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List of CFR Parts Affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1972, and specifies how they are affected.

Presidential Documents

Title 3—The President

PROCLAMATION 4124

National Check-Your-Vehicle-Emissions-Month, April, 1972

By the President of the United States of America

A Proclamation

The task of cleansing our environment calls for individual effort on the part of all Americans.

Under the Clean Air Act Amendments of 1970, we can look forward to the day when pollutants from new motor vehicles will be substantially diminished. Setting emission standards, however, is not all that we can do. Our citizens can also act now to limit exhaust pollutants entering our atmosphere from motor vehicles currently in use.

Aware of the opportunity and the responsibility of Americans to help purify the air, the Congress, by Joint Resolution, has requested the President to designate April, 1972 as National Check Your Vehicle Emissions Month.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim April, 1972 to be National Check Your Vehicle Emissions Month, and I call upon all Americans to recognize the need for curbing exhaust pollutants from their motor vehicles by maintaining them in good working order.

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

Richard Nixon

[FR Doc.72-6325 Filed 4-21-72;9:57 am]

Rules and Regulations

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service [1] (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Regulation 264, Amdt. 1]

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

Limitation of Handling

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

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

(b) *Order, as amended.* This provisions in paragraph (b) (1) (i), and (ii) of § 907.564 (Navel Orange Regulation 264, 37 F.R. 7291) during the period April 14, 1972, through April 20, 1972, are hereby fixed as follows:

§ 907.564 Navel Orange Regulation 264.

* * * * *

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

(i) District 1: 995,000 carlots.

(ii) District 2: 205,000 carlots.

* * * * *

[1] Formerly Consumer and Marketing Service. Name changed to Agricultural Marketing Service effective Apr. 2, 1972, 37 F.R. 6327.

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

Dated: April 19, 1972.

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

[FR Doc.72-6236 Filed 4-21-72;8:52 am]

[Lemon Reg. 530]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.830 Lemon Regulation 530.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the Act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 18, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period April 23 through April 29, 1972, is hereby fixed at 240,000 cartons.

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

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

Dated: April 20, 1972.

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

[FR Doc.72-6270 Filed 4-21-72;8:54 am]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

Nonimmigrant Documentary Waivers

The following amendment to Chapter I of Title 8 of the Code of Federal Regulations is hereby prescribed:

In § 212.1, paragraph (a) is amended in the following respects: The heading is amended and the last sentence is amended to broaden applicability to include British subjects who are residents of the Turks and Caicos Islands.

As amended, § 212.1(a) reads as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(a) *Canadian nationals, and aliens having a common nationality with nationals of Canada or with British subjects in Bermuda, the Bahamas, Cayman Islands, and Turks and Caicos Islands.* A visa is not required of a Canadian national, and a passport is not required of

such a national except after a visit outside of the Western Hemisphere. A visa is not required of an alien having a common nationality with Canadian nationals or with British subjects in Bermuda, who has his residence in Canada or Bermuda, and a passport is not required of such an alien except after a visit outside of the Western Hemisphere. A visa and a passport are required of a British subject who has his residence in the Bahamas except that a visa is not required of such an alien who, prior to or at the time of embarkation for the United States on a vessel or aircraft, satisfies the examining U.S. immigration officer at Nassau, Bahamas, that he is clearly and beyond a doubt entitled to admission in all other respects. A visa is not required of a British subject who has his residence in, and arrives directly from, the Cayman Islands or the Turks and Caicos Islands and who presents a current certificate from the Clerk of Court of the Cayman Islands or the Turks and Caicos Islands indicating no criminal record.

* * * * *

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

This order shall be effective on the date of its publication in the FEDERAL REGISTER (4–22–72). Compliance with the provisions of section 553 of title 5 of the United States Code (80 Stat. 383), as to notice of proposed rule making and delayed effective date is unnecessary in this instance and would serve no useful purpose because the amendment to § 212.1 (a) confers a benefit on persons affected thereby.

Dated: April 18, 1972.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[FR Doc.72–6226 Filed 4–21–72;8:52 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 72–WE–7–AD, Amdt. 39–1436]

PART 39—AIRWORTHINESS DIRECTIVES

Certain Douglas Model DC–9 and Military C–9A (DC–9–32F) Airplanes

Amendment 39–1418 (37 F.R. 6380), AD 72–7–6, requires visual and radiographic inspections, and repair or replacement of the engine pylon aft spar upper cap, strap, adjacent pylon and fuselage internal and external structure, on certain Douglas Model DC–9–10, 20, 30, 40 series and C–9A (DC–9–32F) airplanes. After issuance of Amendment 39–1418, some operators have advised the agency that the instructions in paragraph A.1, which require visual inspection of the upper edges of the titanium strap, P/N 9958154–17 and 18, and the steel spar cap, P/N 9958154–5 and 6, at the first, second, and third fasteners outboard of the fuselage shell, would, in their opinion, require removal of a portion of the pylon upper skin, and the radiographic inspections required in paragraph B of AD 72–7–6 would in fact accomplish the inspections of those upper areas of the spar cap and strap. The AD is being superseded to add clarifying language to the accomplishment instructions of the visual inspections so as to not require removal of the skin and provide other relief.

Amendment 39–1418 refers to Douglas All Operators Letter AOL 9–66. This should be AOL 9–666 and the AD reflects the correct AOL number.

Since the issuance of Amendment 39–1418, the agency has determined that the modifications to the rear spar upper cap and strap, described in Douglas Service Bulletin 54–27, dated March 3, 1972, are considered approved modifications and constitute an appropriate terminating action when accomplished. The new AD incorporates this terminating action.

The manufacturer has made production modifications to the pylon rear spar upper cap and strap on certain Model DC–9 airplanes, which the agency has determined are equivalent to those modifications described in Douglas Service Bulletin 54–27. The applicability statement in the new AD reflects this work.

Since this amendment provides clarification, relief, alternative means of compliance and terminating action, 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, is amended by adding the following new airworthiness directive:

MCDONNELL-DOUGLAS. Applies to all Model DC–9 series airplanes prior to serial number 47541, certificated in all categories. Compliance required as indicated.

To prevent failures of the engine mount pylon as the result of cracks in the engine pylon upper aft spar caps (P/N 9958154–5, and 6) and/or the titanium straps (P/N 9958154–17 and 18) and supporting structure, accomplish the following:

A. For aircraft with more than 8,000 hours' time in service: Within the next 150 hours' time in service after the effective date of this AD, unless already accomplished, conduct visual inspections for evidence of cracking, in accordance with the following procedure.

1. Visually inspect the upper and lower surfaces of the titanium straps, P/N 9958154–17 and 18, and the upper and lower surfaces of the steel spar caps, P/N 9958154–5 and 6, at the first, second, and third fasteners inboard of the fuselage shell; and,

2. Visually inspect the aft face and lower surface of the titanium straps, P/N 9958154–17 and 18, and the lower surface of the steel spar caps, P/N 9958154–5 and 6, at the first, second, and third fasteners outboard of the fuselage shell; and,

3. Visually inspect the bend radius and areas around the vertical line of rivets in the pylon rear spar supporting bulkhead shear clips, P/N 9912246–43 and 44, inside the fuselage shell between longerons 14 and 16; and,

4. Visually inspect the bend radius and areas around the horizontal line of rivets in the outboard leg of the intercostals, P/N 9915596–3 and 4, which attach to the fuselage skin between the pylon rear spar supporting bulkhead and next aft fuselage frame (P/N 5913596) inside the fuselage shell; and,

5. Visually inspect the bend radius and areas around the vertical line of rivets in the outboard leg of the fuselage frame shear clips (P/N 5913596–11 and 12, P/N 5913595–11 and 12), inside the fuselage shell, at the first and second fuselage frames (P/N's 5913596 and 5913595) aft of the rear spar support bulkhead.

6. If a crack is found:

a. In the pylon structure (other than the rear spar upper cap and/or strap) or adjacent fuselage structure, before further flight, replace the cracked parts with new parts of the same design, or repair in accordance with instructions prescribed in the Douglas DC–9 Structural Repair Manual, or repair in a manner approved by the Chief, Aircraft Engineering Division, FAA Western Region. After accomplishment of the above, perform the radiographic inspections specified in paragraph B.

b. In the spar cap(s), P/N 9958154–5 and/or 6, and/or strap(s), P/N 9958154–17 and/or 18, before further flight, replace the cracked parts with new parts of the same design; or, replace the cracked steel spar cap(s), P/N 9958154–5 and/or 6, with a new cap(s) of the same design, and replace the titanium strap(s), P/N 9958154–17 and/or 18, with a new design steel strap(s), P/N 5917717–3 and/or 4, using new larger diameter interference fit fasteners, in accordance with Douglas Service Bulletin S/B 54–27, dated March 3, 1972, or later FAA-approved revisions.

7. a. When a new spar cap or strap of the same (i.e. original) design is installed in accordance with the requirements in 6.b, accomplish the inspections specified in paragraph B until the existing (retained) part (cap or strap) is replaced with a new part in accordance with the requirements in 6.b, at which time the inspection requirements in paragraph 7.b apply. (NOTE: accumulation of 8,000 hours time in service is based on earliest replaced part (cap or strap)); or

b. Upon installation of both a new spar cap and a new strap of the same (i.e. original) design, the inspections required in paragraphs A and B may be discontinued until these parts accumulate 8,000 hours' time in service, at which time reinstate the program of inspections and any necessary replacement or repairs per this AD; or,

c. Upon installation of new improved design steel strap(s), P/N 5917717–3 and/or 4, in conjunction with an existing (retained) uncracked steel spar cap(s) P/N 9958154–5 and/or 6, using new larger diameter interference fit fasteners, in accordance with Douglas S/B 54–27, or later FAA-approved revisions, the inspections required in paragraphs A and B of this AD are no longer applicable.

B. If no cracks are found after accomplishment of the inspections required by paragraph A–1 through A–5, or, after repair or replacement of parts as specified in 6(a), within the next 1,500 hours' time in service after the effective date of this AD and thereafter, at intervals not to exceed 1,500 hours' time in service from the last inspection, inspect the upper aft steel spar caps, P/N 9958154–5 and 6 and titanium cap straps, P/N 9958154–17 and 18, using radiographic inspection methods in accordance with the instructions outlined in Douglas All Operators Letter, AOL 9–666 dated November 22, 1971, or equivalent inspection means approved by the Chief, Aircraft Engineering Division, FAA Western Region; or, replace

the titanium strap(s), P/N 9958154–17 and/or 18, with a new steel strap(s), P/N 5917717–3 and/or 4, using new larger diameter interference fit fasteners in accordance with the instructions specified in Douglas Service Bulletin 54–27, dated March 3, 1972, or later FAA-approved revisions. Upon accomplishment of the above rear spar upper cap and strap modification specified in S/B 54–27, the inspections required in paragraph A and B may be discontinued.

NOTE: Prior to installation of the new steel strap(s) P/N 5917717–3 and/or 4 per Service Bulletin, 54–27, determine by radiographic inspection methods specified in Douglas AOL 9–666 or other FAA-approved equivalent inspection means (visual inspection is not considered satisfactory) that the existing (retained) steel cap is not cracked and shows no other signs of damage.

If cracks are found as a result of the radiographic inspections, before further flight, replace the cracked parts as specified in paragraph 6(b) and accomplish the inspections in accordance with the instructions in 7.a, 7.b, and 7.c, as applicable.

This supersedes Amendment 39–1418 (37 F.R. 6380), AD 72–7–6.

This amendment becomes effective April 25, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1959, 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 April 12, 1972.

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

[FR Doc.72–6156 Filed 4–21–72;8:46 am]

[Airspace Docket No. 71–SO–170]

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

Alteration of Transition Area

On February 16, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 3441) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Miami, Fla., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 22, 1972, as hereinafter set forth.

Section 71.181 (37 F.R. 2143) is amended as follows: In the Miami, Fla., transition area the phrase "(latitude 26°11'41" N., longitude 80°10'15" W.)" is deleted and the phrase "(latitude 26°11'41" N., longitude 80°10'15" W.); within a 6.5-mile radius of Pompano Beach Airpark (latitude 26°15'00" N., longitude 80°06'30" W.), and within 3 miles each side of the Pompano Beach VOR (latitude 26°14'52" N., longitude 80°06'32" W.) 319° radial, extending from the 6.5-mile radius area to 8.5 miles northwest of the VOR." is substituted therefor.

(Sec. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a), 1510, Executive Order 10854, 24 F.R. 9565; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on April 18, 1972.

ROBERT G. CARNAHAN,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72–6157 Filed 4–21–72;8:46 am]

[Airspace Docket No. 72–RM–4]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to alter the "time of designation" of R–6413, Green River, Utah.

Due to an extension of the firing period for the Pershing Missile from R–6413, Green River, Utah, the Department of the Air Force has requested the effective period be extended to July 31, 1972.

In the notice of proposed rule making published in the FEDERAL REGISTER (36 F.R. 1911) of February 3, 1971, Airspace Docket No. 70–WE–93, it was stated that: "Each successive period would be designated by rule published in the FEDERAL REGISTER," therefore, further notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective upon publication (4–22–72), as hereinafter set forth.

In § 73.64 (37 F.R. 2373, 437) the Green River, Utah, Restricted Area R–6413, is amended as follows: In the time of designation, "June 30, 1972," is deleted and "July 31, 1972," is substituted therefor.

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

Issued in Washington, D.C., on April 18, 1972.

ROBERT G. CARNAHAN,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72–6158 Filed 4–21–72;8:46 am]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.659]

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Nonimmigrant Documentary Waivers

Part 41, Chapter I, Title 22 of the Code of Federal Regulations is amended to enable British subjects who are residents of the Turks and Caicos Islands to enter the United States without visas under certain circumstances.

The heading and the last sentence of paragraph (a) of § 41.6 are amended to read as follows:

§ 41.6 Nonimmigrants not required to present passports, visas, or border crossing identification cards.

* * * * *

(a) *Canadian nationals, and aliens having a common nationality with nationals of Canada or with British subjects in Bermuda, the Bahamas, Cayman Islands, and Turks and Caicos Islands.* * * * A visa shall not be required of a British subject who has his residence in, and arrives directly from, the Cayman Islands or the Turks and Caicos Islands and who presents a current certificate from the Clerk of Court of the Cayman Islands or the Turks and Caicos Islands indicating no criminal record.

* * * * *

Effective date. The amendments to the regulations contained in this order shall become effective upon publication in the FEDERAL REGISTER (4–22–72).

The provisions of the Administrative Procedure Act (80 Stat. 383; 5 U.S.C. 553) relative to notice of proposed rule making are inapplicable to this order because the regulations contained herein involve foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104)

For the Secretary of State.

BARBARA M. WATSON,
Administrator, Bureau of Security and Consular Affairs, Department of State.

MARCH 31, 1972.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization, Immigration and Naturalization Service, Department of Justice.

APRIL 13, 1972.

[FR Doc. 72–6225 Filed 4–21–72;8:51 am]

Title 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation

PART 1—ADMINISTRATION OF FEDERAL-AID FOR HIGHWAYS

Highway Beautification: Outdoor Advertising

On April 4, 1972, the Federal Highway Administration (FHWA) published Policy and Procedure Memorandum (PPM) 80–5.2, Highway Beautification: Outdoor Advertising.

