	1,000	.33333	90.81	909.19	90.81
1976	1,000	.33333	[2] 20.81	930.00	70.00

[1] Rate applied to $900, the amount of assests placed in service during the first half of the taxable year.
[2] The allowable depreciation is limited by estimated salvage.

Example (3). The facts are the same as in example (1) except that A adopted the sum of the years-digits method of depreciation and does not change to the straight line method of depreciation. The depreciation allowances would be as follows:

Year	Unadjusted basis	Rate	Depreciation	Reserve	Adjusted basis
1971	$1,000	[1] 2.75/18	$152.78	$152.78	$847.22
1972	1,000	5/18	277.78	430.56	569.44
1973	1,000	4/18	222.22	652.78	347.22
1974	1,000	3/18	166.67	819.45	180.55
1975	1,000	2/18	[2] 110.55	930.00	70.00
1976	1,000	1/18	0.00	930.00	70.00
1977	1,000	0.25/18	0.00	930.00	70.00

[1] Rate is equal to one-half of 5.5/18. The denominator is equal to 5.5+4.5+3.5+2.5+1.5+0.5.
[2] The allowable depreciation is limited by estimated salvage.

Example (4). The facts are the same as in example (3) except that A elects to use the modified half-year convention described in subparagraph (2)(ii) of this paragraph. The depreciation allowances would be as follows:

Year	Unadjusted basis	Rate	Depreciation	Reserve	Adjusted basis
1971	$1,000	[1] 5.5/18	$275.00	$275.00	$725.00
1972	1,000	5/18	277.78	552.78	447.22
1973	1,000	4/18	222.22	775.00	225.00
1974	1,000	3/18	[2] 155.00	930.00	70.00
1975	1,000	2/18	0.00	930.00	70.00
1976	1,000	1/18	0.00	930.00	70.00
1977	1,000	0.25/18	0.00	930.00	70.00

[1] Rate applied to $900, the amount of assets placed in service during the first half of the taxable year.
[2] The allowable depreciation is limited by estimated salvage.

Example (5). The facts are the same as in example (2) except that after 2 years A changes from the 200-percent declining balance method to the sum of the years-digits method of depreciation. The depreciation allowances would be as follows:

Year	Unadjusted basis	Rate	Depreciation	Reserve	Adjusted basis
[1] 971	$1,000	0.36363	$327.27	$327.27	$672.73
972	1,000	.36363	244.63	571.90	428.10
[1] 973	1,000	4/10	171.24	743.14	256.86
1974	1,000	3/10	128.43	871.57	128.43
1975	1,000	2/10	[1] 58.43	930.00	70.00
1976	1,000	1/10	0.00	930.00	70.00

[1] The allowable depreciation is limited by estimated salvage.

(iv) *Limitation on methods.* (a) 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) and (j).

(b) Except as otherwise provided in section 167(j) with respect to certain eligible section 1250 property—

(1) In the case of a vintage account for which the taxpayer has selected an asset depreciation period of 3 years or more and which only 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, but 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 is less than 3 years, a method of depreciation described in section 167(b) (2) or (3) may not be adopted for the account, and

(2) 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 is at least 3 years.

(c) 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 (other than depreciation under section 179) 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 bases 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 un-

adjusted 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 under this section computed by using the method of depreciation and the rate 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 subdivisions (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 subdivisions (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 succeeding 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 succeeding 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) of this section for definition and treatment of ordinary retirements. If the actual number of months in a taxable year is other than 12 full calendar months the term "taxable year", for purposes of this subparagraph, shall mean only such number of months. In such event, the first half of such 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 such taxable year and the second half of such taxable year shall be deemed to begin the day after the expiration of the first half of such 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. Thus, for example, if a taxpayer which is a corporation comes into existence (within the meaning of paragraph (a)(2) of § 1.6012) on September 1st and adopts a taxable year ending on December 31st, the taxable year consists of 4 months, and for the purposes of this subparagraph the first half of such taxable year ends on October 31st and the second half of such taxable year begins on November 1st.

(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 for any such taxable year 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 convention 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

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 for 1971 is zero under the modified half-year 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 allowance with respect to asset Y is $1,500 (that is the basis of $12,000 multiplied by 25 percent, then multiplied by ½). Assets W and X are also 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, ½ of the $3,250 allowance computed in example (1)).

Example (3). Asset Z is placed in service by a calendar year taxpayer on December 1, 1971. The taxpayer places asset Z in an item account and adopts the sum of the years-digits method and the half year convention described in subparagraph (2)(iii) of this paragraph. 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 5/15, the appropriate fraction using the sum of the years-digits method then multiplied by ½, since only one half year's depreciation is allowable under the convention).

Example (4). A is a calendar year taxpayer. All taxpayer A's assets are placed in service in the first half of 1971. If the taxpayer selects the modified half-year convention described in subparagraph (2)(ii) of this paragraph, a full year's depreciation is allowable for all assets.

Example (5). (i) 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:

Asset	Placed in service	Unadjusted basis
A	Apr. 30, 1970	$10,000
B	Dec. 15, 1970	10,000
C	Jan. 1, 1971	10,000

The taxpayer adopted a convention under § 1.167(a)-10(b) with respect to assets placed in service prior to January 1, 1971, 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 assets placed in service in the second half of the year as placed in service on the first day of the following year. If the taxpayer selects the half-year convention described in subparagraph (2)(iii) of this paragraph, one 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. One-fourth year's depreciation is allowable on asset C determined under this section.

(ii) The facts are the same as in (i) of this example except that the taxpayer adopts the modified half-year convention described in subparagraph (2)(ii) of this paragraph for 1971. No depreciation is allowable for assets B and C which were placed in service in the second half of the taxable year.

Example (6). 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 adopted a convention under § 1.167(a)-10(b) with respect to assets placed in service prior to January 1, 1971, which treats all assets as placed in service at the mid-point of the taxable year. If the taxpayer selects the half-year convention described in subparagraph (2)(iii) of this paragraph, one-half year's depreciation is allowable for asset A determined without regard to this section. One-half year's depreciation is allowable for assets B and C determined under this section.