PPM 80–5.2 prescribes the policies and procedures adopted by the FHWA for administering certain of the outdoor advertising control provisions of the Highway Beautification Act of 1965, 23 U.S.C. section 131. It is being issued after coordination by the FHWA with the several State highway departments, the American Association of State Highway Officials and representatives of segments of the outdoor advertising industry.

The PPM defines control areas and zoning, acceptable conforming signs, and

sets forth the requirements for Federal participation in the cost of acquiring the property interests necessary for removing nonconforming advertising signs, displays, and devices from the controlled areas of the interstate and primary systems. Its purpose is to provide a framework of simplified requirements which will permit a State to develop its own procedures to remove outdoor advertising signs in an efficient and expeditious manner. The PPM suggests the use of various simplified methods for valuing signs, sign sites, and interests therein which will be acceptable as bases for Federal participation under 23 U.S.C. 131(g), and it sets forth the procedures to be followed by the States for effecting the removal of the nonconforming signs, displays and devices.

The PPM supersedes paragraph 4b(2), 5, 8b(1), 8c(1), and Appendix E, of PPM 80-9, and other references and provisions relating to outdoor advertising signs in PPM 80-9.

The PPM as published herein is identical with the issuance of April 4, 1972.

This amendment is issued under the authority of 23 U.S.C. 101 et seq., 116, 123, 315, and the delegation of authority in § 1.48(b) of the regulations of the Office of Secretary, 35 F.R. 3949 (1970).

In view of the foregoing, Part 1 of Title 23 of the Code of Federal Regulations is amended by adding PPM 80-5.2 at the end of Appendix A, "Policy and Procedure Memoranda."

Issued: In Washington on April 19, 1972.

F. C. TURNER,
Federal Highway Administrator.

POLICY AND PROCEDURE MEMORANDUM 80-5.2

1. *Material transmitted.* PPM 80-5.2 Highway Beautification Outdoor Advertising.

2. *Existing issuances affected.* a. In a planned revision of the right-of-way PPM's, the entire 80-Series is being renumbered, and will be reissued in chapter form. New PPM 80-5 will cover the Highway Beautification Act of 1965. The attached PPM 80-5.2, Outdoor Advertising, is the first material to be issued under the new series.

b. In the meantime, paragraph 1, property management; paragraph 2, Disposition (and relinquishment); the portion of paragraph 4, Air Rights, relating to acquisition in limited vertical dimension; and Attachment No. 1 of PPM 80-5 issued under Transmittal 91, dated April 20, 1967, and Transmittal 112, dated December 27, 1967, remain in effect and should not be discarded until further notice. Paragraph 3 and portions of paragraph 4 have previously been superseded.

c. The attached issuance supersedes paragraphs 4b(2), 5, 8b(1), 8c(1), and Appendix E, of PPM 80-9, and other references and provisions relating to outdoor advertising signs in PPM 80-9.

3. *Effective date.* The provisions of PPM 80-5.2 are effective immediately.

F. C. TURNER,
Federal Highway Administrator.

Par. *Item*

ATTACHMENT 1—SIGN AND SITE VALUATION FORMULA AND SCHEDULE GUIDE

1. *Purpose.* To prescribe the Federal Highway Administration policies and procedures relating to Federal participation in the costs of acquiring the property interests necessary for removal of nonconforming advertising signs, displays and devices under section 131 of title 23, United States Code, as amended by title I of the Highway Beautification Act of 1965.

The purpose of these policies and procedures is to provide a framework of simplified requirements within which a State may develop its procedures to remove outdoor advertising signs in an efficient and expeditious manner.

This policy and procedure memorandum should not be construed to authorize any additional rights in eminent domain not already existing under State law or under 23 U.S.C. 131(g).

2. *Effective date and applicability.* a. The provisions of this memorandum are effective immediately.

b. The provisions of this memorandum are applicable to all highway outdoor advertising projects on the Federal-aid Primary and Interstate Systems regardless of whether Federal funds participated in the construction thereof.

c. The provisions of title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 do not apply to the Highway Beautification Act of 1965 as related to the sign removal program. Title III of said Act applies. However, where complete conformity would defeat the purposes of the Uniform Act and the sign removal program, the particular requirements of title III need not be followed. For example, in the acquisition of an interest of minimal value, the observance of elaborate procedures for preparing appraisals and for giving notice to sign and site owners of their right to accompany appraisers may be modified or dispensed with when their observance would impede the expeditious implementation of the program and increase administrative costs out of proportion to the cost of the minimal interest being acquired or extinguished.

d. Funds provided by title 23 U.S.C. 131 (m) may participate in the costs of acquisition of those property interests or rights necessary to permit removal of outdoor advertising signs under the highway Beautification Act of 1965.

e. When funds are provided by title 23 U.S.C. 131(m) for the acquisition of signs, the site owner shall also be compensated for the acquisition of his right to erect and maintain existing signs on qualifying sites. It is expected the site owner shall be compensated at the time or shortly after compensation is paid to the sign owner.

3. *Definitions.* The following terms are defined as to their meaning and use in the sign removal program.

a. *Sign.* An outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main traveled way of the Interstate or Primary Systems.

b. *Lease* (also called a license, an agreement, contract, or easement). An agreement, oral or in writing, by which possession or use of land or interests therein is given by the owner to another person for a specified period of time.

c. *Leasehold value.* The lessee value is the present worth of the rent saving when the contractual rent at the time of the appraisal is less than the current market rent for a comparable site. The lessor has leasehold value if the contractual rent is greater than the currently established market rent.

d. Illegal sign—One which was erected and/or maintained in violation of the State law.

e. Nonconforming sign—One which was lawfully erected, but which does not comply with the provisions of a State law passed at a later date or which later fails to comply with State law due to changed conditions.

f. 1966 Inventory—The record of the survey of advertising signs and junkyards compiled by the State highway department as requested in Instructional Memorandum 50-1-66 dated January 7, 1966.

g. Abandoned sign—One which has ceased to be maintained, and in which the owner no longer claims an interest.

4. *State policies and procedures requirements.* a. *Policy statement.* Each State shall develop for FHWA approval a policy statement regarding the procedures it proposes to follow to implement a sign removal program under a State law complying with the Highway Beautification Act of 1965, no later than 60 days after issuance of this PPM. States now implementing the Act should not delay sign removal while developing a policy statement.

b. *Operating procedures.* Operating procedures should reflect in detail the procedures and controls adopted by the State to accomplish the sign removal program.

5. *Control area and zoning.* a. The applicable control distance, 660 feet for advertising signs, shall be measured horizontally from the edges of the right-of-way along lines perpendicular to the centerline of the highway.

b. Any revision in right-of-way limits after initial control is obtained will require similar revisions in the control area. The additional expenditures are eligible for Federal participation in the same manner as the original expenditures for creation of the controlled area.

c. Placing the label "Zoned Commercial or Industrial" along areas adjacent to the highway solely for the purpose of allowing outdoor advertising to be erected or maintained is not acceptable under title 23 U.S.C. 131(d).

d. Except as stated in c above, the zoning of an area will determine applicability of the standards for control of outdoor advertising signs. Similarly, actual industrial or commercial use at any given time will determine the classification of unzoned commercial or industrial areas.

e. Where State standards are more stringent than Federal control requirements along Interstate and Primary Systems, the Administrator may approve Federal participation in costs of applying the State standards to those systems on a Statewide basis.

6. *Bonus states.* Any State which is carrying out an agreement to control outdoor advertising along the Interstate System under the 1958 bonus program may continue to receive bonus payments. Where such a State is also in compliance with the 1965 Act requirements, it must continue to carry out

the bonus agreement except where the 1965 Act calls for more restrictive controls.

7. *Acceptable conforming signs.* Each State shall make provision for effective control of the erection and maintenance, along the Interstate System and the Federal-aid Primary System, of outdoor advertising signs which are within 660 feet of the nearest edge of the right-of-way and visible from the main traveled way of the System.

Under the provisions of the 1965 Act, the following signs are permitted:

a. Directional and other official signs, including signs and notices pertaining to natural wonders and scenic and historical attractions. These signs shall conform to national standards set forth in 23 CFR 21.

b. Signs advertising only the sale or lease of property upon which they are located.

c. Signs advertising only activities conducted on the property on which they are located.

d. Signs erected and maintained in areas which are zoned industrial or commercial under State law, or in unzoned industrial or commercial areas, as determined and in accordance with the provisions of the agreement between the Secretary and the State. This subsection is not applicable to on-premise signs referred to in b and c above.

8. *Federal participation.* a. Federal reimbursement will be made on the basis of 75 percent of the costs of removal paid by the State as just compensation for:

(1) Signs which were lawfully in existence on October 22, 1965;

(2) Signs lawfully on any highway made a part of the Interstate or Primary System on or after October 22, 1965, and before January 1, 1968; and

(3) Signs lawfully erected after January 1, 1968, in accordance with the criteria in the Highway Beautification Act.

b. In the event a sign was omitted in the original inventory, the State should submit adequate evidence to establish that the sign was in existence prior to October 22, 1965. Based on the evidence submitted, the division engineer may determine whether the sign removal cost is eligible for Federal participation under the provisions of the Act.

c. Federal funds may participate in the cost of removal of abandoned signs and those which are illegal under State law within the controlled areas regardless of when these signs were erected, provided such costs for removal are incurred in accordance with State law. Removal may be by State personnel on a force account basis or by contract. Federal funds may not participate in payments for rights in sites on which signs have been abandoned or illegally erected by the sign owner or in the costs of removal in cases where a new sign is erected or there has been a relocation of a sign after October 22, 1965, either as a result of a regular right-of-way taking or by the sign owner as a part of his operation and the sign in its new location is within the 660 feet controlled area.

d. Signs lawfully erected for which just compensation is provided under paragraph 8a above, and which must be removed by requirement of the Act, are not required to be removed if Federal funds are not available.

e. Federal funds may participate in payments made to a sign owner for his right, title and interest in a sign, and where applicable, his leasehold value in a sign site. Federal funds may participate in relocation of a sign only to the extent of the cost to acquire the sign, less salvage value if any. Each sign shall be treated as a separate entity without regard to the effect its removal will have on the business operation of the sign owner, except as provided in paragraph 11d.

f. Reimbursement for the Federal pro rata share of the just compensation paid for the removal of outdoor advertising signs shall not be made until the removal shall have been accomplished.

g. Except where required by State law, Federal funds will not participate in the costs of a title certificate, title insurance, title opinion or similar evidence or proof of title in connection with the acquisition of a landowner's right to erect and maintain a sign or signs when the amount of such payment to the landowner for his interest is $2,500 or less. Federal funds, however, may participate in the costs of securing some lesser evidence or proof of title such as searches and investigations by State highway department personnel to the extent necessary to determine ownership, affidavit of ownership by the owner, bill of sale, etc. The State's procedure for determining such evidence of proof of title would be set forth in the State's policy and procedure submission.

h. When a duplicate payment for a landowner's interest of $2,500 or less is necessary because of a bona fide error in ownership, Federal funds will also participate in the duplicate payment provided the State has followed its title procedures as set forth in its policy and procedure submission. Any duplicate payment shall be submitted to the division engineer for his approval before it is included in any reimbursement voucher. The State shall take all reasonable steps to recover any wrongful payment made and appropriate credit shall be made to Federal funds from the proceeds of the recovery.

i. Except as may be provided in paragraphs 11, 12, and 13, Federal funds will not participate in items generally not compensable under eminent domain.

9. *Payments to sign and site owners.* a. Payments made to the landowner and the sign owner are to be supported by schedules, formulas, value estimates, or appraisals.

b. Signs, erected without permission of the property owner, should be removed without payment to the sign owner unless the sign owner can otherwise establish his legal right to erect and maintain the sign. Signs of this nature may be removed by State personnel on a force account basis, by contract, or by compensating the landowner an amount to remove the sign if the payment involves only a minimal amount. Federal funds may participate in such costs.

c. Where compensation to landowners and sign owners is established by a schedule, formula, or other such method approved by the Federal Highway Administration, the valuation and negotiation may both be done by the same member of the staff of the State highway department: *Provided*, That any negotiated agreement does not become effective until it has been reviewed (checked) and approved by another member of the staff. Where compensation to landowners and sign owners is established by value findings, abbreviated appraisal reports, or standard appraisal reports, all such estimates shall be reviewed and approved by a State reviewing appraiser.

10. *Program and authorization.* a. *Type of project.* A sign removal project may consist of any group of proposed sign removals selected in a reasonable fashion. The signs may be those belonging to one company or those located along a single route, all of the signs in a single county or other locality, or any other similar grouping. Generally speaking, a single project should not include signs along both interstate and primary highways unless the number of signs along one system is so small that it would be more logical to include these in the project than on the other system.

A project for sign removal on other than a Federal-aid primary route basis should be identified as CAF-000B( ), continuing the numbering sequence which began with the sign inventory project in 1966.

Sign removal projects set up by interstate routes should be by route sections unless one section contains only a very limited number of signs.

Projects for the removal of outdoor advertising signs shall be programed and authorized in accordance with normal procedures and in the same manner as set forth for right-of-way projects.

b. *Division engineer approval.* Authorization to proceed with acquisitions on a sign removal project shall not be issued until such time as the State has submitted to the division engineer the following:

(1) A general statement or description of the project.

(2) A list of the signs to be removed, including the approximate location of each sign and its 1966 inventory number, if available.

(3) The total estimated cost of all sign removals within the project, including payments to sign owners, landowners and incidental costs.

c. *Project priorities.* The selection and programing of sign removal projects will be the responsibility of the State. At the 1973 fiscal year funding level contained in the 1970 Highway Act, the sign removal program, nationwide, will take 5 to 6 years. The following is the recommended order of priority in sign removal.

(1) Illegal and abandoned signs.

(2) Hardship situations.

(3) Minimum value signs.

(4) Signs in areas which have been designated as scenic under authority of State law.

(5) Product advertising on: (a) Rural interstate highway, (b) on rural primary highway, and (c) urban areas.

(6) Nontourist oriented directional advertising.

(7) Tourist-oriented directional advertising.

11. *Valuation methods.* a. *Schedules-formulas.* Schedules, formulas, or other methods to simplify valuation may be used. Attachment 1 provides guides for the development of such methods. These methods may be based on income, cost of reproduction less depreciation, or other factors. Such methods of simplified valuation do not purport to be a basis for the determination of just compensation under eminent domain principles, but are developed for the purpose of minimizing administrative and legal expenses necessarily involved in determining just compensation by individual appraisals and litigation.

Any such method shall be approved by FHWA prior to its use. Where a sign or site owner does not accept the amount computed under an approved schedule, formula, or other simplified method, an appraisal under principles of eminent domain will be required.

b. *Value finding—Appraisals.* Where appropriate the State may use its approved value finding, abbreviated appraisal, or standard appraisal report forms. When used they shall be completed in accordance with applicable Federal Highway Administration appraisal requirements.

c. *Leaseholds.* When outdoor advertising signs and sign sites involve a leasehold value, such value should be determined in the same manner as any other real estate leasehold that has value to the lessor or lessee.

d. *Special cases—Severance damages.* Generally, Federal participation will not be allowed in the payment of damages to remaining signs, or other property of a sign company alleged to be due to the taking of some of the company's signs. Unity of use of the separate properties, as required by applicable principles of eminent domain law, must be shown to exist before participation in severance damages will be allowed. Moreover, the value of the remaining signs or

other real property must be diminished by virtue of the taking of such signs. Payments for damages to economic plants or loss of business profits are not compensable. The State shall have the burden of justifying the recognition of severance damages pursuant to PPM 80–1 and the law of the State before Federal participation will be allowed. Such cases must be submitted to the Federal Highway Administration for prior concurrence, together with complete legal and appraisal justification for payment of these damages.