(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 proceedings 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.

Example (4). Taxpayer C elects to apply this section to factory building X which is placed in an item vintage account of 1971. The unadjusted basis of factory building X is $90,000. C estimates a gross salvage value for the account of $10,000. The property does not qualify under section 167(f)(2). C establishes a salvage value of $10,000 for the account. Assume that there is not sufficient basis for determining a salvage value for the account greater than $18,000. Since the

salvage value of $10,000 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.* (*a*) 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 section 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.

(*b*) The amount paid or incurred for the repair, maintenance, rehabilitation or improvement of eligible property (determined without regard to paragraph (b)(2)(ii) of this section) in a taxable year for which the taxpayer elects to apply this section which is by application of § 1.162–4, § 1.263(a) (1) and (2), or this subparagraph treated as a deductible repair or as a capital expenditure (or otherwise subject to capitalization as part of the cost of such property) shall include only costs (direct or indirect) identified or associated with the repair, maintenance, rehabilitation or improvement of such property. Such expenditures in general include the cost paid or incurred for the services of third parties and the cost of self-performed repair, maintenance, rehabilitation or improvement. In the latter case, the expenditures in general include the cost of direct labor and the cost of direct materials used in the repair, maintenance, rehabilitation or improvement of such property, as well as an allocable portion of indirect cost associated therewith. Such expenditures need not, however, include such indirect costs as State, local, and foreign taxes, depreciation and depletion, pension and profit-sharing contributions and other employee benefits, officers salaries, and general and administrative expenses except to the extent the taxpayer allocates such costs to repair, maintenance, rehabilitation or improvement for purposes of financial reports (including consolidated financial statements) to shareholders, partners, beneficiaries or other proprietors and for credit purposes. The taxpayer may at his option consistently include in such expenditures an allocable portion of indirect costs associated with repair, maintenance, rehabilitation or improvement without regard to whether included in financial reports or for credit purposes. The rules of this subdivision shall also apply to expenditures for an excluded addition. Amounts otherwise deductible as repairs (as well as other costs associated with production) may instead be required to be included in the cost of goods sold. See § 1.471–11 relating to valuation of inventories of manufacturers. Principles of this subdivision may be illustrated by the following example.

Example. (i) During taxable year 1972, B (a manufacturer) pays or incurs the following expenditures: (*1*) $100,000 wages for direct labor used in the repair, maintenance, rehabilitation or improvement of property; (*2*) $35,000 for direct parts and materials used in the repair, maintenance, rehabilitation or improvement of property; (*3*) $10,000 to an outside contractor for rehabilitation of machinery; (*4*) $15,000 salary for indirect labor of a factory maintenance supervisor; (*5*) $85,000 for officers salaries; (*6*) $10,000 current service cost contribution to the qualified pension plan for employees (some of whom are maintenance employees); and (*7*) $35,000 general and administrative expenses. Assume that none of the expenditures is for an excluded addition.

(ii) Expenditures (*1*) through (*3*) are expenditures for the repair, maintenance, rehabilitation or improvement of property which are taken into account under subdivision (iv) (*a*) or (*b*) of this subparagraph. Expenditure (*4*) is also taken into account under such subdivision to the extent, as would normally be the case, such expenditure is associated with repair, maintenance, rehabilitation or improvement. No portion of expenditures (*5*) through (*7*) is required to be taken into account under such subdivision (or is otherwise subject to capitalization) since it is assumed that B neither, at his option, consistently includes such costs in repair, maintenance, rehabilitation or improvement for purposes of this subparagraph nor includes such costs in repair, maintenance, rehabilitation or improvement for purposes of financial reports and for credit purposes.

(iii) Assume that for 1972 B elects the asset guideline class repair allowance (as described in subdivision (iii) of this subparagraph) and that B's repair allowance for the asset guideline class is $90,000. Taking into account only expenditures (*1*) through (*4*) (a total of $160,000), by application of the asset guideline class repair allowance B may deduct $90,000 as repairs and must capitalize the balance of $70,000 as a property improvement. No portion of expenditures (*5*) through (*7*) are taken into account in the repair allowance (or otherwise subject to capitalization). All or part of the $90,000 deductible as repairs (as well as other costs associated with production) may be required to be included in the cost of goods sold. See § 1.471–11.

(iv) Assume that for 1972 B does not select the asset guideline class repair allowance, and further assume that in accordance with subdivision (iv)(*b*) of this subparagraph expenditures (*1*), (*2*), and (*4*) are deductible repairs and expenditure (*3*) is required to be capitalized. No portion of expenditures (*5*) through (*7*) are taken into account under subdivision (iv)(*b*) or otherwise required to be capitalized.

(ii) *Election of repair allowance.* In the case of an asset guideline class which consists of "repair allowance property" as defined in subdivision (iii) of this subparagraph, 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 which consists of "repair allowance property" is an amount equal to—

(*a*) The average of (*1*) the unadjusted basis of all "repair allowance property" 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 (including ordinary retirements during the taxable year), multiplied by—

(*b*) The repair allowance percentage in effect for the asset guideline class for the taxable year.

In applying the asset guideline class repair allowance to buildings and other structures which are section 1250 property, for the purposes of this subparagraph each item of such property shall be treated as in a separate asset guideline class. A building is generally an item of property for this purpose, but if two or more buildings or other structures (in the same asset guideline class determined without regard to the preceding sentence) on a single tract or parcel (or contiguous tracts or parcels) are operated as an integrated unit (as evidenced by their actual operation, management, financing and accounting), they shall be treated as a single item for this purpose. 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 72–10. 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)(ii) 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) in an asset guideline class for which a repair allowance percentage is in effect for the taxable year. The determination whether property is repair allowance property shall be made without regard to whether such property is excluded, under paragraph (b)(5) of this section, from an election to apply this section. Property in an asset guideline class for which the taxpayer elects to apply the asset guideline class repair allowance described in this subdivision, which results from expenditures in the taxable year of election for the repair, maintenance, rehabilitation, or improvement of property in an asset guideline class shall not be "repair allowance property" for such taxable year but shall be for each succeeding taxable year provided such property is a property improvement as described in subdivision (vii)(*a*) of this subparagraph and is in an asset guideline class for which a repair allowance percentage is in effect for such succeeding taxable year.

(iv) *Application of asset guideline class repair allowance.* In accordance with the principles of sections 162, 212, and 263, if the taxpayer pays or incurs any expenditures during the taxable year for the repair, maintenance, rehabilitation or improvement of eligible property (determined without regard to paragraph (b)(2)(ii) of this section), the taxpayer must either—

(*a*) If such property is repair allowance property and if the taxpayer elects to apply the repair allowance for the asset guideline class, treat an amount of all such expenditures 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 such property is not repair allowance property or 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 or expenditures for which a deduction is allowed under section 167(k). (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 for the repair, maintenance, rehabilitation or improvement of repair allowance property (as described in subdivision (iii) of this subparagraph). 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. The cost of repair, maintenance, rehabilitation or improvement of property performed by production personnel may be allocated by any reasonable method consistently applied and if performed incidental to production and not substantial in amount no allocation to repair, maintenance, rehabilitation or improvement need be made.

(*b*) If for the taxable year the taxpayer elects to deduct under section 263(e) expenditures with respect to repair allowance property consisting of railroad rolling stock (other than a locomotive) in a particular asset guideline class, the taxpayer may not, for such taxable year, use the asset guideline class repair allowance described in subdivision (iii) of this subparagraph for any property in such asset guideline class.

(*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 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 property shall not be "repair allowance property" as described in subdivision (iii) of this subparagraph.

(vi) *Definition of excluded addition.* The term "excluded addition" means—

(*a*) An expenditure which substantially increases the productivity of an existing identifiable unit of property over its productivity when first acquired by the taxpayer;

(*b*) An expenditure which substantially increases the capacity of an existing identifiable unit of property over its capacity when first acquired by the taxpayer;

(*c*) An expenditure which modifies an existing identifiable unit of property for a substantially different use;

(*d*) An expenditure for an identifiable unit of property if (*1*) such expenditure is for an additional identifiable unit of property or (*2*) such expenditure (other than an expenditure described in (*e*) of this subdivision) is for replacement of an identifiable unit of property which was retired;

(*e*) An expenditure for replacement of a part in or a component or portion of an existing identifiable unit of property (whether or not such part, component or portion is also an identifiable unit of property) if (*1*) such part, component or portion is for replacement of a part, component or portion which was retired in a retirement upon which gain or loss is recognized (or would be recognized but for a special nonrecognition provision of the Code or § 1.1502–13), or (*2*) such part, component or portion has substantially greater capacity or productivity than did the part, component or

portion replaced when first acquired by the taxpayer.

(*f*) In the case of a building or other structure (in addition to (*b*), (*c*), (*d*), and (*e*) of this subdivision which also apply to such property), an expenditure for additional cubic or linear space; and

(*g*) In the case of those units of property of pipelines, electric utilities, telephone companies, and telegraph companies consisting of lines, cables and poles (in addition to (*a*) through (*e*) of this subdivision which also apply to such property), an expenditure for replacement of a material portion of the unit of property.

Except as provided in (*d*) and (*e*)(*1*) of this subdivision, notwithstanding any other provision of this subdivision, the term "excluded addition" does not include any expenditure in connection with the repair, maintenance, rehabilitation or improvement of an identifiable unit of property which does not exceed $100. For this purpose all related expenditures with respect to the unit of property shall be treated as a single expenditure. For the purposes of (*a*), (*b*), and (*e*) of this subdivision, an increase in productivity or capacity is substantial only if the increase is more than 25 percent. An expenditure which merely extends the productive life of an identifiable unit of property is not an increase in productivity within the meaning of (*a*) of this subdivision. Under (*g*) of this subdivision a replacement is material only if the portion replaced exceeds 5 percent of the unit of property with respect to which the replacement is made. For the purposes of this subdivision, a unit of property generally consists of each operating unit (that is, each separate machine or piece of equipment) which performs a discrete function and which the taxpayer customarily acquires for original installation and retires as a unit. In the case of a building, the unit of property generally consists of the building as well as all its structural components. However, both in the case of machinery and equipment and in the case of a building, for the purpose of applying (*d*) of this subdivision a unit of property may consist of a part in or a component or portion of a larger unit of property. In the case of property described in (*g*) of this subdivision (such as a pipeline), a unit of property generally consists of each segment which performs a discrete function either as to capacity, service, transmission or distribution between identifiable points. Thus, for example, under this subdivision in the case of a vintage account of five automobiles each automobile is an identifiable unit of property (which is not merely a part in or a component or portion of larger unit of property within the meaning of (*e*) of this subdivision). Accordingly, the replacement of one of the automobiles (which is retired) with another automobile is an excluded addition under (*d*)(*2*) of this subdivision. Also the purchase of a sixth automobile is an expenditure for an additional identifiable unit of property and is an excluded addition under (*d*)(*1*) of this subdivision. An automobile air conditioner is also an identifiable unit of property for the purposes of (*d*)(*1*) of this subdivision, but not for the purposes of (*d*)(*2*) of this subdivision. Accordingly, the addition of an air conditioner to an automobile is an excluded addition under (*d*)(*1*) of this subdivision, but the replacement of an existing air conditioner in an automobile is not an excluded addition under (*d*)(*2*) of this subdivision (since it is merely the replacement of a part in an existing identifiable unit of property). The replacement of the air conditioner may, however, be an excluded addition under (*e*) of this subdivision, that is, if it has a substantially greater capacity than the air conditioner replaced or if the air conditioner replaced was retired in a retirement upon which gain or loss was recognized. The principles of this subdivision may be further illustrated by the following examples in which it is assumed (unless otherwise stated) that (*e*)(*1*) of this subdivision does not apply:

Example (*1*). For the taxable year, B pays or incurs only the following expenditures: (*1*) $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; (*2*) $175 for replacement of bearings and gears in an existing lathe; (*3*) $125 for replacement of an electric starter (of the same capacity) and certain electrical wiring in an automatic drill press; (*4*) $300 for modification of a metal fabricating machine (including replacement of certain parts) which substantially increases its capacity; (*5*) $175 for repair of the same metal fabricating machine which does not substantially increase its capacity; (*6*) $800 for the replacement of an existing lathe with a new lathe; and (*7*) $65 for the repair of a drill press. Expenditures (*1*) through (*3*) 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. Expenditure (*4*) is an excluded addition under (*b*) of this subdivision. Expenditure (*5*) is not an excluded addition. Expenditure (*6*) is an excluded addition under (*d*)(*2*) of this subdivision. Without regard to (*a*), (*b*), (*c*), and (*e*)(*2*) of this subdivision, expenditure (*7*) is not an excluded addition since the expenditure does not exceed $100.