To assist the Federal Highway Administration in its evaluation, the following data will accompany any submission regarding severance:

(1) One copy of each appraisal in which this was analyzed. One copy of the State's review appraiser analysis and determination of market value.

(2) A plan or map showing the location of each sign.

(3) An opinion by the State highway department's chief legal officer that severance is appropriate in accordance with State law together with a legal opinion that, in the instant case, the damages constitute severance as opposed to consequential damages as a matter of law. The opinion shall include a determination, and the basis therefor, that the specific taking of some of an outdoor advertiser's signs constitutes a distinct economic unit, and that unity of use of the separate properties in conformity with applicable principles of eminent domain law had been satisfactorily established. A legal memorandum must be furnished citing and discussing cases and other authorities supporting the State's position.

12. *Valuation of sites.* a. Normally sites will be valued by the use of schedules or formulas without requiring before and after appraisals. The additional income produced by the sign may be considered the primary indicator of value of the landowner's interest, subject to limitations of State law. Any formula or schedule developed should be based on accepted appraisal principles such as estimating the present worth of a future income stream. If the income approach is used, consideration should be given to:

(1) The terms of the lease or agreement.

(2) Annual rent received for the site.

(3) An interest rate which reflects the durability and quality of the income stream.

(4) Factors effecting the remaining life of the sign on the site.

b. The State may establish a minimum payment for sites acquired not to exceed $100 per site interest. A landowner's right to erect and maintain signs on a contiguous ownership will be considered as one site interest, regardless of the number of signs. Federal funds will not participate in the acquisition of potential sign sites or sites where signs were built during a period of time which makes them ineligible for compensation under the law. The existing sign must be removed in order to compensate the landowner.

13. *Valuation of signs.* a. The valuation of signs can be accomplished by developing formulas, cost schedules which reflect typical construction costs of signs or, by using other appropriate estimating methods. The State should obtain information from sign companies and others to support its formula or schedule methods.

b. *Minimum payment.* The State may establish a minimum payment for signs acquired not to exceed $100 per interest. A sign owner's right to erect and maintain signs located on a contiguous ownership will be considered as one interest, regardless of the number of signs.

c. *Sign removal.* Sign removal will be accomplished in accord with the State's procedural statement. The statement should include provision for:

(1) *Owner retention.* Owner may retain removed signs with no deduction from the estimated value where it has been determined the sign has only a nominal salvage value. Signs which have an apparent salvage value shall be removed in accord with the State's procedures.

(2) *State removal.* Where owners do not remove signs, the State shall remove the signs on a contract basis, or when appropriate by State force account.

14. *Review of estimates.* All estimates whether based on an approved schedule, formula, or other such method or, on a value finding, abbreviated appraisal, or standard appraisal, shall be reviewed and approved by a person other than one who prepared the estimate. Review and approval of estimates based on approved schedules shall occur before any negotiated agreement becomes effective. In the case of estimates based on value findings or appraisals, the review and approval must occur prior to the initiation of negotiations.

15. *Negotiations.* a. Negotiations with sign owners and landowners will be conducted in accordance with the State's procedural statement. Federal Highway Administration approval of fee negotiators on a project basis is required. No part of the acquisition cost of a sign or site will be eligible for Federal participation if the negotiator is paid on a percentage basis.

b. Administrative settlements shall be in accordance with the State's procedural statement.

c. Where condemnation action is necessary, the State's eminent domain procedures pertaining to condemnation of property for public purposes, or the procedures spelled out in State law on this subject, shall apply and be in accord with the State's procedural statement.

16. *Documentation for Federal participation.* The following information concerning each sign must be available in the State files prior to Federal participation in the cost of sign removals.

a. Payment to sign owner:

(1) Value documentation including proof of payment.

(2) A statement of facts showing the sign was nonconforming as of the date of taking. The statement will indicate the zoning of the land on which the sign was located and if unzoned that the sign was not located in an unzoned commercial or industrial area.

(3) A statement that the sign falls within one of the three categories shown in paragraph 8a of this memorandum.

(4) A photograph of the sign in place.

(5) Satisfactory indication of ownership of the sign and compensable interest (e.g., lease or other agreement, if any, with the property owner).

(6) Evidence that sign has been removed.

b. Payment to the landowner:

(1) Value documentation, including proof of payment.

(2) Satisfactory indication of ownership and compensable interest.

(3) Evidence that sign has been removed.

17. *Reports.* Division engineers will submit monthly reports on actual sign removals on a form to be prescribed.

F. C. TURNER,
Federal Highway Administrator.

PPM 80–5.2—ATTACHMENT 1—SIGN AND SITE VALUATION FORMULA AND SCHEDULE GUIDE

INTRODUCTION

Standardized sign industry construction methods and the simple structural nature of nonstandardized signs support the development of easily administered payment schedules and other equitable valuation techniques. These are intended to facilitate sign and site valuations, speed acquisition and substantially increase program progress.

In brief, the guide suggests procedures for the development of schedules and valuation techniques for the following parts:

I Standard Poster Panels.
II Painted Bulletins.
III Miscellaneous Signs.
IV Depreciation Techniques.,
V Leasehold Value.
VI Gross Rent Multiplier.
VII Site Valuation.

The suggested methods are not mandatory. These methods were developed by State and Federal representatives with the assistance of the outdoor advertising industry. This guide will be subject to modification as improved procedures develop and additional valuation information becomes available. Industry, State, and division information and suggestions should be submitted promptly for consideration and inclusion in any revision of this guide.

METHOD OF DEVELOPING SIGN PAYMENT SCHEDULES

1. By contact with the industry and observation in the field, locate a suitable number of newly constructed signs.

2. Contact the companies that have built signs recently and obtain from them the direct and indirect costs of the specific sign construction. At the same time, request authority to audit the company's records to determine the validity of the data acquired. Obtain information on the normal useful life of each sign for the development of depreciation rates. This initial study and data is crucial to the development of the valuation techniques set forth herein.

3. Field check each sign to determine whether it was built according to the company's plans, to determine the specific type of construction, including such things as wood or metal construction, illumination one face, two face, and the area of the advertising face or faces.

4. Correlate the data obtained from the field and the audited construction data.

5. When adequate sign cost data has been collected from a sufficient number of signs, analyze the data to determine the cost of variables such as height, lighting, addition of a second face, reflectorization, quality and type of construction, and the appropriate form for schedules.

6. The data acquired should then be broken down into various categories and averaged to determine the appropriate costs and depreciation rates which can be used as a basis for the schedules.

7. In lieu of the above steps, a State may adopt another State's FHWA approved schedules after test auditing local new sign construction costs and making any necessary adjustments.

8. Obtain and evaluate industry's position concerning the payment schedule concept and the resultant formula based on the analysis in 5 above.

PART I—SCHEDULE I. STANDARD POSTER PANEL

Definition. An outdoor advertising device built on two or more posts imbedded into the ground or attached to the wall or roof of a building which is designed to support a flat surface of 300 square feet upon which printed advertising or other messages are affixed by pasting.

	Cut out ($/S.F.)	*Modular* ($/S.F.)
A. Direct Costs:		
1. Material, labor, etc.:		
a. Construction material		
b. Material handling		
c. Construction labor		
d. Engineering		
e. Permits		
f. Equipment costs		
B. Indirect Costs (overhead or burden) attributable to construction Items to be considered:		
1. Shop overhead		
2. Insurance		
3. Salaries		
4. General office expense		
5. Utilities (not including sign illumination)		
6. Taxes		
7. Business licenses		
8. Site procurement		
9. Management		
C. Adjustments:		
1. Illumination, including power run-in		
2. Steel support		
3. Height		
4. Multiple face		
5. Other appropriate adjustments		

NOTE: Either a lump-sum or square-foot schedule may be developed with the above information.

PART II—SCHEDULE: 2 PAINTED BULLETIN

Definition. An outdoor advertising device built on one or more posts imbedded into the ground or attached to the wall or roof of a building which is designed to support one or more flat surfaces upon which at least one advertisement or other message is painted in whole or substantial part.

	Cut out ($/S.F.)	*Modular* ($/S.F.)
A. Direct Costs:		
1. Material, Labor, etc.		
a. Construction material		
b. Material handling		
c. Construction labor		
d. Engineering		
e. Permits		
f. Equipment costs		
2. Art and Display		
B. Indirect Costs (overhead or burden) attributable to construction. Items to be considered:		
1. Shop overhead		
2. Insurance		
3. Salaries		
4. General office expense		
5. Utilities (not including sign illumination)		
6. Taxes		
7. Business licenses		
8. Site procurement (not including payment to landowner)		
9. Management		
C. Adjustments:		
1. Illumination, including power run-in		
2. Steel support		
3. Height		
4. Reflectorization		
5. Multiple face		
6. Other appropriate adjustments		
7. Special costs (costs involved in special use sign design and erection specifically for the sole use of one advertiser (not to exceed 10 percent of direct and indirect costs)).		

NOTE: A lump-sum schedule may be developed where appropriate.

PART III—SCHEDULE 3: MISCELLANEOUS SIGNS

Definition. Factory-made signs produced for mass distribution, or small inexpensive signs characterized by "do-it-yourself" workmanship, and all other signs that do not fit into the standard 300-square foot poster panel or painted bulletin categories.

	Cut out ($/S.F.)	*Modular* ($/S.F.)
A. Direct Costs:		
1. Material, Labor, etc.		
a. Construction material		
b. Material handling		
c. Construction labor		
d. Engineering		
e. Permits		
f. Equipment costs		
2. Art and Display		
B. Indirect Costs (overhead or burden) attributable to construction. In those instances where these costs are applicable, use the appropriate costs under "Painted Bulletins."		
C. Adjustments:		
1. Illumination		
2. Steel support		
3. Height		
4. Reflectorization		
5. Double face		
6. Other appropriate adjustments		
D. Quantity Survey Method:		

As an alternative to the above, miscellaneous signs may also be estimated through use of a simplified quantity survey. Such methods should be supported with a table of realistic material costs developed through study of suppliers' prices. A standard form should be used to list the basic components as line items and show their quantities, costs, and extended amounts. The list of basic components could include suppliers' prices for typically used sizes of dimensioned lumjer, dur-a-ply, or its equal, plywood, pipe, angle iron, I-beams, sheet metal, pressure treated poles and posts, fasteners, and other appropriate items.

Labor and overhead should be added to the material cost. These figures may be obtained from contractors through audit of sign companies' costs.

A list of adjustments should also be provided, such as in C above. They may be computed on an individual basis and include both direct and indirect costs. In addition to the adjustments in C above, this list could include adjustments for transportation, excavation and erection, and light or heavy copy.

NOTE: A lump-sum schedule may be developed when appropriate.

PART IV—DEPRECIATION

Average depreciation rate schedules should be established to reflect the depreciation of signs of similar type, size and physical condition. These schedules should include high, intermediate and low rates of depreciation to reflect the condition of the signs, their maintenance and other appropriate factors.

Generally, the age-life method of estimating depreciation should be used. The estimator should be aware of the typical economic life of the sign. Consideration should be given to past maintenance, quality of construction, type of mataerials, etc. A remaining economic life should be estimated and applied to each sign.

Depreciation should also reflect functional, economic, legal and other matters, such as zoning, setback easements, deed restrictions, visibility, compatibility with future use, and traffic conditions. It should not, however, reflect any decrease in value attributable to the fact that the Highway Beautification Act prevents relocation of the sign.

PART V—LEASEHOLD VALUE

If it is established that economic site rent exceeds contract site rent, the bonus value may be computed in accordance with applicable State law and accepted appraisal technique. This amount may be added to the sign owner's compensation.

PART VI—GROSS RENT MULTIPLIER

A carefully developed gross rent multiplier may be useful in valuing some signs. Development and acceptance of this technique depends upon the availability of reliable and sufficient current sales of rented signs. Sales of signs or groups of signs are preferred to sales of entire companies, but both types may be considered. The usual conditions of a fair market sale should be present, and all nonsign values (items not normally considered in eminent domain) should be deducted from the sales prices. The signs should have similar expense and revenue producing characteristics. Reasonable details on conditions of the signs and sites will show whether the gross incomes have about the same quality and duration. If sufficient sales become available and this technique proves feasible, multipliers may be prepared for consideration. Any proposed GRM's should be submitted to FHWA for approval prior to use.

PART VII—SITE VALUATION

The valuation process outlined in paragraph 12a, PPM 80-5.2, would lend itself to the adoption of a formula permitting annual income to be multiplied by a present worth factor to determine the amount of payment to the site owner. Selection of the appropriate multiplier would depend upon the judgment of the appraiser and reflect the following considerations:

1. The maximum duration of the income stream may not exceed the remaining economic life of the sign on the site.
2. Existing or proposed local ordinances.
3. Neighborhood quality and trends.
4. The effect of the existing sign(s) on the dominant use of the property.
5. Any potential change in use of the property.
6. Potential development of adjacent property which might block the view of existing sign(s).
7. Present and future traffic flow.
8. Existing zoning and potential rezoning.
9. Deed restrictions.
10. The effect of cancellation clauses and/renewal options in the lease.
11. The ability of the tenant to pay.

In developing a payment schedule or formula, it should be recognized that the risk rate may increase on those sites having a relatively long remaining economic life.

A schedule will not apply to sites exceeding a 10-year remaining economic life without prior FHWA approval. Sites producing substantial income and having long remaining economic lives should be valued using accepted appraisal procedure.

In applying developed schedule multiples to site income, the average rental for the preceding 2 years shall be utilized.

[FR Doc.72-6227 Filed 4-21-72;8:52 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO, AND OTHER EXCISE TAXES

[T.D. 7184]

PART 240—WINE

Use of Carbon Dioxide in Sparkling Wine

In order to conform 26 CFR Part 240, Wine, to an amendment being made in 27 CFR Part 4, Labeling and Advertising of Wine, regarding the permissible use of carbon dioxide to maintain counterpressure when transferring finished sparkling wine from bulk processing tanks to bottles or from bottle to bottle the regulations in 26 CFR Part 240 are amended as follows:

PARAGRAPH 1. Section 240.510 is amended to read as follows:

§ 240.510 General.

Sparkling wine and artificially carbonated wine may be made on bonded wine cellar premises. Where the effervescence results from fermentation of the wine within a closed container or bottle, the wine shall be classed and taxed as sparkling wine. The use of carbon dioxide gas is permitted to maintain counterpressure during the transfer of finished sparkling wines from (a) bulk processing tanks to bottles, or (b) bottle to bottle: *Provided,* That the carbon dioxide content of the wine shall not be increased by more than 0.009 gram per

100 milliliters during the transfer operation. Where the wine is carbonated artificially (by injection of carbon dioxide into the wine) it shall be classed and taxed as artificially carbonated wine. Neither the effervescent wine nor the wine used as a base in the production thereof shall have an alcohol content in excess of 14 percent by volume; however, small quantities of wine containing more than 14 percent of alcohol may be used in preparing a dosage for finishing effervescent wine.

(72 Stat. 1383; 26 U.S.C. 5382)

PAR. 2. Section 240.511 is amended by: Striking the last sentence in its entirety; and updating the statutory citation. As amended, § 240.511 reads as follows:

§ 240.511 Segregation of operations.