Example (*2*). Corporation M operates a steel plant which produces rails, blooms, billets, special bar sections, reinforcing bars, and large diameter line pipe. During the taxable year, corporation M: (*1*) relines an open-hearth furnace; (*2*) places in service 20 new ingot molds; (*3*) replaces one reversing roll in the blooming mill; (*4*) overhauls the rail and billet mill with no increase in capacity; (*5*) replaces a roll stand in the 20-inch bar mill; and (*6*) overhauls the 11-inch bar mill and reducing stands increasing billet speed from 1,800 feet per minute to 2,300 feet per minute. Assume that each expenditure exceeds $100. Expenditure (*1*) is not an excluded addition. Expenditure (*2*) is an excluded addition under (*d*)(*1*) of this subdivision. Expenditure (*3*) is not an excluded addition since the expenditure for the reversing roll merely replaces a part in an existing identifiable unit of property. Expenditure (*4*) is not an excluded addition. Expenditure (*5*) is an excluded addition under (*d*)(*2*) of this subdivision since the roll stand is not merely a part of an existing identifiable unit of property. Expenditure (*6*) is an excluded addition under (*a*) of this subdivision since it increases the billet speed by more than 25 percent.

Example (*3*). For the taxable year, corporation X pays or incurs the following expenditures: (*1*) $1,000 for two new temporary partition walls in the company's offices; (*2*) $1,400 for repainting the exterior of a terminal building; (*3*) $300 for repair of the roof of a warehouse; (*4*) $150 for replacement of two window frames and panes in the warehouse; and (*5*) $100 for plumbing repair. Expenditure (*1*) is an excluded addition under (*d*)(*1*) of this subdivision. None of the other expenditures are excluded additions.

Example (*4*). For the taxable year, corporation Y pays or incurs the following expenditures: (*1*) $10,000 for expansion of a loading dock from 600 square feet to 750 square feet; (*2*) $600 for replacement of two roof girders in a factory building; and (*3*) $9,500 for replacement of columns and girders supporting the floor of a second story loft storage area within the factory building in order to permit storage of supplies with a gross weight 50 percent greater than the previous capacity of the loft. Expenditure (*1*) is an excluded addition under (*f*) of this subdivision. Expenditure (*2*) is not an excluded addition. Expenditure (*3*) is an excluded addition under (*b*) of this subdivision.

Example (*5*). Corporation A has an office building with an unadjusted basis of $10 million. The building has 10 elevators, five of which are manually operated and five of which are automatic. During 1971, corporation A:

(*1*) Replaces the five manually operated elevators with highspeed automatic elevators at a cost of $400,000;

(*2*) Replaces the cable in one of the existing automatic elevators at a cost of $1,700.

Assume that each of the automatic elevators has a capacity to carry 50 percent more passengers per hour than the manually operated elevator it replaced. The replacements of the elevators are excluded additions under (*e*)(*2*) of this subdivision. The replacement of the cable is not an excluded addition.

Example (*6*). Taxpayer W, a cement manufacturer, engages in the following modification and maintenance activities during the taxable year: (*1*) replaces eccentric-bearing spindle, and wearing surface in a gyratory crusher; (*2*) places in service a new apron feeder and hammer mill; (*3*) replaces four buckets on a chain bucket elevator; (*4*) relines refractory surface in the burning zone of a rotary kiln; (*5*) installs additional new dust collectors; and (*6*) replaces two 16-inch x 90-foot belts on his conveyer system. Assume that there is no increase in productivity or capacity and that each expenditure exceeds $100. Expenditure (*1*) is not an excluded addition. Expenditure (*2*) an excluded addition under (*d*)(*1*) of this subdivision. Expenditures (*3*) and (*4*) are not excluded additions. Expenditures (*5*) is an excluded addition under (*d*)(*1*) of this subdivision. Expenditure (*6*) is not an excluded addition.

Example (*7*). Corporation X, a gas pipeline company, has, in addition to others, the following units of property: (*1*) A gathering pipeline for a field consisting of 25 gas wells; (*2*) the main transmission line between compressor stations (that is, in the case of a 500-mile main transmission line with a compressor station every 100 miles, each one hundred miles section between compressor stations is a separate unit of property); (*3*) a lateral transmission line from the main transmission line to a city border station; (*4*) a medium pressure distribution line to the northern portion of the city; and (*5*) a low pressure distribution line serving a group of approximately 200 resi-

dential customers off the medium pressure distribution line. In 1971, corporation (X pays or incurs the following expenditures in connection with the repair, maintenance, rehabilitation or improvement of repair allowance property: (*1*) replaces a meter on a gas well; (*2*) in connection with the repair and rehabilitation of a unit of property consisting of a 2-mile gathering pipeline, replaces a 3,000-foot section of the gathering line; (*3*) in connection with the repair of leaks in a unit of property consisting of a 100-mile gas transmission line (that is, the 100 miles between compressor stations), replaces a 2,000-foot section of pipeline at one point; and (*4*) at another point replaces a 7-mile section of the same 100-mile gas transmission line. Assume that none of these expenditures substantially increases capacity and that each expenditure exceeds $100. Expenditure (*1*) is an excluded addition under (*d*) of this subdivision. Expenditure (*2*) is an excluded addition under (*g*) of this subdivision since the portion replaced is more than 5 percent of the unit of property. Expenditure (*3*) is not an excluded addition. Expenditure (*4*) is an excluded addition under (*g*) of this subdivision.