Where more than one process of producing effervescent wine is employed, the portion of the premises used for the production and storage of wine made by each process (bottle fermented, bulk fermented or artificially carbonated) must be physically segregated by partitions of wire netting or other suitable material from the other portions of the premises used for effervescent wine production.

(72 Stat. 1381; 26 U.S.C. 5365)

PAR. 3. Section 240.1051 is amended by: Adding in the "Use" column for "Carbon dioxide, CO_2" the phrase: "To maintain counterpressure during the transfer of finished sparkling wines"; and adding in the "Reference or limitation" column for such material the words: "§ 240.510. The CO_2 content of the finished wine shall not be increased by more than 0.009 gram per 100 milliliters during the transfer operation."; and adding the statutory citation. As amended, § 240.1051 reads as follows:

§ 240.1051 Materials authorized for treatment of wine.

* * * * *

Materials	Use	Reference or limitation
* * *	* * *	* * *
Carbon dioxide, CO_2.	To stabilize and preserve wine.	§§ 240.531 through 240.535, 21 CFR 121.101(d)(8).
	To maintain counterpressure during the transfer of finished sparkling wines.	§ 240.510. The CO_2 content of the finished wine shall not be increased by more than 0.009 gram per 100 milliliters during the transfer operation.
* * *	* * *	* * *

(72 Stat. 1383; 26 U.S.C. 5382)

Because this Treasury decision merely conforms 26 CFR Part 240 to an amendment being made in 27 CFR Part 4, Labeling and Advertising of Wine, pursuant to a public hearing held on July 27, 1971, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b). Accordingly, this Treasury decision shall become effective the first day of the first month which begins not less than 30 days following the date of publication in the FEDERAL REGISTER.

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

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: April 3, 1972.

FREDERIC W. HICKMAN,
Acting Assistant Secretary of the Treasury.

[FR Doc.72-6212 Filed 4-21-72;8:51 am]

Title 27—INTOXICATING LIQUORS

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 7185]

PART 4—LABELING AND ADVERTISING OF WINE

Definitions, Standards of Identity, and Labeling Requirements

Notice of public hearing to be held in Washington, D.C., on July 27, 1971, with respect to certain proposals to amend 27 CFR Part 4, relating to the labeling and advertising of wine was published in the FEDERAL REGISTER on July 16, 1971 (36 F.R. 13221). Upon the conclusion of the said hearing, and after a thorough study of the proposals in the light of relevant testimony and documentary material and comments submitted by interested persons, the following conclusions have been reached:

1. It had been proposed (proposal No. 1 in the notice of hearing) to amend §§ 4.10(h) and 4.39(b)(1): (1) To permit wine to be described as "vintage wine" and labeled with a vintage date, notwithstanding that, during the course of its development, it may have had blended into it not in excess of 5 percent of other wines as a "topping" to replace wine lost through evaporation or leakage; (2) to delete the requirements that a bottler of vintage wine actually crush the grapes from which such vintage wine is derived and that the grapes be crushed within the particular viticultural area in which they were grown; and (3) to provide that the sale of a particular wine of a particular vintage not exceed the winemaker's total production of such wine for that year.

The proposal to amend §§ 4.10(h) and 4.39(b)(1) would permit "vintage wine" to have a maximum of 5 percent of other wines added to it to replace wine lost by evaporation and leakage during the aging period. Replacement of wine lost during aging is a customary practice in most of the foreign wine producing countries. The sole purpose of "topping" is to preserve the quality of the wine in the aging container by adding wine to replace wine lost by evaporation and leakage. Deterioration by exposure to air is held to a minimum by topping.

Topping operations are performed during aging at irregular intervals, perhaps as frequent as twice a month. Quantities of wine required for topping operations are not known in advance of actually opening the storage container and filling it to capacity. Consequently, winemakers cannot predetermine and set aside the quality of wine needed for topping operations because leakage and evaporation are affected by cellar temperatures and humidity, as well as by the physical condition and size of the cooperage in which the wine is stored.

The general method of topping is to replace the outage from another tank of wine of the same vintage and then transfer the remaining wine into smaller containers for future use in topping. This often requires the use of a number of 5-gallon demijohns which are used until depleted and then the process starts over again. All containers must be kept full, including the smaller ones for future use. Topping operations practiced today require all domestic winemakers to use like wine when topping operations are conducted and by so doing the wine is excessively handled as it is transferred from container to container. Excessive handling, pumping, and exposing the wine to air are damaging to the quality of the wine.

The proposal to delete from § 4.10(h) the requirement that vintage wine be "fermented" in the same viticultural area in which the grapes were grown parallels a similar proposal for § 4.25(a) which would also delete the requirement that wine be "fermented" within the viticultural area in which the grapes were grown in order to be eligible for an appellation of origin.

Both proposals would require that the wine be fermented or fully manufactured and finished within the State in which the viticultural area is located. This requirement is not unusual and is consistent with section 5382(b)(2)(B), I.R.C., in which Congress limited the addition of wine spirits to natural wines produced by fermentation in bonded wine cellars located within the same State.

The reasons for this proposal are because vineyards owned by wineries have been relocated in other areas due to the value of real estate; but, the wineries remain in the same place. Wine grapes are purchased by wine producers and with the advent of mechanized grape pickers and good transportation, it is no longer necessary for the winery to be located in the area where the grapes are grown. As a practical matter, there is very little direct connection between grower of the grapes and the producer of wine.

The evidence of record indicated that the present requirement that a vintage wine must be derived wholly from grapes gathered in the same calendar year, and grown and fermented in the same viticultural area is unnecessarily restrictive when viewed in the light of practices in some of the principal wine producing countries of the world. Further, an amendment of the definition of vintage wine to permit a 5 percent "topping" allowance of other wine would not be

adverse to the consumer interest. Therefore, it has been decided to amend the regulations as proposed.

2. It had been proposed (proposal No. 2 in the notice of hearing) to amend § 4.35(a)(1) so as to no longer require a bottler of wine to crush the grapes from which the wine was produced as a condition precedent to the use of the phrase "produced and bottled by" on the label.

The proposal to amend § 4.35(a)(1) deletes the requirement that "crushing the grapes or other materials" be a condition to the use of the phrase "produced and bottled by" or "produced and packed by" on labels. The fact that grapes are crushed in the field has no effect on the production of wine from grapes or juice purchased by producers of wine. Improved transportation now permits grapes to be grown and crushed many miles from the winery. The person who ferments the must (juice) is the producer of the wine regardless of who grew or crushed the grapes. Advances in wine technology have shown that field crushed grapes are less susceptible to contamination and that wild fermentation can be controlled.

This proposal is consistent with the related provisions regarding "vintage wine". Therefore, it has been decided that the regulations be amended so that the phrase "produced and bottled by" or "produced and packed by" may appear on labels used by a bottler who did not crush the grapes from which the wine was produced.

3. It had been proposed (proposal No. 3 in the notice of hearing) to amend § 4.25(a) to eliminate the requirement that the wine must be "fermented" and "fully manufactured" in the viticultural area in which the grapes were grown (where the name of such viticultural area is shown on the label as an appellation of origin) provided the wine is "fermented" and "fully manufactured and finished" in the State where such viticultural area is located.

The proposal to amend § 4.25(a) deletes the requirement that the fruit be fermented in the place or region (viticultural area) where grown to make the wine eligible to an appellation of origin of that viticultural area. The character, bouquet, and quality of a wine depends, to a very large extent, on the quality of the fruit used to produce the wine. All fruits derive their basic characteristics from the climatic and soil conditions where they are grown. Accordingly, a winemaker can take grapes grown in one area, ferment them in a different area, and the wine produced will be equal in quality to wine produced in the same area where the grapes were grown.

This proposal is consistent with the related provisions regarding "vintage wine." Therefore, it has been decided to amend the regulations as proposed.

4. It had been proposed (proposal No. 4 in the notice of hearing) to amend § 4.21(b)(4) to modify the present requirement that "crackling wine," "frizzante wine," "cremant," "perlant," "reciotto," and similar sparkling wines derive their effervescence solely from limited fermentation in the bottle by permitting such wines to derive their effervescence from fermentation in the bottle or in bulk.

The proposal to amend § 4.21(b) allows the production of "crackling wine" and other similar wines by fermentation in bulk. Crackling wine is a sparkling light wine and its production is now restricted to fermentation within the bottle. Since champagne may be fermented in a closed tank, there is no reason to impose different restrictions on fermentation processes for crackling wines.

The evidence of record established a universal desire on the part of industry for "crackling wine" to derive its limited effervescence either from fermentation in the bottle or from fermentation in bulk. However, in order to protect the consumer from deception it has been decided that "crackling wine" deriving its effervescence from fermentation in bulk should be labeled: "Crackling Wine—Bulk Process" to clearly identify the method of production. Therefore, it has been decided to so amend the regulations.

5. It had been proposed (proposal No. 5 in the notice of hearing) to amend § 4.72(a) to eliminate the requirement that bottles of ⅘-gallon and ⅖-gallon sizes be of the traditional Bordeaux or Burgundy shapes and that bottles of the ½-pint size be of the traditional chianti or round shape.

The evidence of record established that the requirement for bottles of ⅘-gallon, ⅖-gallon, and ½-pint sizes to be of a specific shape serves no useful purpose to the industry or consumer. Therefore, it has been decided to amend the regulations as proposed.

6. It had been proposed (proposal No. 6 in the notice of hearing) to amend § 4.38(d) to eliminate the restriction on the placement of a label extending over the mouth of a wine bottle.

No evidence was presented in the hearing of a need for such a restriction. Therefore, it has been decided to amend the regulations as proposed.

7. It had been proposed (proposal No. 8 in the notice of hearing) to amend § 4.39(b)(2) to permit the bottling of vintage wine and the use of a vintage date on labels by a person other than the producer thereof, when such wine is shipped to the bottler in tank cars or tank trucks.

The proposal to amend § 4.39(b)(2) deletes the restriction that the year of vintage may be stated only if the container from which such wine is bottled is the original container of the permittee who produced the wine. This restriction has prevented bulk shipments of vintage wine in tank cars and tank trucks to bottlers other than the producer of the wine. Containers used for transporting vintage wine from producer to bottler need not be restricted if the bottler has available information to substantiate the vintage date. This will allow vintage wines to be transported for bottling in a like manner used in transporting other wines for bottling.

The Wine Institute requested this proposal be limited to shipments within the State of production. It has been decided that the limitation requested by the Wine Institute would discriminate against bottlers located in other States. Therefore, it has been decided to amend the regulations as proposed.

8. It had been proposed (proposal No. 9 in the notice of hearing) to amend § 4.22 by adding a new subsection to permit the use of carbon dioxide to maintain counterpressure during bottling operations of sparkling wines.

New § 4.22(c)(7) would allow domestic producers to use carbon dioxide as a counterpressure when transferring finished sparkling wine from bottle to bottle or from bulk processing tanks to bottles. Tests have been conducted and the results have shown absorption of CO_2 to be minute. While most foreign producers use carbon dioxide to maintain pressure during the filtering and bottling of sparkling wines, domestic producers have been prohibited by our regulations from such use of carbon dioxide and have been using nitrogen gas for this purpose. The use of nitrogen gas is less desirable since its presence in sparkling wine may cause "gushing" when the bottle is opened.

The evidence of record indicated unanimous agreement to allow the use of carbon dioxide to maintain counterpressure during the transfer of sparkling wine from bulk processing tanks to bottles or bottle to bottle with the limitation that the carbon dioxide content of the wine shall not be increased by more than 0.009 gm. per 100 ml. during the transfer operation. Therefore, it has been decided to amend the regulations as proposed.

Accordingly, the following amendments to 27 CFR Part 4 are hereby adopted:

PARAGRAPH 1. Section 4.10 is amended to read as follows:

§ 4.10 Meaning of terms.

* * * * *

(h) *Vintage wine.* "Vintage wine" means a wine made in accordance with the standards prescribed in Classes 1, 2, and 3 of § 4.21, deriving not less than 95 percent of its volume from grapes gathered in the same calendar year, grown in the same viticultural area, and fermented in the State in which this viticultural area is located.

* * * * *

PAR. 2. Section 4.21(b)(4) is amended to read as follows:

§ 4.21 The standards of identity.

* * * * *

(b) * * *

(4) "Crackling wine," "petillant wine," "frizzante wine" (including cremant, perlant, reciotto, and other similar wine) is sparkling light wine normally less effervescent than champagne or other similar sparkling wine, but containing sufficient carbon dioxide in solution to produce, upon pouring under normal conditions, after the disappearance of air bubbles, a slow and steady effervescence

evidenced by the formation of gas bubbles flowing through the wine. Crackling wine which derives its effervescence from secondary fermentation in containers greater than 1-gallon capacity shall be designated "crackling wine—bulk process," and the words "bulk process" shall appear in lettering of substantially the same size as the words "crackling wine."

* * * * *

PAR. 3. Section 4.22(c) is amended by adding a new subparagraph (7). As amended, § 4.22(c)(7) reads as follows:

§ 4.22 Blends, cellar treatment, alteration of class or type.

* * * * *

(c) * * *

(7) Notwithstanding the provisions of § 4.21(b) (1), (2) and (4), (c), (d)(4), (e)(5), and (f)(6) carbon dioxide may be used to maintain counterpressure during the transfer of finished sparkling wines from (i) bulk processing tanks to bottles, or (ii) bottle to bottle: *Provided,* That the carbon dioxide content of the wine shall not be increased by more than 0.009 gm. per 100 ml. during the transfer operation.

PAR. 4. Section 4.25(a) is amended to read as follows:

§ 4.25 Appellations of origin.

(a) A wine shall be entitled to an appellation of origin if (1) at least 75 percent of its volume is derived from fruit or agricultural products grown in the place or region indicated by such appellation, (2) it has been fully manufactured and finished within the State in which such place or region is located, and (3) it conforms to the requirements of the laws and regulations of such place or region governing the composition, method of manufacture, and designation of wines for home consumption.

* * * * *

PAR. 5. Section 4.35(a)(1) is amended by deleting the phrase "crushing the grapes or other materials." As amended, § 4.35(a)(1) reads as follows:

§ 4.35 Name and address.

(a) * * *

(1) If the bottler or packer is also the person who made not less than 75 percent of such wine by fermenting the must and clarifying the resulting wine, or if such person treated the wine in such manner as to change the class thereof, there may be stated, in lieu of the words "bottled by" or "packed by," the words "produced and bottled by," or "produced and packed by."

* * * * *

PAR. 6. Section 4.38(d) is amended to read as follows:

§ 4.38 General requirements.

* * * * *

(d) *Location of label.* Labels shall not obscure government stamps nor be obscured thereby.

* * * * *

PAR. 7. Section 4.39(b) (1) and (2) is amended to read as follows:

§ 4.39 Prohibited practices.

* * * * *

(b) * * *

(1) In the case of domestic vintage wine bottled or packaged in containers by the permittee who produced and clarified the wine, the year of vintage may be stated if there is also stated on the brand label, in direct conjunction with the designation required by § 4.32(a)(2), and in lettering substantially as conspicuous as such designation, the name of the viticultural area in which the grapes were grown. In no event may the quantity of wine removed from the producing winery, under labels bearing a vintage date, exceed the volume of vintage wine produced in such winery during the year indicated by such date.

(2) In the case of domestic vintage wine repackaged in containers of a capacity of 1 gallon or less by a person other than the producer thereof, the year of vintage may be stated if the wine is accompanied by appropriate records from the producer indicating the year of vintage and the name of the viticultural area where the grapes were grown. If the year of vintage is stated, there shall also be stated on the brand label, in direct conjunction with the designation required by § 4.32(a)(2), and in lettering substantially as conpicuous as such designation, the name of the viticultural area in which the grapes were grown.

* * * * *

PAR. 8. Section 4.72(a) is amended to read as follows:

§ 4.72 Standards of fill.

(a) The standards of fill for wine shall be the following, subject to the tolerances hereinafter allowed:

(1) For all wines:

4.9 gallons.	
3 gallons.	1 pint.
1 gallon.	4/5 pint.
4/5 gallon.	1/2 pint.
1/2 gallon.	2/5 pint.
2/5 gallon.	4 ounces.
1 quart.	3 ounces.
4/5 quart.	2 ounces.

(2) In addition, for aperitif wines only: 15/16 quart:

* * * * *

This Treasury decision shall become effective on the first day of the month that begins not less than 30 days after the date of publication in the FEDERAL REGISTER.

(49 Stat. 981, as amended; 27 U.S.C. 205)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: April 14, 1972.

FREDERIC W. HICKMAN,
Acting Assistant Secretary of the Treasury.

[FR Doc.72-6213 Filed 4-21-72;8:51 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER H—UTILIZATION AND DISPOSAL

UTILIZATION AND DONATION OF FOREIGN EXCESS PERSONAL PROPERTY

This amendment implements section 2 of Public Law 91-426 (84 Stat. 883; 40 U.S.C. 512). This Act provides, in part, that pursuant to regulations prescribed by the Administrator of General Services foreign excess property may be returned to the United States for handling as excess or surplus property under the provisions of sections 202, 203(j), and 203(l) of the Federal Property and Administrative Services Act of 1949, as amended, whenever the head of the executive agency concerned determines that it is in the interest of the United States to do so. This amendment does not affect the authority of the head of any executive agency to return property to the United States for further use by such agency.

PART 101-43—UTILIZATION OF PERSONAL PROPERTY

The table of contents for Part 101-43 is amended by adding new § 101-43.104-7a and new Subpart 101-43.5 and reserving Subparts 101-43.6—101-43.48, as follows:

Sec.

101-43.104-7a Foreign excess personal property.

Subpart 101-43.5—Utilization of Foreign Excess Personal Property

101-43.500 Scope of subpart.
101-43.501 Federal Government policy.
101-43.502 Suspension of procurement.
101-43.503 Holding agency responsibility.
101-43.504 Screening and selection.
101-43.505 Assistance to ordering agencies.
101-43.506 Payment of costs.
101-43.507 Statistics and reports.
101-43.508 Donation availability.

AUTHORITY: The provisions of this Subpart 101-43.5 issued under sec. 402(c), 84 Stat. 884, 40 U.S.C. 512(c).

Subparts 101-43.6—101-43.48 [Reserved]

Section 101-43.000 is revised as follows:

§ 101-43.000 Scope of part.

This part prescribes the policies and methods governing the economic and efficient utilization of personal property located within and outside the United States, the Commonwealth of Puerto Rico, and the Virgin Islands.

Subpart 101-43.1—General Provisions

Section 101-43.104-7a is added as follows:

§ 101–43.104–7a Foreign excess personal property.

Any excess personal property located outside the States of the Union, the District of Columbia, Puerto Rico, and the Virgin Islands.

Subpart 101–43.5 is added as follows:

Subpart 101–43.5—Utilization of Foreign Excess Personal Property

§ 101–43.500 Scope of subpart.

This subpart prescribes the policies and methods for the return of foreign excess personal property to the United States for utilization by any Federal agency, including the Senate, the House of Representatives, the Architect of the Capitol and any activities under his direction, the District of Columbia, and mixed-ownership corporations as defined in the Government Corporation Control Act.

§ 101–43.501 Federal Government policy.

Foreign excess personal property whenever determined available for return to the United States together with domestic excess personal property is a first source of supply and shall be utilized by agencies to the fullest extent practicable. Each executive agency shall, to the maximum extent practicable, fulfill its requirements for personal property, including those of its cost reimbursement type contractors and grantees, by obtaining domestic excess personal property (see Subpart 101–43.3), or foreign excess personal property in accordance with this subpart in lieu of new procurement, or to enhance and further its program objectives.

§ 101–43.502 Suspension of procurement.

The Administrator of General Services may, as circumstances warrant, suspend the procurement of new items of property when the same items or those which can be substituted or adapted for them are available from foreign excess property sources.

§ 101–43.503 Holding agency responsibility.

Prior to disposal by sale, exchange, or lease, or in the case of medical materials or supplies (which, if situated within the United States, would be available for donation pursuant to section 203 of the Federal Property and Administrative Services Act of 1949, as amended), donation to nonprofit medical or health organizations (including those qualified to receive assistance under sections 214(b) and 607 of the Foreign Assistance Act of 1961, as amended), for use in any foreign country, the holding agency will determine the availability of foreign excess personal property in its possession for selection by the General Services Administration (GSA) and return to the United States for further Federal use or for donation as prescribed in Subpart 101–44.7.

(a) It is the responsibility of the head of each executive agency holding foreign excess personal property to make the determination whether or not it is in the interest of the United States to return foreign excess personal property from overseas areas for further Federal use or for donation as prescribed in Subpart 101–44.7. In exercising this authority, full consideration shall be given to the continuing and significant needs for excess and surplus equipment and supplies by Federal agencies and donee institutions and organizations. Federal agencies, therefore, are encouraged to make their foreign excess personal property available to GSA for selection and return to the United States for further Federal use or for donation to the maximum extent possible consistent with the national interest.

(b) Prior to making foreign excess personal property available for return to the United States for further Federal use or for donation as prescribed in Subpart 101–44.7, the holding agency may make such property available for use by recipients in authorized overseas programs. At the request of Federal activities, GSA will assist in locating and acquiring foreign excess personal property for their overseas programs.

§ 101–43.504 Screening and selection.

(a) GSA onsite representatives located in designated overseas locations will screen, on behalf of Federal agencies for return and use in the United States, foreign excess personal property made available for such purposes. The excess property shall be made available by the holding/reporting agency, including the Department of Defense (DOD), Pacific Utilization and Redistribution Agency (PURA), and the Materiel Asset Redistribution Center, Europe (MARCE), for such screening for a period of not less than 10 days unless otherwise agreed to by the holding/reporting agency and GSA.

(b) Property identified by the GSA onsite representatives as required for Federal agency use shall be designated for return to the United States. Through its onsite representatives, GSA will arrange for shipment (including containerized loads). GSA will initially pay the actual costs incurred and billed in the packing, crating, handling, and transporting of foreign excess property to GSA facilities in the United States.

(c) Care will be exercised by the GSA onsite representatives in the selection of property to insure that it is economical to return the property to the United States for Federal use. Full consideration will be given by GSA onsite representatives to transportation and accessorial costs in determining whether or not property will be returned. Each GSA onsite representative is furnished a consolidated want list of personal property items identified by Federal Supply Classification (FSC). This want list is developed from needs registered by Federal agencies with GSA regional offices. The want list shall be used by the GSA onsite representatives as a specific guide in selecting personal property for return to the United States. Available items which are not on the want list will not be selected by GSA onsite representatives for return to the United States without prior coordination with the overseas property officer, Property Management and Disposal Service (PMDS), Washington, D.C. 20405.

(d) GSA will establish procedures with agencies having excess personal property in foreign areas where GSA onsite representatives are not located to report such property to the appropriate GSA office for screening.

§ 101–43.505 Assistance to ordering agencies.

(a) To assist Federal agencies in the selection and transfer of foreign excess personal property returned from overseas, an experienced utilization officer of the Property Management and Disposal Service (PMDS) in each GSA regional office has been designated as the Regional Overseas Property Officer (RO PO) to serve as the contact point with Federal agencies in his regional area. The regional utilization officer receives information on the property needs of Federal agencies and transmits it to the GSA onsite representatives through the appropriate operations control officer. He also disseminates information on property available to Federal agencies. The GSA PMDS Central Office Staff serves as the contact point for the utilization screening of available foreign excess personal property returned to the United States with the headquarters offices of Federal agencies.

(b) The Department of Defense (DOD) has a system already in operation for the screening and utilization of foreign excess property within the Defense establishment. However, only Department of Defense (DOD) activities, the Trust Territories of the Pacific Islands, and the Agency for International Development are authorized to submit requisitions direct to the DOD holding/reporting agency in the overseas area. Federal civil agencies located in the United States shall contact the appropriate GSA Regional Overseas Property Officer (RO PO), as indicated in (a), above, for assistance in requisitioning and acquiring foreign excess property. Federal civil agencies located in overseas areas should contact the appropriate GSA onsite representative for assistance in acquiring foreign excess property.

§ 101–43.506 Payment of costs.

(a) All direct costs involved in returning foreign excess personal property to the United States under this subpart, including packing, handling, crating, and transporting, which are incurred by and billed to GSA from the point of origin to a GSA facility in the United States shall be reimbursed by the transferee agency upon appropriate billing by GSA.

(b) Transportation costs from the GSA location to the transferee agency shall be borne by the transferee agency. Payment of such transportation costs shall be made by the transferee agency to the transportation carrier.

§ 101–43.507 Statistics and reports.

The Administrator of General Services will maintain data on the acquisition cost of foreign excess personal property transferred by GSA pursuant to this subpart and will report such data to the Congress annually and at such other times as he may deem desirable.

§ 101–43.508 Donation availability.

Foreign excess personal property made available for return to the United States under this subpart, if not required for further Federal use, as determined by GSA, shall be made available for donation in accordance with Subpart 101–44.7.

Subparts 101–43.6—101–43.48 [Reserved]

PART 101–44—DONATION OF EXCESS PERSONAL PROPERTY

The table of contents for Part 101–44 is amended by the addition of new Subpart 101–44.7, as follows:

Subpart 101–44.7—Donation of Foreign Excess Personal Property

Sec.

AUTHORITY: The provisions of this Subpart 101–44.7 issued under sec. 402(c), 84 Stat. 884, 40 U.S.C. 512(c).

Section 101–44.000 is revised as follows:

§ 101–44.000 Scope of part.

This part prescribes policies and methods governing the donation of surplus personal property located within the United States, the Commonwealth of Puerto Rico, and the Virgin Islands, and the donation of foreign excess personal property designated for return to the United States.

Subpart 101–44.7 is added as follows:

Subpart 101–44.7—Donation of Foreign Excess Personal Property

§ 101–44.700 Scope of subpart.

This subpart prescribes the policies and methods governing the return of foreign excess personal property to the United States for donation.

§ 101–44.701 Holding agency responsibilities.

Prior to any sale, exchange, or lease, or, in the case of medical materials or supplies (which, if situated within the United States, would be available for donation pursuant to section 203 of the Federal Property and Administrative Services Act of 1949, as amended), donation to nonprofit medical or health organizations (including those qualified to receive assistance under sections 214(b) and 607 of the Foreign Assistance Act of 1961, as amended), for use in any foreign country, foreign excess personal property, if it is not required for further Federal use as determined by GSA, shall be made available by the holding agency for selection and return to the United States for donation. The donated property shall be for the purposes of education, public health, or civil defense, or for research for any such purpose. Any foreign excess personal property which has been identified as having been processed, produced, or donated by the American National Red Cross shall be made available for donation to the American National Red Cross for charitable purposes in accordance with Subpart 101–44.4, unless otherwise directed by the Administrator of General Services.

§ 101–44.702 Donation screening.

(a) To locate and select donable property usable and necessary for purposes of education, public health, or civil defense, or for research for any such purpose, the Secretary of Health, Education, and Welfare and onsite representatives of State agencies for surplus property duly accredited by the Secretary shall be permitted to screen foreign excess personal property available for return to the United States. Such property not required for further Federal use, as determined by GSA, shall be available for donation for a period of time of not less than 10 calendar days unless otherwise agreed to by the holding agency and GSA. To assist donation screening, GSA will provide the Department of Health, Education, and Welfare (HEW) with available advance information concerning foreign excess property to the maximum extent possible.

(b) Property returned to the United States for further Federal use and thereafter determined surplus shall be made available for donation by GSA for the purposes set forth in section 203(j) (3) and (4) and, with respect to such property returned from Department of Defense activities and then determined surplus, for donation by GSA for the purposes of section 203(j)(2) of the Federal Property and Administrative Services Act of 1949, as amended, without priority.

§ 101–44.703 Donation approval.

(a) The Administrator of General Services is authorized to make donations in his discretion for the purposes of this subpart.

(b) Standard Form 123, Application for Donation of Surplus Personal Property (see § 101–44.4901), prepared in accordance with instructions (see § 101–44.4903) and signed by a duly authorized official shall be forwarded to the appropriate GSA office for approval for property covered by this subpart. An information copy shall be forwarded to the holding agency.

(c) Unless otherwise authorized by GSA, no personal property shall be released by the holding agency for donation pursuant to this subpart until it has received SF 123 bearing the signed approval of the appropriate GSA office.

§ 101–44.704 Shipment.

HEW shall arrange for the allocation and shipment of personal property approved for donation pursuant to this subpart to State agencies for surplus property for distribution to eligible educational, public health, and civil defense donee institutions and organizations. Upon request of HEW the holding agency may provide packing, handling, crating, and transportation services on a reimbursable basis.

§ 101–44.705 Costs incurred incident to donation.

All transportation costs and other direct costs incurred incident to donation, including packing, handling, and crating, shall be borne by the State agency or the donee institution or organization receiving the property, including any such costs incurred and billed by GSA or the holding agency. Care shall be exercised by HEW in the selection of property to insure that it is economical to return the items to the United States for donation, giving full consideration to transportation and accessorial costs.

§ 101–44.706 Definition of the term "State."

The term "State," as used in this subpart, includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

§ 101–44.707 Statistics and reports.

The Administrator of General Services will maintain data on the acquisition cost of all personal property approved by GSA for donation pursuant to this subpart and will report such data to the Congress annually and at such other times as he may deem desirable.

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (4–22–72).

Dated: April 17, 1972.

HAROLD S. TRIMMER, Jr.,
Acting Administrator of General Services.

[FR Doc.72–6222 Filed 4–21–72;8:51 am]

Chapter 114—Department of the Interior

PART 114–40—TRANSPORTATION AND TRAFFIC MOVEMENT

Subpart 114–40.50—Bills of Lading

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 and section 205(c), 63 Stat. 390; 40 U.S.C. 486(c), a new Subpart 114–40.50 is added to Chapter 114, Title 41 of the Code of Federal Regulations, as set forth below.

This new Subpart 114–40.50 shall become effective on the date of its publication in the FEDERAL REGISTER (4–22–72).

CHARLES G. EMLEY, Jr.
Acting Deputy Assistant Secretary of the Interior.

APRIL 18, 1972.

Subpart 114–40.50—Bills of Lading

§ 114–40.5001 Exceptions to use of U.S. Government Bill of Lading forms.