Example (*8*). Taxpayer Y, an electric utility company, has in addition to others, the following units of property: (*1*) A high voltage (usually over 69,000 volts) transmission circuit from the switching station (at the generating station) to the transmission station; (*2*) a series of 100 poles (fully dressed) supporting the circuit in (*1*); (*3*) a high voltage (usually not over 34,000 volts) circuit from the transmission station to the distribution substation; (*4*) a high voltage (usually 4,000 to 7,500 volts) distribution circuit (either radial or looped) from the distribution substation; (*5*) a transformer on a distribution pole; (*6*) a circuit breaker on a distribution pole; and (*7*) a 220 (and lower) volt circuit (including customer service connections) off the distribution circuit in (*4*). In 1971, Taxpayer Y pays or incurs the following expenditures for the repair, maintenance, rehabilitation or improvement of repair allowance property: (*1*) replaces 25 adjacent poles in a unit of property consisting of the 300 poles supporting a radial distribution circuit from a distribution substation; (*2*) replaces a transformer on one of the poles in (*1*); (*3*) replaces a cross-arm on one of the poles in (*1*); (*4*) replaces a 200-foot section of a 2-mile 220-volt radial distribution circuit serving 100 residential customers; and (*5*) replaces a 2,000-foot section of a 10-mile 34,000-volt circuit from a transmission station to a distribution substation which was destroyed by a casualty which taxpayer Y treated as an extraordinary retirement under paragraph (d)(3)(ii) of this section. Expenditure (*1*) is an excluded addition under (*g*) of this subdivision. Expenditures (*2*) is an excluded addition under (*d*)(*2*) of this subdivision. Expenditures (*3*) and (*4*) are not excluded additions. Expenditure (*5*) is an excluded addition under (*e*)(*1*) of this section.

Example (*9*). Corporation Z, a telephone company, has in addition to others, the following units of property: (*1*) A buried feeder cable 3 miles in length off a local switching station; (*2*) a buried subfeeder cable 1 mile in length off the feeder cable in (*1*); (*3*) all the distribution cable (and customer service drops) off the subfeeder cable in (*2*); (*4*) the 300 poles (fully dressed) supporting the distribution cable in (*3*); (*5*) a 10-mile local trunk cable which interconnects two local tandem switching stations; (*6*) a toll connecting trunk cable from a local tandem switching station to a long distance tandem switching station; (*7*) a toll trunk cable 50 miles in length from the access point at one city to the access point at another city. In 1971, corporation Z pays or incurs the following expenditures in connection with the repair, maintenance, rehabilitation or improvement of repair allowance property: (*1*) replaces 100 feet of distribution cable in a unit of property consisting of 8 miles of local distribution cable (plus customer service drops); (*2*) replaces an amplifier in the distribution system; and (*3*) replaces 10 miles of a unit of property consisting of a toll trunk cable 50 miles in length. Expenditure (*1*) is not an excluded addition. Expenditure (*2*) is an excluded addition under (*d*)(*2*) of this subdivision. Expenditure (*3*) is an excluded addition under (*g*) of this subdivision.

(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 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 72–10 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 machines 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 (vii)(*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. 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.

(ii) *Definitions of ordinary and extraordinary retirements.* The term "ordinary retirement" means any retirement of section 1245 property from a vintage account which is not treated as an "extraordinary retirement" under this subparagraph. The retirement of an asset from a vintage account in a taxable year is an "extraordinary retirement" if—

(*a*) The asset is section 1250 property;

(*b*) The asset is section 1245 property which is retired as the direct result of fire, storm, shipwreck, or other casualty and the taxpayer, at his option consistently applied (taking into account type, frequency, and the size of such casualties) treats such retirements as extraordinary; or

(*c*) (*1*) The asset is section 1245 property which 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 of unit, and (*2*) the unadjusted basis (determined without regard to subdivision (vi) of this subparagraph) of all such assets so retired in such taxable year from such account as a direct result of the event described in (*c*) (*1*) of this subdivision exceeds 20 percent of the unadjusted basis of such account immediately prior to such event.

For the purposes of (*c*) of this subdivision, all accounts (other than a special basis vintage account as described in subdivision (vi) of this subparagraph containing section 1245 property of the same vintage in the same asset guideline class, 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. See subdivision (xi) of this subparagraph for special rule for item accounts. The principles of this subdivision may be illustrated by the following examples:

Example (*1*). Taxpayer A is a processor and distributor of dairy products. Part of taxpayer A's operation is a bottle washing facility consisting of machines X, Y, and Z, each of which is in an item vintage account of 1971. Each item vintage account has an unadjusted basis of $1,000. Taxpayer A also has a 1971 multiple asset vintage account consisting of machines E, S, and C. Machines E and S, used in processing butter, each has an unadjusted basis of $10,000. Machine C used in capping bottles has an unadjusted basis of $1,000. In 1975, taxpayer A changes to the use of paper milk cartons and disposes of all bottle washing machines (X, Y, and Z) as well as machine C which was used in capping bottles. The sales of machine C, X, Y, and Z are the direct result of the termination of a manufacturing process. However, since the total unadjusted basis of the eligible section 1245 property retired as a direct result of such event is only $4,000 (which is less than 20 percent of the total unadjusted basis of machines E, S, C, X, Y, and Z, $24,000) the sales are ordinary retirements. All the assets are in the same asset guideline class and are of the same vintage. Accordingly, machines E, S, C, X, Y, and Z are for this purpose treated as being in a single vintage account.

Example (*2*). The facts are the same as in example (1) except that in 1976, taxpayer A sells six of his 12 milk delivery trucks as a direct result of eliminating home deliveries to customers in the suburbs. Deliveries within the city require only six trucks. Each of the trucks has an unadjusted basis of $3,000. Six of the taxpayer's delivery trucks are in a multiple asset vintage account of 1974 and six are in a multiple asset vintage account of 1972. Neither account contains any other property. Four trucks are retired from the 1972 vintage account and two trucks are retired from the 1974 vintage account. The sales result from the curtailment of taxpayer A's home delivery operation. The unadjusted basis of the four trucks retired from the 1972 vintage exceeds 20 percent of the total unadjusted basis of the affected account. The same is true for the two trucks retired from the 1974 vintage account. The sales of the trucks are extraordinary retirements.