(a) *Payment from imprest funds.* Comptroller General Decision B–163758 dated May 6, 1971, and Treasury Department Circular No. 1030, Second Revision, Amendment No. 1, dated July 6, 1971, authorizes settlement of transportation charges on small shipments by the imprest fund method of payment when advantageous to the Government and agreeable to the carrier involved. The use of imprest funds for such shipments shall be in accordance with the provisions of FPR 1–3.604, IPR 14–3.604, and 337 DM 2, Administration of Imprest Funds, subject to the following limitations:

(1) Transportation charges paid pursuant to the imprest fund procedures shall not exceed $25 for any one transaction.

(2) Imprest funds shall not be used to pay for international shipments or for household goods van shipments.

(3) Payment of transportation charges shall not be made prior to performance of the service.

(b) *Use of commercial forms and procedures.* (Applicable only to Government property.) As provided in 5 GAO 3017, the Department has administratively determined that, in many shipping situations throughout the Department, it is cumbersome and impractical to issue Government bills of lading at origin, and relatively expensive to convert commercial bills to Government bills of lading at destination, for small shipments bearing a nominal transportation charge. Subject to the following limitations and instructions, the head of each Bureau and Office may, for specific circumstances, approve the use of commercial forms and procedures to procure freight or express transportation services for designated types of small shipments when he determines that this procedure is more efficient and economical than the use of Government bills of lading or the imprest fund method of payment set forth in paragraph (a) of this section:

(1) The use of this discretionary authority is limited to those shipments for which the total estimated transportation charges do not exceed $25 per shipment.

(2) A letter of agreement must be executed by each participating carrier (or its agent), signifying acceptance of the arrangements for use of commercial forms and procedures in connection with the small shipments in question. The letter of agreement shall be retained in the files of the Bureau or Office participating in the agreement.

(3) The letter of agreement must contain the provision specifically prescribed in 5 GAO 3017.20(3), making the terms and conditions which are applicable to shipments on U.S. Government bills of lading applicable also to shipments moving on commercial bills of lading under the agreement.

(4) The administrative procedures prescribed in 5 GAO 3017.30, for processing bills for shipments made on commercial forms, are to be observed by all offices participating in small shipment carrier agreements.

(c) *Carrier agreements filed with the General Services Administration.* Certain carriers have executed agreements and filed them with the General Services Administration for use on a nationwide basis. Copies of these agreements are distributed by GSA bulletins in the FPMR series. Bureaus and Offices are authorized to make shipments under these agreements provided that the transportation charges for any single shipment do not exceed $25.

(d) *Alternate delivery receipt procedure.* As provided in 5 GAO 3035.20, the use of the alternate delivery receipt procedure is authorized for international airline shipments for delivery at foreign destinations and on international and domestic shipments of unaccompanied baggage via freight. The General Accounting Office has expanded the alternate delivery receipt procedure to apply on inbound international airline shipments (U.S. destinations), regardless of the commodity shipped, when the GBL cannot be accomplished at the destination airport. As prescribed in 5 GAO 3035.30, a certificate of billing carrier in lieu of waiver from delivering carrier should also be furnished when carriers elect to use the delivery receipt procedure on inbound airline shipments.

[FR Doc.72–6217 Filed 4–21–72;8:51 am]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS

[General Order 115]

PART 279—OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARGO VESSELS IN UNITED STATES FOREIGN COMMERCE ON THE GREAT LAKES, CONNECTING RIVERS, ST. LAWRENCE RIVER, AND GULF OF ST. LAWRENCE

The following temporary regulation relates to payment of operating-differential subsidy on an experimental basis for bulk cargo vessels engaged in U.S. foreign commerce between U.S. ports on the Great Lakes, connecting rivers and St. Lawrence River and Canadian ports on the Great Lakes, connecting rivers, St. Lawrence River, and Gulf of St. Lawrence.

The Merchant Marine Act of 1970 (Public Law 91–469, 84 Stat. 1018) amended the Merchant Marine Act, 1936, as amended (Act) (46 U.S.C. 1101–1293) in essential pertinent points hereto: It authorized payment of operating-differential subsidy for bulk cargo carrying services, granted major discretion to the Board and Administration in devising the bases for such payment and removed the explicit bar to such payment for operation in the Great Lakes.

Rule making involving operating differential subsidy is excepted from the formal requirements of section 4, Administrative Procedure Act (5 U.S.C. 553). Notwithstanding this fact, a public rule making proceeding was convened on March 7, 1972. The record thereof has been carefully considered.

The temporary regulation is designed to inform the public of the bases for operating-differential subsidy payments during an experimental period, prior to the issuance of a final regulation or the withdrawal or modification of the temporary regulation.

During the period it is effective, the regulation below will be applied uniformly to all contractors holding an operating-differential subsidy agreement covering bulk cargo operations exclusively in the Great Lakes, connecting rivers, St. Lawrence River, and Gulf of St. Lawrence.

Accordingly, a new Part 279 is hereby added to this title and chapter as follows:

Sec.
279.1 Purpose.
279.2 Definitions.
279.3 Determination of subsidy.

AUTHORITY: The provisions of this Part 279 issued under section 204(b), 49 Stat. 1987, as amended; 46 U.S.C. 1114.

§ 279.1 Purpose.

The purpose of this part is to prescribe regulations concerning the operating-differential subsidy program under title VI of the Merchant Marine Act, 1936, as amended, relating to the operation of U.S.-flag bulk cargo vessels engaged in U.S. foreign commerce between U.S. ports on the Great Lakes, connecting rivers, and St. Lawrence River and Canadian ports on the Great Lakes, connecting rivers, St. Lawrence River, and Gulf of St. Lawrence.

§ 279.2 Definitions.

For purposes of this part:

(a) *Subsidized voyage.* For purposes of eligibility for operating-differential subsidy participation, pursuant to sections 601(a) and 605(a) of the Act, a subsidized voyage (1) shall commence at the time a vessel is free of cargo: *Provided,* That said vessel proceeds to load export or import commerce of the United States at the same port or other United States port or Canadian port, and shall terminate at the time said vessel completes discharging such import or export cargo: *Provided, however,* That in the event said vessel sustains a period of idleness, deviation, or delay for any reason, the operator shall report said circumstances, together with all pertinent facts, to the Maritime Administration, and the Maritime Administration shall determine whether such period of idleness, deviation, or delay could not have been avoided in whole or in part through efficient and economical operation and whether subsidy shall be payable in whole or in part for such period; and (2) is a voyage in which the vessel engages exclusively in the carriage of foreign commerce of the United States; a voyage will not be

subsidized if a vessel carries both domestic and foreign commerce of the United States simultaneously.

(b) *Competitive vessels.* The Maritime Administration will make a determination annually of the volume of bulk cargoes carried by foreign-flag vessels in the trades described in this part. Utilizing the data thus developed, foreign-flag competition shall be determined for operating-differential subsidy purposes. The foreign flags deemed competitive shall be limited to those flags carrying 15 percent of more of the total bulk tonnage carried in all foreign-flag vessels in the areas described in this part, provided that the flag(s) so selected must carry an aggregate of not less than 60 percent of the total tonnage moved in the foreign-flag ships.

§ 279.3 Determination of subsidy.

(a) For purposes of this part, operating-differential subsidy shall be paid for the wage costs of the U.S. officers and crews, the fair and reasonable cost of insurance, maintenance and repairs not compensated by insurance, attributable to subsidized voyages and to annual out of service periods, as provided in this section.

(b) Procedures for determining subsidy.

(1) U.S.-foreign wage cost differentials for subsidized vessels shall be determined in accordance with procedures established by the Maritime Administration pursuant to section 603 of the Act. The normal manning of the subsidized vessels and the normal manning of comparable foreign-flag vessels shall form the basis for establishing wage cost differentials;

(2) The annual costs of insurance premiums, maintenance, and repairs not compensated by insurance for subsidized vessels, after application of the appropriate U.S.-foreign cost differential percentages, shall be expressed in per diem amounts of subsidy based upon the actual number of days in the navigating season for that year for the vessel(s) included in the operating-differential subsidy contract: *Provided,* That said vessel(s) operate a substantial part of the navigating season;

(3) In addition to per diem wage subsidies which are earned for subsidized voyage days under subparagraph (1) of this paragraph: (i) Wage subsidy will be paid for crew wage costs incurred for subsidized vessels during annual out-of-service periods; the amount of operating-differential wage subsidy payable for such periods will be determined by first applying the U.S.-foreign wage differential percentage to the wage costs actually incurred for the subsidized vessel(s) during such period, and then multiplying the resultant amount by a fraction, the numerator of which shall be the number of subsidized voyage days during the navigating season and the denominator of which shall be the total actual navigating days for that season; and (ii) contractor's absorptions for crew claims under the protection and indemnity insurance policy for claims arising during subsidized voyages shall be subsidized to the extent that such costs exceed comparable absorptions of the foreign-flag competition.

(4) Subsidized voyages and per diem subsidy amounts accruing thereon shall be determined in whole and fractional days based upon the actual elapsed time of such subsidized voyage(s).

(c) For purposes of determining subsidy under this section, subsidized vessels may be appropriately grouped, or treated separately, at the discretion of the Maritime Administration.

Effective date. This regulation shall be effective as of its date of publication in the FEDERAL REGISTER (4–22–72).

By order of the Acting Assistant Secretary of Commerce for Maritime Affairs and the Maritime Subsidy Board.

Dated: April 20, 1972.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-6263 Filed 4-21-72;8:54 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Depreciation Based on Class Lives for Property First Placed in Service Before January 1, 1971

Notice is hereby given that the regulations as 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 six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224 by May 22, 1972. Any written comments or suggestion 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 May 22, 1972. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their request for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to provide an elective guideline class life system, similar to the class life asset depreciation range system, for assets placed in service before January 1, 1971, for taxable years ending after December 31, 1970, the Income Tax Regulations (26 CFR Part 1) under section 167 of the Internal Revenue Code of 1954 are amended as follows:

The following new section is added immediately after § 1.167(a)–11 to read as follows:

§ 1.167(a)–12 Depreciation based on class lives for property first placed in service before January 1, 1971.

(a) *In general*—(1) *Summary.* This section provides an elective class life system for determining the reasonable allowance for depreciation of certain classes of assets for taxable years ending after December 31, 1970. The system applies only to assets placed in service before January 1, 1971. Depreciation for such assets during periods prior to January 1, 1971, may have been determined in accordance with Revenue Procedure 62–21. Accordingly, rules are provided which permit taxpayers to apply the system in taxable years ending after December 31, 1970, to the remaining basis of such assets without the necessity of changing or regrouping their depreciation accounts other than as previously required by Revenue Procedure 62–21. The system is designed to minimize disputes between taxpayers and the Internal Revenue Service as to the useful life of assets, salvage value, and repairs. See § 1.167(a)–11 for a similar system for property placed in service after December 31, 1970. See paragraph (d)(2) of § 1.167(a)–11 for treatment of expenditures for the repair, maintenance, rehabilitation or improvement of certain property. The system provided by this section is optional with the taxpayer. An election under this section applies only to qualified property in an asset guideline class for which an election is made and only for the taxable year of election. The taxpayer's election is made with the income tax return for the taxable year. This section also revokes the reserve ratio test for taxable years ending after December 31, 1970, and provides transitional rules for taxpayers who after January 11, 1971, adopt Revenue Procedure 62–21 for a taxable year ending prior to January 1, 1971.

(2) *Revocation of reserve ratio test and other matters.* Except as otherwise expressly provided in this section and in paragraph (b)(5)(vi) of § 1.167(a)–11, the provisions of Revenue Procedure 62–21 shall not apply to any property for any taxable year ending after December 31, 1970, whether or not the taxpayer elects to apply this section to any property. See paragraph (f) of this section for rules for the adoption of Revenue Procedure 62–21 for taxable years ending prior to January 1, 1971.

(3) *Definition of qualified property.* The term "qualified 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; and

(ii) The property is first placed in service by the taxpayer before January 1, 1971.

The provisions of paragraph (e)(1) of § 1.167(a)–11 apply in determining whether property is first placed in service before January 1, 1971. See subparagraph (4)(ii) of this paragraph for special rules for the exclusion of property from the definition of qualified property.

(4) *Requirements of election*—(i) *In general.* An election to apply this section to qualified property must be made within the time and in the manner specified in paragraph (e) of this section. The election must specify that the taxpayer consents to and agrees to apply all the provisions of this section. The election may be made separately for each asset guideline class. Thus, a taxpayer may for the taxable year elect to apply this section to one, more than one, or all asset guideline classes in which he has qualified property. An election to apply this section for a taxable year must include all qualified property in the asset guideline class for which the election is made.

(ii) *Special rules for exclusion of property from application of this section.* (*a*) If for the taxable year of election, the taxpayer computes depreciation under section 167(k) or computes amortization under sections 169, 185, 187, 188, or paragraph (b) of § 1.162–11 with respect to property, such property is not qualified property for such taxable year. If for the taxable year of election, the taxpayer computes depreciation under any method of depreciation (other than a method described in the preceding sentence) not permitted by subparagraph (5)(v) of this paragraph for any property in an asset guideline class (other than subsidiary assets excluded from an election under (*b*) of this subdivision), no property in such asset guideline class is qualified property for such taxable year.

(*b*) The taxpayer may exclude from an election to apply this section all (but not less than all) subsidiary assets. Subsidiary assets so excluded are not qualified property for such taxable year. For purposes of this subdivision the term "subsidiary assets" includes jigs, dies, molds, returnable containers, glassware, silverware, textile mill cam assemblies, and other equipment includable in Group One, 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.

(5) *Determination of reasonable allowance for depreciation*—(i) *In general.* The allowance for depreciation of qualified property to which the taxpayer elects to apply this section shall be determined in accordance with this section. The annual allowance for depreciation is determined by using the method of depreciation adopted by the taxpayer and a rate based on a life permitted by this section.

(ii) *Reasonable allowance by reference to class lives.* The amount of depreciation for all qualified property in an asset guideline class to which the taxpayer elects to apply this section will

constitute the reasonable allowance provided by section 167(a) and the depreciation for the asset guideline class will not be adjusted if—

(*a*) The taxpayer's qualified property is accounted for in one or more depreciation accounts which conform to the asset guideline class, and the depreciation for each such account is determined by using a rate based upon a life not less than the class life, or

(*b*) The taxpayer's qualified property is accounted for in one or more depreciation accounts (whether or not conforming to the asset guideline class) for which depreciation is determined at a rate based upon the taxpayer's estimate of the lives of the assets (instead of the class life) and the total amount of depreciation so determined for the asset guideline class is not more than would be permitted under (*a*) of this subdivision using the method of depreciation adopted by the taxpayer for the property.

See subdivision (vii) of this subparagraph for determination of reasonable allowance if depreciation exceeds the amount permitted by this subdivision. See paragraph (b) of this section for rules regarding the determination of "class life". For rules for regrouping depreciation accounts to conform to the asset guideline class, see subdivision (iv) of this subparagraph.

(iii) *Consistency when individual lives are used.* If the taxpayer assigns individual depreciable lives to assets in accordance with subdivision (ii)(*b*) of this subparagraph, even though the total amount of depreciation for the asset guideline class will not be adjusted, the lives assigned to the various assets in the asset guideline class must be reasonably in proportion to their relative expected periods of use in the taxpayer's business. Thus, although the taxpayer who uses individual asset lives normally has latitude in thereby allocating the depreciation for the asset guideline class among the assets, if the lives are grossly disproportionate (as where a short life is assigned to one asset and a long life to another even though the expected periods of use are the same), the taxpayer's allocation of depreciation to particular assets or depreciation accounts may be adjusted. For example, the taxpayer's allocation may be adjusted for purposes of determining adjusted basis under section 1016(a) or in allocating depreciation to the 50-percent limitation on percentage depletion provided by section 613(a). See paragraph (d) of this section for rules regarding the use of individual asset lives for purposes of classifying retirements as normal or abnormal.