(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 optional 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) (*a*) of this subparagraph for treatment of retirements on which gain or loss is not recognized in whole or in part. See subdivision (v) (*b*) of this subparagraph for treatment of retirements by disposition to a member of an affiliated group as defined in section 1504(a).

(iv) *Treatment of extraordinary retirements.* (*a*) Unless the transaction is governed by a special nonrecognition section of the Code such as 1031 or 337 or is one to which subdivision (v) (*b*) of this subparagraph applies, 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 sections 1245 and 1250. If the asset which is retired in an extraordinary retirement is the only or last asset in the account, the account shall terminate and no longer be an account to which this section applies. In all other cases, the unadjusted basis of the retired asset shall be removed from the unadjusted basis of the vintage account, and 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 in the case of an account containing section 1245 property when the depreciation reserve exceeds the unadjusted basis of the vintage account. See subdivision (iii) of this subparagraph for reduction of salvage value for such an account when the depreciation reserve exceeds the unadjusted basis of the account minus salvage value. See subdivision (v) (*b*) of this subparagraph for treatment of retirements by disposition to a member of an affiliated group as defined in section 1504(a).

(*b*) The principles of this subdivision may be illustrated by the following examples:

Example (*1*). Corporation X has a multiple asset vintage account of 1971 consisting of assets K, R, A, and P all of which are section 1245 property. The unadjusted basis of the account is $40,000. The unadjusted basis of asset A is $10,000. When the reserve for depreciation for the account is $20,000, asset A is sold in an extraordinary retirement for $8,000 in cash. The $10,000 unadjusted basis of asset A is removed from the account and the $5,000 depreciation allowable for asset A is removed from the reserve for depreciation. Gain in the amount of $3,000 (to which section 1245 applies) is recognized upon the sale of asset A.

Example (*2*). Corporation X has an item vintage account of 1972 consisting of residential apartment unit A. Unit A is section 1250 property. It is residential rental property and meets the requirements of section 167(j) (2). Corporation X adopts the declining balance method of depreciation using a rate twice the straight line rate. The asset depreciation period is 40 years. Unit A has an unadjusted basis of $200,000. On June 30, 1974, when the reserve for depreciation for the account is $19,500, unit A is sold for $220,000. Since unit A is section 1250 property, the sale is an extraordinary retirement in accordance with subdivision (ii) (*a*) of this subparagraph (without regard to subdivision (ii) (*b*) or (*c*) of this subparagraph). The adjusted basis of unit A is $180,500. Gain in the amount of $39,500 is recognized. The "additional depreciation" (as defined in section 1250(b)) for unit A is $9,500. Accordingly, $9,500 is in accordance with section 1250 treated as gain from the sale or exchange of an asset which is neither a capital asset nor property described in section 1231. The $30,000 balance of the gain from the sale of unit A may be gain to which section 1231 applies.

(v) *Special rule for certain retirements.* (*a*) 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, no part of the proceeds from such retirement shall be added to the depreciation reserve of the vintage account in accordance with subdivision (iii) of this subparagraph. Instead, such retirement shall for all purposes of this section be treated as an extraordinary retirement.

(*b*) The provisions of § 1.1502–13 shall apply to a retirement which results in "deferred gain or loss" within the meaning of paragraph (c) of § 1.1502–13. In the case of an ordinary retirement to which the provisions of § 1.1502–13 apply, no part of the proceeds from such retirement shall be added to the depreciation reserve of the vintage account in accordance with subdivision (iii) of this subparagraph. Instead, such retirement shall for all purposes of this section be treated as an extraordinary retirement.

(*c*) The principles of this subdivision may be illustrated by the following examples:

Example (*1*). Corporation X has a vintage account of 1971 consisting of machines A, B, and C, each with an unadjusted basis of $1,000. The unadjusted basis of the account is $3,000 and at the end of 1977 the reserve for depreciation is $2,100. On January 1, 1978, machine A is transferred to corporation Y solely for stock in the amount of $1,400 in a transaction to which section 351 applies. Since the adjusted basis of machine A is $300, a gain of $1,100 is realized, but no gain is recognized under section 351. Even though machine A was transferred in an ordinary retirement in accordance with (*a*) of this subdivision the rules for an extraordinary retirement are applied. The proceeds are not added to the reserve for depreciation for the account. Machine A is removed from the account, the unadjusted basis of the account is reduced by $1,000, and the reserve for depreciation for the account is reduced by $700.

Example (*2*). The facts are the same as in example (1) except that the consideration received for machine A is stock of corporation Y in the amount of $1,200 and cash in the amount of $200. The result is the same as in example (1) except that gain is recognized in the amount of $200 all of which is gain to which section 1245 applies.

Example (*3*). The facts are the same as in example (1) execpt that machine A is sold for $1,400 cash in an ordinary retirement and corporation X and corporation Y are includible corporations in an affiliated group as defined in section 1504(a) which files a consolidated return for 1978. The affiliated group has not elected under paragraph (c) (3) of § 1.1502–13 not to defer gain or loss. Accordingly, (*b*) of this subdivision applies. The retirement is treated as an extraordinary retirement. Machine A is removed from the account, the unadjusted basis of the account is reduced by $1,000, and the reserve for depreciation for the account is reduced by $700. The gain of $1,100 is deferred gain to which § 1.1502–13 applies.

(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 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 paragraph) 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, $10,000 × $900/$90,000 = $100). The unadjusted basis, reserve for depreciation and adjusted basis of the special basis vintage account are reduced, respectively, by one-third (that is, $300 = $900 × ⅓) in order to reflect the allocation of basis from 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.

(*b*) However, the taxpayer may, at his option, 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 ordinary 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.

(*c*) 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 any other method consistently applied which reasonably reflects that portion of the salvage value for the account originally attributable to the retired asset.

(*d*) In the case of ordinary retirements the taxpayer may—

(*1*) In the case of retirements (other than by transfer to supplies or scrap) 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, and

(*2*) In the case of retirements by transfer to supplies or scrap, 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 the basis in the supplies or scrap account of the retired asset will be zero) or 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 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) of this subparagaph for special optional rule for reduction of salvage value in the case of an ordinary retirement by transfer of an asset to supplies or scrap.

(e) In the event of a removal of property from a vintage account in accordance with paragraph (b) (5) (v) (b) or (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 (c) of this subdivision.

(viii) *Special optional adjustments for transfers to supplies or scrap.* If the taxpayer does not follow 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) (c) and (d) of this subparagraph) follow the consistent practice of reducing salvage value as ordinary retirements occur by transfer of assets to supplies or scrap and of determining the basis (in the supplies or scrap account) as assets retired in an ordinary retirement by tranfer 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 value attributable to the asset determined in accordance with (a) of this subdivision 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 and (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 subdivision 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) In the case of a vintage account for section 1245 property, 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 such 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—

(1) Shall 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 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) May 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.

(b) In the case of an account for section 1245 property, if at the time the last asset in the vintage account is retired the unadjusted basis of the account exceeds the depreciation reserve for the account (after all adujstments 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 may 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. See subdivision (xi) of this subparagraph for treatment of certain multiple asset and item accounts.

(c) The principles of this subdivision may be illustrated by the following example:

Example. The taxpayer has a vintage account for section 1245 property with an unadjusted basis of $1,000 and a depreciation reserve of $700 (of which $600 represents depreciation allowances and $100 represents the proceeds of ordinary retirements from the account). 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 may apply.

(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.

(xi) *Special rule for treatment of multiple asset and item accounts.* For the purposes of subdivision (ix) (b) of this subparagraph, all accounts (other than a special basis vintage account as described in subdivision (vi) of this subparagraph) of the same vintage in the same asset guideline class for which the taxpayer has selected the same asset depreciation period and adopted the same method of depreciation, and which contain only section 1245 property permitted by paragraph (b) (3) (ii) of this section to be included in the same vintage account, shall be treated as a single multiple asset vintage 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 for section 1245 property 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 1/10 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 1/10 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 applicabe 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) (viii) (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 $15, that is, unadjusted basis of $300, multiplied by 1/10, the asset depreciation period selected for the special basis vintage account, but limited to $15 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 1971 multiple asset vintage account for section 1245 property 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 five 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 oridinary retirement. By application of subparagraph (3) (vii) (c) and (d) (2) of this paragraph B determines the reduction in salvage value for the account attributable to such asset to be

$$\$2{,}000 \text{ (that is, } \frac{\$20{,}000}{100{,}000} \times \$10{,}000 = \$2{,}000).$$

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 (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) Except as provided in (b) of this subdivision, a property improvement determined under paragraph (d) (2) (vii) (b) of this section, and an excluded addition (other than an excluded addition referred to in the succeeding sentence) is first placed in service when its cost is paid or incurred. The general rule in subdivision (i) of this subparagraph applies to an excluded addition described in paragraph (d) (2) (vi) (d), (e), (f), or (g) of this section.

(b) If a property improvement or an excluded addition to which the first sentence of (a) of this subdivision applies is paid or incurred in part in one taxable year and in part in the succeeding taxable year (or in part in the first half of a taxable year and in part in the last half of the taxable year) the taxpayer may at his option consistently treat such property improvements and excluded additions under the general rule in subdivision (i) of this subparagraph.

(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), (v), (vi), or (vii) of this section.

(3) *Special rules in the case of certain transfers*—(i) *Transaction to which section 381(a) applies.* (a) In general the acquiring corporation in a transaction to which section 381(a) applies is for the purposes of this section treated as if it were the distributor or transferor corporation.

(b) 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 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 the vintage account in the hands of the distributor or transferor corporation 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 (c) (1) (iii) of this section.

(c) 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.

(d) 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.

(ii) *Partnerships, trusts, estates, donees, and corporations.* Except as pro-

vided 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 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 as if the property were owned 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*) 120 days after final regulations under this section are published in 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 this 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), 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 the amount, if any, 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), (vi), or (vii) or (6), or (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 making an election and for submission of the information required. An election may be made and the information submitted only in accordance with such forms. An election to apply this section will not otherwise be rendered invalid under this subparagraph so long as there is substantial compliance, in good faith, 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 or 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 subparagraph (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. The information may be submitted only in accordance with such forms. An election to apply this section will not otherwise be rendered invalid under this subparagraph so long as there is substantial compliance, in good faith, with the requirements of this subparagraph.

(g) *Relationship to other provisions*—(1) *Useful life*—(i) *In general.* Except as provided in subdivision (ii) of this subparagraph, an election to apply this section to eligible property constitutes an agreement under section 167(d) and this section to treat the asset depreciation period 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.

(ii) *Special rules.* (*a*) For the purposes of paragraph (d) of this section, the anticipated period of use (estimated at the close of the taxable year in which the asset is first placed in service) on the basis of which salvage value is estimated, shall be determined without regard to the asset depreciation period for the property.

(*b*) For the purposes of sections 162 and 263 and the regulations thereunder, whether an expenditure prolongs the life of an asset shall be determined on the basis of the anticipated period of use of the asset (estimated at the close of the taxable year in which the asset is first placed in service) without regard to the asset depreciation period for such asset.

(*c*) The determination whether a transaction with respect to qualified property constitutes a sale or a lease of such property shall be made without regard to the asset depreciation period for the property.

(*d*) The principles of this subdivision may be illustrated by the following example:

Example. Corporation X has assets in asset guideline class 32.3 which are used in the manufacture of stone and clay products. The asset depreciation range for assets in asset guideline class 32.3 is from 12 to 18 years. Assume that corporation X selects 14 years as the asset depreciation period for all assets in asset guideline class 32.3. Under paragraph (d)(1)(i) of this section, corporation X must estimate salvage value on the basis of the anticipated period of use of the property (determined as of the close of the taxable year in which the property is first placed in service). The anticipated period of use must also be used for purposes of sections 162 and 263 in determining whether an expenditure materially prolongs the useful life of an asset. The anticipated period of use of an asset is determined without regard to the asset depreciation period of 14 years. Corporation X has, among other assets in the asset guideline class, machines A, B, and C. Corporation X estimates the anticipated period of use of machines A, B, and C as 8 years, 14 years, and 22 years, respectively. These estimates are reasonable and will be used for estimating salvage value and for purposes of sections 162 and 263.