(iv) *Regrouping depreciation accounts.* Without the consent of the Commissioner, the taxpayer may for any taxable year for which he elects to apply this section to an asset guideline class regroup his depreciation accounts for that and all succeeding taxable years to conform to the asset guideline class. However, no depreciation accounts for which the straight line or sum of the years-digits method of depreciation is adopted may be combined under this section which would not be permitted to be combined under Part III of Revenue Procedure 65–13, as in effect on January 1, 1971. For purposes of this subparagraph, a taxpayer's depreciation accounts conform to the asset guideline class if each depreciation account for the asset guideline class includes only assets of the same asset guideline class.

(v) *Method of depreciation.* The same method of depreciation must be adopted for all property in a single depreciation account. The method of depreciation which may be adopted is subject to the limitations contained in section 167 (c) and (j). Subject to such limitations, only a method of depreciation permitted by section 167(b) (1), (2), or (3) may be adopted for qualified property to which the taxpayer elects to apply this section.

(vi) *Salvage value.* In applying the method of depreciation adopted by the taxpayer, the annual allowance for depreciation is determined without adjustment for the salvage value of the property, except that no depreciation account may be depreciated below a reasonable salvage value for the account. See paragraph (c) of this section for definition and treatment of salvage value.

(vii) *Reasonable allowance when depreciation exceeds amount based on class life.* In the event that the total amount of depreciation claimed by the taxpayer on his income tax return, in a claim for refund, or otherwise, for an asset guideline class with respect to which an election is made under this section for the taxable year, exceeds the maximum amount permitted under subdivision (ii)(*a*) of this subparagraph—

(*a*) If the excess is established to the satisfaction of the Commissioner to be the result of a good faith mistake by the taxpayer in determining the maximum amount permitted under subdivision (ii)(*a*) of this subparagraph, the taxpayer's election to apply this section will be treated as valid and only such excess will be disallowed, and

(*b*) In all other cases, the taxpayers' election to apply this section to the asset guideline class for the taxable year is invalid and the reasonable allowance for depreciation will be determined without regard to this section. (See § 1.167(a)–1(b) for rules regarding the estimated useful life of property.)

(b) *Determination of class lives*—(1) *Class lives in general.* The class life determined under this paragraph (without regard to any range or variance permitted with respect to class lives under § 1.167(a)–11) will be applied for purposes of determining whether the allowance for depreciation for qualified property included in an election under this section is subject to adjustment. The taxpayer is not required to use the class life determined under this paragraph for purposes of determining the allowance for depreciation. Except as provided in subparagraph (2) of this paragraph, the class life of qualified property to which the taxpayer elects to apply this section is the shorter of—

(i) The asset guideline period for the asset guideline class as set forth in Revenue Procedure 72–10 as in effect on March 1, 1972 (applied without regard to any special provision therein with respect to property predominantly used outside the United States), or

(ii) The asset guideline period for the asset guideline class as set forth in any supplement or revision of Revenue Procedure 72–10, but only if and to the extent by express reference in such supplement or revision made applicable for the purpose of changing the asset guideline period or classification of qualified property to which this section applies. See paragraph (e)(3)(iii) of this section for requirement that the election for the taxable year specify the class life for each asset guideline class. The applicable asset guideline class and asset guideline period for qualified property to which the taxpayer has elected to apply this section will not be changed for the taxable year of election to reflect any supplement or revision thereof after the taxable year. The principles of this subparagraph may be illustrated by the following example:

Example. (i) Corporation X, a calendar year taxpayer, has assets in asset guideline class 20.4 of Revenue Procedure 72–10 which were placed in service by corporation X in 1967, 1968, and 1970. Corporation X also has assets in asset guideline class 22.1 of Revenue Procedure 72–10 which were placed in service at various times prior to 1971. Corporation X has no other qualified property. Corporation X elects to apply this section for 1971 to both classes. Assume that the class lives are determined under this subparagraph and not under subparagraph (2) of this paragraph.

(ii) The class lives for asset guideline classes 20.4 and 22.1 are their respective asset guideline periods of 12 years and 9 years in Revenue Procedure 72–10.

(iii) Accordingly, in the election for the taxable year, in accordance with paragraph (e)(3)(iii) of this section, corporation X specifies a class life of 12 years for asset guideline class 20.4 and a class life of 9 years for asset guideline class 22.1.

(2) *Class lives in special situations.* Notwithstanding subparagraph (1) of this paragraph, for the purposes of this section the class life for the asset guideline class shall be the shortest class life (within the meaning of section 4, Part II, of Revenue Procedure 62–21) which can be justified by application of section 3.02(a), 3.03(a), or 3.05, Part II, of Revenue Procedure 62–21 (other than the portion of such section 3.05 dealing with justification of a class life by reference to facts and circumstances) for the taxpayer's last taxable year ending prior to January 1, 1971. A class life justified by application of section 3.03(a), Part II, of Revenue Procedure 62–21 shall not be shorter than can be justified under the Adjustment Table for Class Lives in Part III of such Revenue Procedure. For purposes of this subparagraph, the reserve ratio test is met only if the taxpayer's reserve ratio does not exceed the upper limit of the appropriate reserve ratio range or does not exceed the appropriate "transistional upper limit" in section 3, Part II, of Revenue Procedure 65–13, during the

transition period there provided. References to Revenue Procedure 62–21 include all modifications, amendments, and supplements thereto as of January 1, 1971. The guideline form of the reserve ratio test, as described in Revenue Procedure 65–13, may be applied for purposes of this subparagraph in a manner consistent with the rules contained in section 7, Part II, of Revenue Procedure 65–13 and sections 3.02, 3.03, and 3.05, Part II, of Revenue Procedure 62–21. The principles of this subparagraph may be illustrated by the following examples:

Example (1). Corporation X, a calendar year taxpayer, has all its assets in asset guideline class 20.4 of Revenue Procedure 72–10 which were placed in service by corporation X prior to 1971. Corporation X elects to apply this section for 1971. For taxable years 1967 through 1969, corporation X had used a class life (within the meaning of section 4, Part II, of Revenue Procedure 62–21) for asset guideline class 20.4 of 12 years. The asset guideline period in Revenue Procedure 72–10 in effect for 1971 is also 12 years. Assume that for 1969 corporation X's reserve ratio was below the appropriate reserve ratio lower limit. However, corporation X could not justify a class life shorter than the asset guideline period of 12 years for 1970 since corporation X had not used the 12-year class life for a period at least equal to one-half of 12 years. (See section 3.03(a), Part II, of Revenue Procedure 62–21.) Accordingly, the class life for asset guideline class 20.4 in 1971 is the asset guideline period of 12 years in accordance with subparagraph (1) of this paragraph.

Example (2). The facts are the same as in example (1) except that corporation X had used a class life of 10 years for guideline class 20.4 since 1967. Corporation X had not used the class life of 10 years for a period at least equal to one-half of 10 years. However, in 1968 corporation X's 10-year class life was accepted on audit by the Internal Revenue Service and corporation X met the reserve ratio test in 1970 for guideline class 20.4 using a test life of 10 years. (See section 3.05, Part II, of Revenue Procedure 62–21.) Accordingly, the class life of 10 years is justified for 1970 and the class life for 1971 is 10 years in accordance with this subparagraph. If the taxpayer's class life had not been audited and accepted for 1968, and in the absence of other circumstances, the taxpayer could not justify a class life shorter than the asset guideline period of 12 years since it had not used the 10-year class life for a period at least equal to one-half of 10 years. (See section 3.02, Part II, of Revenue Procedure 62–21.)

Example (3). Corporation Y, a calendar year taxpayer, has all its assets in asset guideline class 13.3 of Revenue Procedure 72–10 which were placed in service from 1960 through 1970. Corporation Y elects to apply this section for 1971. The asset guideline period in Revenue Procedure 72–10 in effect for 1971 is 16 years. Since 1963 corporation Y had used a class life of 16 years for asset guideline 13.3. At the end of 1969 corporation Y's reserve ratio for guideline class 13.3 was 36 percent. With a growth rate of 8 percent and a test life of 16 years the appropriate reserve ratio lower limit was 37 percent. Corporation Y's reserve ratio of 36 percent was below the lower limit of the appropriate reserve ratio range. Corporation Y had used the 16-year class life for at least eight years. A class life of 13.5 years for 1970 was justified by application of section 3.03(a), Part II, of Revenue Procedure 62–21 and the Adjustment Table for Class Lives in Part III, of Revenue Procedure 62–21. The class life for 1971 is 13.5 years in accordance with this subparagraph.

(3) *Classification of property*—(i) *In general.* Property to which this section applies shall be included in the asset guideline class for the activity in which the property is primarily used in the taxable year of election. See paragraph (d)(5) of this section for rule regarding the classification of leased property.

(ii) *Insubstantial activity.* The provisions of Revenue Produce 62–21 with respect to classification of assets used in an activity which is insubstantial may be applied under this section.

(iii) *Special rule for certain public utilities.* An electric or gas utility which in accordance with Revenue Procedure 64–21 used a composite guideline class basis for applying Revenue Procedure 62–21 for its last taxable year prior to January 1, 1971, may apply Revenue Procedure 72–10 and this section on the basis of such composite asset guideline class determined as provided in Revenue Procedure 64–21. For the purposes of this section all property in the composite guideline class shall be treated as included in a single asset guideline class.

(c) *Salvage value*—(1) *In general*—(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 qualified property 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. "Net salvage" is gross salvage reduced by 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" for purposes of this section means gross or net salvage value less the amount, if any, by which reduced by application of section 167(f). Generally, as provided in section 167(f), a taxpayer may reduce the gross or net salvage value for an 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.

(2) *Estimation of salvage value*—(i) *In general.* The taxpayer must establish salvage value for qualified property to which he elects to apply this section. The taxpayer may determine either gross or net salvage, but an election under this section does not constitute permission to change the manner of estimating salvage for a particular depreciation account for which salvage value has previously been estimated. For the first taxable year for which the taxpayer elects to apply this section, salvage value shall be established by estimation on the basis of all the facts and circumstances existing at the close of such taxable year. Salvage value in succeeding taxable years will be established by adjustments as retirements occur of such initial salvage value for the account. The salvage value established by the taxpayer for a taxable year of election 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 such taxable year. See paragraph (e)(3)(iv) of this section for requirements that the taxpayer specify in his election the aggregate amount of salvage value for an asset guideline class and that the taxpayer maintain records reasonably sufficient to identify the salvage value established for each depreciation account in the class.

(ii) *Salvage as limitation on depreciation.* In no case may an account be depreciated under this section below a reasonable salvage value, after taking into account any reduction in gross or net salvage value permitted by section 167(f). For example, if the salvage value of an account for 1971 is $75, the unadjusted basis of the account is $500, and the depreciation reserve is $425, no depreciation is allowable for 1971.

(iii) *Special rule for first taxable year.* If for a taxable year ending prior to January 1, 1971, the taxpayer had adopted Revenue Procedure 62–21 prior to January 12, 1971 (see paragraph (f)(2) of this section), and under such revenue procedure had not taken salvage value into account or had taken into account less salvage value than determined under this paragraph, no adjustment in the amount of depreciation allowable for any taxable year ending prior to January 1, 1971, shall be made solely by reason of establishing salvage value under this paragraph for any taxable year ending after December 31, 1970. The principles of this subdivision may be illustrated by the following example:

Example: Taxpayer A had adopted Revenue Procedure 62–21 prior to January 12, 1971, for taxable years prior to 1971. Taxpayer A had not established any salvage value for account No. 1 which is one of four depreciation accounts A has in the class. The reserve ratio test had been met for all years prior to 1971 and in accordance with Revenue Procedure 62–21 no adjustments in depreciable lives or salvage values were made. At the end of A's taxable year 1970, the unadjusted basis of account No. 1 was $10,000 and the reserve for depreciation was $9,800. For 1971, A elects to apply this section. Pursuant to this paragraph, A establishes a salvage value of $400 for account No. 1 at the end of 1971. This salvage value is determined to be correct. No depreciation is allowable for account No. 1 in 1971. No depreciation is disallowed for any taxable year prior to 1971.

(3) *Limitation on adjustment of reasonable salvage value.* The salvage value established by the taxpayer for a depreciation 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 of election 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 such taxable year. 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 salvage to take advantage of this subdivision, and if there is a determination of an amount of salvage value for the account for the taxable year which exceeds the salvage value established by the taxpayer for the account for such taxable year, 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 subparagraph shall apply to each such determination.

(4) *Examples.* The principles of this paragraph may be illustrated by the following examples in which it is assumed that the taxpayer has established salvage value in accordance with this paragraph and has not followed a practice of understating his estimates of salvage value:

Example (1). Taxpayer B elects to apply this section for 1971. Assets Y and Z are in a multiple asset account. 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 for 1971. 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 for 1971. 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 subparagraph (3) of this paragraph, since it is not within the 10 percent range. Upon audit of B's tax return for 1971 (a year in 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 1971 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 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 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 (4). For 1971, taxpayer C elects to apply this section to factory building X which is in an item account. 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 $14,000. Since the salvage value of $10,000 established by C for the account is within the 10 percent range, it is reasonable. Salvage value for the account will not be redetermined.

(d) *Accounting for qualified property*—(1) *In general.* Qualified property for which the taxpayer elects to apply this section may be accounted for in any number of item or multiple asset accounts.

(2) *Retirements of qualified property*—(i) *In general.* The provisions of this subparagraph and § 1.167(a)-8 apply to retirements of qualified property to which the taxpayer elects to apply this section for the taxable year. See subdivision (iii) of this subparagraph for special rule for normal retirements.

(ii) *Adjusted basis of assets retired.* In the case of a taxpayer who depreciates qualified property in a multiple-asset account conforming to the asset guideline class at a rate based on the class life in accordance with paragraph (a)(5)(ii)(*a*) of this section, § 1.167(a)-8(c) (relating to basis of assets retired) shall be applied by assuming that the class life is the average expected useful life of the assets in the account. See § 1.167(a)-8, generally, for the basis of assets retired.

(iii) *Definition of normal retirements.* Notwithstanding § 1.167(a)-8(b), the determination whether a retirement of qualified property is normal or abnormal shall be made in light of all the facts and circumstances, primarily with reference to the expected period of use of the asset in the taxpayer's business without regard to paragraph (a)(5)(ii) of this section. A retirement is not abnormal unless the taxpayer can show that the withdrawal of the asset was not due to a cause which would customarily be contemplated (in light of the taxpayer's practice and experience) in setting a depreciation rate for the assets without regard to paragraph (a)(5)(ii) of this section. Thus, for example, a retirement is normal if made within the range of years which would customarily be taken into account in setting such depreciation rate and if the asset has reached a condition at which, in the normal course of events, the taxpayer customarily retires similar assets from use in his business. A retirement may be abnormal if the asset is withdrawn at an earlier time or under other circumstances, as, for example, when the asset has been damaged by casualty or has lost its usefulness suddenly as the result of extraordinary obsolescence.