(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 example:

Example. (*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).

PAR. 60. The following new sections are added immediately before § 1.168 to read as follows:

§ 1.167(m) Statutory provisions; depreciation; class lives.

SEC. 167. *Depreciation.* * * *

(m) *Class lives*—(1) *In general.* In the case of a taxpayer who has made an election under this subsection for the taxable year, the term "reasonable allowance" as used in subsection (a) means (with respect to property which is placed in service during the taxable year and which is included in any class for which a class life has been prescribed) only an allowance based on the class life prescribed by the Secretary or his delegate which reasonably reflects the anticipated useful life of that class of property to the industry or other group. The allowance so prescribed may (under regulations prescribed by the Secretary or his delegate) permit a variance from any class life by not more than 20 percent (rounded to the nearest half year) of such life.

(2) *Certain first-year conventions not permitted.* No convention with respect to the time at which assets are deemed placed in service shall be permitted under this section which generally would provide greater depreciation allowances during the taxable year in which the assets are placed in service than would be permitted if all assets were placed in service ratably throughout the year and if depreciation allowances were computed without regard to any convention.

(3) *Making of election.* An election under this subsection for any taxable year shall be made at such time, in such manner, and subject to such conditions as may be prescribed by the Secretary or his delegate by regulations.

[Sec. 167(m), as added by sec. 109, Revenue Act of 1971 (85 Stat. 508)]

§ 1.167(m)–1 Class lives.

(a) For rules regarding the election to use the class life system authorized by section 167(m), see the provisions of § 1.167(a)–11.

PAR. 61. The following new sections are added immediately before § 1.264, to read as follows:

§ 1.263(f) Statutory provisions; capital expenditures; reasonable repair allowance.

SEC. 263. *Capital expenditurres.* * * *

(f) *Reasonable repair allowance.* The Secretary or his delegate may by regulations provide that the taxpayer may make an election under which amounts representing either repair expenses or specified repair, rehabilitation, or improvement expenditures for any class of depreciable property—

(1) Are allowable as a deduction under section 162 or 212 (whichever is appropriate) to the extent of the repair allowance for that class, and

(2) To the extent such amounts exceed for the taxable year such repair allowance, are chargeable to capital account.

Any allowance prescribed under this subsection shall reasonably reflect the anticipated repair experience of the class of property in the industry or other group.

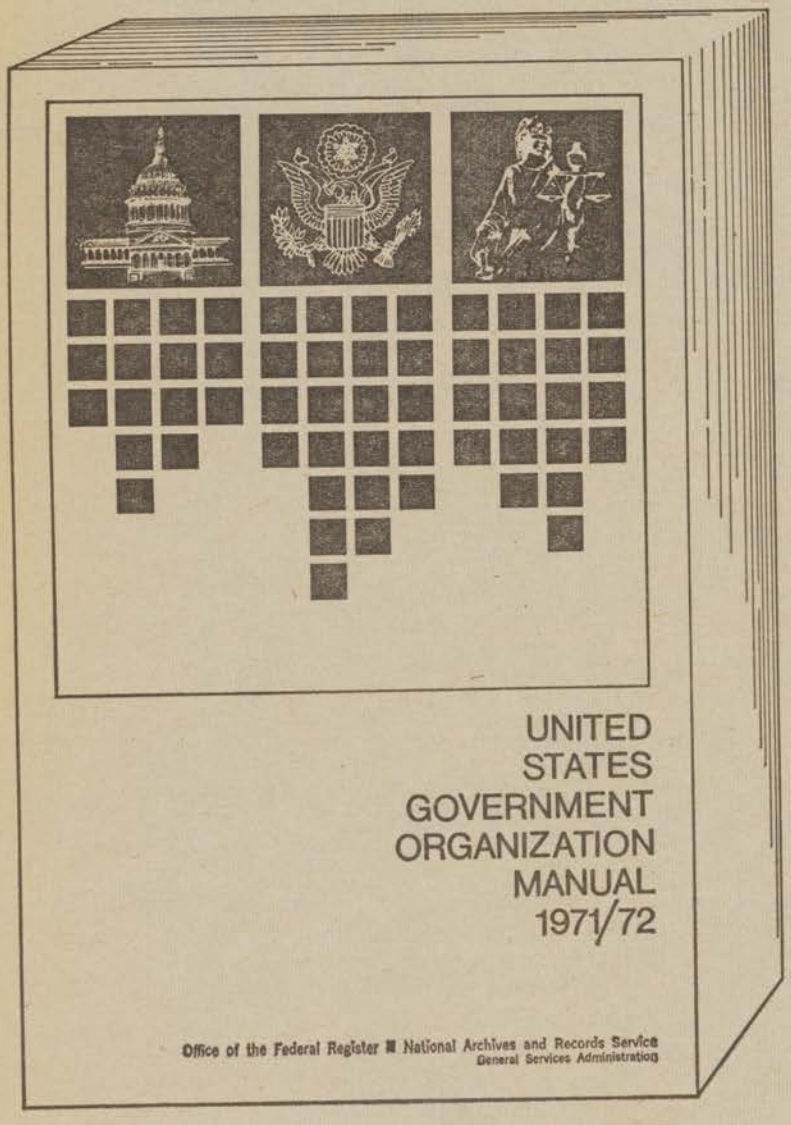
[Sec. 263(f), as added by sec. 109, Revenue Act of 1971 (85 Stat. 508)]

§ 1.263(f)–1 Reasonable repair allowance.

(a) For rules regarding the election of the repair allowance authorized by section 263(f), the definition of repair allowance property, and the conditions under which an election may be made, see paragraphs (d)(2) and (f)(5)(*e*) of § 1.167(a)–11. An election may be made under this section for a taxable year only if the taxpayer makes an election under § 1.167(a)–11 for such taxable year.

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