(3) *Special rules*—(i) *In general.* The provisions of this subparagraph shall apply to qualified property in a taxable year for which an election to apply this section is made.

(ii) *Repairs.* For the purpose of sections 162 and 263 and the regulations thereunder, whether an expenditure prolongs the life of an asset shall be determined by reference to the expected period of use of the asset in the taxpayer's business without regard to paragraph (a)(5)(ii) of this section.

(iii) *Sale and lease.* For the purpose of comparison with the term of a lease of such property, the remaining life of qualified property shall be determined by reference to the expected period of use of the asset in the taxpayer's business without regard to paragraph (a)(5)(ii) of this section.

(4) *Expected period of use.* For the purposes of subparagraphs (2) and (3) of this paragraph, the determination of the expected period of use of an asset shall be made in light of all the facts and circumstances. The expected period of use of a particular asset will not necessarily coincide with the class life used for depreciation (or with the individual asset life for depreciation under the alternative method in paragraph (a)(5)(ii)(*b*) of this section for applying the class life). Thus, for example, if the question is whether an asset has been leased for a period less than, equal to or greater than its remaining life, the determination shall be based on the remaining expected period of use of the individual asset without regard to the fact that the asset is depreciated at a rate based on the class life in accordance with paragraph (a)(5)(ii)(*a*) of this section.

(5) *Leased property.* In the case of a lessor of qualified property, unless there is an asset guideline class in effect for such lessors, the asset guideline class for such property shall be determined by reference to the activity in which such property is primarily used by the lessee. See paragraph (b)(3) of this section for general rule for classification of qualified property according to primary use. However, in the case of an asset guideline class based upon the type of property (such as trucks or railroad cars), as distinguished from the activity in which used, the property shall be classified without regard to the activity of the lessee.

(e) *Election under this section*—(1) *Consent to change in method of accounting.* An election to apply this section for

a taxable year ending after December 31, 1970, is a method of accounting but the consent of the Commissioner will be deemed granted to make an annual election.

(2) *Time and manner of election.* An election to apply this section to qualified property for a taxable year shall be made with the income tax return for the taxable year. If the taxpayer does not file a timely return (taking into account extensions of time for filing) for the taxable year, the election shall be filed at the time the taxpayer files his first return for the taxable 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 or (*b*) 120 days after publication of the final regulations under this section. See subparagraph (3) of this paragraph for information required.

(3) *Information required.* The election to apply this section for a taxable year must specify:

(i) That the taxpayer makes such election and consents to, and agrees to apply, all the provisions of this section;

(ii) Each asset guideline class for which the taxpayer makes the election;

(iii) The class life for each asset guideline class for which the taxpayer makes an election and whether the class life is determined under paragraph (b)(1) or (2) of this section;

(iv) For each asset guideline class, as of the end of the taxable year of election, (*a*) the total unadjusted basis of all qualified property, (*b*) the aggregate of the reserves for depreciation of all accounts in the asset guideline class, and (*c*) the aggregate of the salvage value established for all accounts in the asset guideline class;

(v) Whether the taxpayer elects to apply Revenue Procedure 72–10 on a composite asset guideline class basis in accordance with paragraph (b)(3)(iii) of this section;

(vi) The adjusted basis, general description and asset guideline class of all property excluded from the election pursuant to paragraph (a)(4)(ii) of this section; and

(vii) Such other information as may reasonably be required, including all or any part of the type of information specified in paragraph (f)(4) of § 1.167(a)–11.

A taxpayer who makes an election to apply this section for an asset guideline class shall maintain books and records reasonably sufficient to identify the unadjusted basis, reserve for depreciation and salvage value established for each depreciation account in the asset guideline class. Forms will be provided for making the election and submission of the information required. An election may be made and the information submitted only in accordance with such forms. An election will not otherwise be rendered invalid under this paragraph so long as there is substantial compliance, in good faith, with the requirements of this paragraph.

(f) *Depreciation for taxable years ending before January 1, 1971*—(1) *Adoption of Revenue Procedure 62–21*—(i) *In general.* Except as provided in subdivision (ii) of this subparagraph, a taxpayer may elect to be examined under the provisions of Revenue Procedure 62–21 for a taxable year ending before January 1, 1971, only in accordance with the rules of this paragraph. The election must specify:

(*a*) That the taxpayer makes such election and consents to, and agrees to apply, all the provisions of this paragraph;

(*b*) Each guideline class and taxable year for which the taxpayer elects to be examined under Revenue Procedure 62–21;

(*c*) The class life claimed for each such guideline class;

(*d*) The class life and the total amount of the depreciation for the guideline class claimed on the last income tax return for such taxable year filed prior to January 12, 1971 (or in case no income tax return was filed prior to January 12, 1971, on the first income tax return filed for such taxable year);

(*e*) The class life claimed and the total amount of depreciation for the guideline class under the election to apply Revenue Procedure 62–21, in accordance with this paragraph, for the taxable year; and

(*f*) If the class life or total amount of depreciation for the guideline class is different in (*d*) and (*e*) of this subdivision, a reasonable description of the computation of the class life in (*e*) of this subdivision, the amount of difference in tax liability resulting therefrom, and the amount of any refund or reduction in any deficiency in tax.

If the class life or total amount of depreciation for the guideline class is different in accordance with (*f*) of this subdivision, the election shall be made with an amended income tax return reflecting such difference. Forms will be provided for making the election and submission of the information required. An election may be made and the information submitted only in accordance with such forms. An election will not otherwise be invalid under this paragraph so long as there is substantial compliance, in good faith, with the requirements of this paragraph.

(ii) *Special rule.* The provisions of this subparagraph shall not apply to a guideline class in any taxable year for which the taxpayer has prior to January 12, 1971, adopted Revenue Procedure 62–21 for such class. See subparagraph (2) of this paragraph for determination of adoption of Revenue Procedure 62–21 prior to January 12, 1971.

(iii) *Justification of class life claimed and limitations on refunds.* If the taxpayer elects for a taxable year to be examined under the provisions of Revenue Procedure 62–21 in accordance with subdivision (i) of this subparagraph, any of the provisions of Revenue Procedure 62–21 may be applied to justify a class life claimed on the income tax return filed for such year. However, since the reserve ratio test does not apply to such property for taxable years ending after December 31, 1970, and since adjustments to the remaining depreciable lives in such taxable years are limited in accordance with paragraph (a)(5)(ii) of this section, no class life will be accepted on audit which (after all other adjustments in tax liability for such year) results in a reduction (or further reduction) in the amount of tax liability shown on the income tax return (specified in subdivision (i)(*d*) of this subparagraph) for such taxable year, or which results in the increase of a loss carryback or carryover to any other taxable year. The shortest class life otherwise justified under Revenue Procedure 62–21 (applied without regard to this subdivision) which does not result in such a reduction or increase is the shortest class life which will be accepted on audit under Revenue Procedure 62–21 pursuant to an election in accordance with this paragraph. Thus, for example, if a class life of 9 years could be justified under Revenue Procedure 62–21 for 1969, but 10 years is the class life which does not result in such a reduction or increase, 10 years is the shortest class life for 1969 which will be accepted on audit pursuant to an election under Revenue Procedure 62–21 and this paragraph.

(iv) *Definitions.* For purposes of this paragraph, references to Revenue Procedure 62–21 include all modifications, amendments, and supplements thereto as of January 11, 1971. The terms "class life" and "guideline class" have the same meaning as in Revenue Procedure 62–21.

(2) *Determination whether Revenue Procedure 62–21 adopted prior to January 12, 1971*—(i) *In general.* For the purposes of this paragraph, a taxpayer will be treated as having adopted prior to January 12, 1971, Revenue Procedure 62–21 for a guideline class for a taxable year ending before January 1, 1971, only if—

(*a*) For the guideline class and taxable year, the taxpayer adopted Revenue Procedure 62-21 by expressly so indicating on the income tax return filed for such taxable year prior to January 12, 1971;

(*b*) For the guideline class and taxable year, the taxpayer adopted Revenue Procedure 62-21 prior to January 12, 1971, by expressly so indicating in a proceeding before the Internal Revenue Service (such as upon examination of the income tax return for such taxable year) and there is reasonable evidence to that effect; or

(*c*) There is other reasonable evidence that prior to January 12, 1971, the taxpayer adopted Revenue Procedure 62–21 for the guideline class and taxable year.

If not treated under (*b*) or (*c*) of this subdivision as having done so for the last taxable year ending before January 1, 1971, and if the taxpayer files his first income tax return for such taxable year after January 11, 1971, the taxpayer will be treated as having adopted Revenue Procedure 62–21 prior to January 12, 1971, for a guideline class for such taxable year if he expressly so indicated on

that return, or is treated under this subparagraph as having adopted Revenue Procedure 62–21 prior to January 12, 1971, for that guideline class for the immediately preceding taxable year.

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

Example (1). Taxpayer A, an individual who uses the calendar year as his taxable year, has property in Group Three, Class 16(a), of Revenue Procedure 62–21. On A's income tax return for 1968, filed prior to January 12, 1971, he adopted Revenue Procedure 62–21 for the guideline class by so indicating under "Summary of Depreciation" in the appropriate schedule of Form 1040 for 1968. Under subdivision (i)(*a*) of this subparagraph, A is treated as having adopted Revenue Procedure 62–21 for the guideline class for 1968 prior to January 12, 1971.

Example (2). Taxpayer B, an individual who uses the calendar year as his taxable year, has property in Group Two, Class 5, of Revenue Procedure 62–21. B filed timely income tax returns for 1966 through 1968 but did not adopt Revenue Procedures 62–21 on any of such returns. In 1969 upon audit of B's taxable years 1966 through 1968, B exercised his option to be examined under the provisions of Revenue Procedure 62–21. The Revenue Agent's report shows that B was examined under Revenue Procedure 62–21 for taxable years 1966 through 1968. B will be treated under subdivision (ii)(*b*) of this subparagraph as having adopted Revenue Procedure 62–21 for such years prior to January 12, 1971.

Example (3). The facts are the same as in example (2) except that B did not upon examination by the Revenue Agent in 1969 exercise his option to be examined under Revenue Procedure 62–21. B has six accounts in the guideline class, Nos. 1 through 6. The Revenue Agent proposed to lengthen the depreciable lives on accounts Nos. 2 and 3 from 8 years to 12 years. In proceedings before the Appellate Division in 1970, B exercised his option to be examined under the provisions of Revenue Procedure 62–21. This is shown by correspondence between B and the Appellate Conferee as well as by other documents in the case before the Appellate Division. The case was settled on that basis before the Appellate Division without adjustment of the depreciable lives for B's accounts Nos. 2 and 3. B will be treated under subdivision (ii)(*b*) of this subparagraph as having adopted Revenue Procedure 62–21 for taxable years 1966 through 1968 prior to January 12, 1971.

Example (4). Corporation X uses the calendar year as its taxable year and has assets in Group Two, Class 5, of Revenue Procedure 62–21. Beginning in 1964, corporation X used the guideline life of 10 years as the depreciable life for all assets in the guideline class. In 1967, corporation X's taxable years 1964 through 1966 were examined and corporation X exercised its option to be examined under the provisions of Revenue Procedure 62–21. Corporation X did not adopt Revenue Procedure 62–21 on any of its income tax returns, for the years 1964 through 1970. Corporation X has not been examined since 1967, but has continued to use the guideline life of 10 years for all property in the guideline class including additions since 1966. Corporation X will be treated under subdivision (ii) (*c*) and (*d*) of this subparagraph as having adopted Revenue Procedure 62–21 prior to January 12, 1971, for taxable years 1964 through 1970.

Example (5). Corporation Y uses the calendar year as its taxable year and has asset in Group Two, Class 5, of Revenue Procedure 62–21. Since 1964, corporation Y has used various depreciable lives, based on the facts and circumstances, for different accounts in the guideline class. Corporation Y was examined in 1968 for taxable years 1965 through 1967. Corporation Y was also examined in 1970 for taxable years 1968 and 1969. Corporation Y did not exercise its option to be examined under the provisions of Revenue Procedure 62–21. Corporation Y has not adopted Revenue Procedure 62–21 on any income tax return. For taxable years 1964 through 1970, corporation Y's class life (within the meaning of section 4, Part II, of Revenue Procedure 62–21) was between 12 and 14 years. In August of 1971, corporation Y filed amended income tax returns for 1968 and 1969, and an income tax return for 1970, using a depreciable life of 10 years (equal to the guideline life) for all assets in the guideline class. Corporation Y will not be treated as having adopted Revenue Procedure 62–21 prior to January 12, 1971.

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[26 CFR Parts 1, 53]

INCOME AND FOUNDATION EXCISE TAXES

Termination of Private Foundation Status and Taxable Expenditures With Respect to Certain Transfers

Notice is hereby given that the regulations set forth in tenative 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 May 22, 1972. Any written comments or suggestions not specially 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 May 22, 1972. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of Federal Register. The proposed regulations are to be issued under the authority contained in seciton 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

The following regulations are prescribed in order to provide Income Tax Regulations (26 CFR Part 1) under section 507 as added by section 101(a) of the Tax Reform Act of 1969 (83 Stat. 492) and Foundation Excise Tax Regulations (26 CFR Part 53) under section 4945 as added by section 101(b) of the Tax Reform Act of 1969 (83 Stat. 512). Except where otherwise specifically provided, these regulations take effect on January 1, 1970.

PARAGRAPH 1. Immediately after § 1.504–1 insert the following section:

§ 1.507–1 General rule.

(a) *In general.* Except as provided in § 1.507–2, the status of any organization as a private foundation shall be terminated only if—

(1) Such organization notifies the district director of its intent to accomplish such termination, or

(2) (i) With respect to such organization, there have been either willful repeated acts (or failures to act), or a willful and flagrant act (or failure to act), giving rise to liability for tax under chapter 42, and

(ii) The Commissioner notifies such organization that, by reason of subdivision (i) of this subparagraph, such organization is liable for the tax imposed by section 507(c),

and either such organization pays the tax imposed by section 507(c) (or any portion not abated under section 507(g)) or the entire amount of such tax is abated under section 507(g).

(b) *Termination under section 507 (a)(1).* (1) In order to terminate its private foundation status under paragraph (a)(1) of this section, an organization must submit a statement to the Commissioner of its intent to terminate its private foundation status under section 507(a)(1). Such statement must set forth in detail the computation and amount of tax imposed under section 507(c). Unless the organization requests abatement of such tax pursuant to section 507(g), full payment of such tax must be made at the time the statement is filed under section 507(a)(1). An organization may request the abatement of all of the tax imposed under section 507 (c), or may pay any part thereof and request abatement of the unpaid portion of the amount of tax assessed. If the organization requests abatement of the tax imposed under section 507(c) and such request is denied, the organization must pay such tax in full upon notification by the Internal Revenue Service that such tax will not be abated. For purposes of subtitle F of the Code, the statement described in this subparagraph, once filed, shall be treated as a return.

(2) Termination of private foundation status under section 507(a)(1) does not relieve a private foundation, or any disqualified person with respect thereto, of liability for tax under chapter 42 with respect to acts or failures to act prior to termination or for any additional taxes imposed for failure to correct such acts or failures to act. See subparagraph (8) of this paragraph as to the possible imposition of transferee liability in cases not involving termination of private foundation status.

(3) In the case of an organization which has terminated its private foundation status under section 507(a) and continues in operation thereafter, if

such organization wishes to be treated as described in section 501(c)(3), then pursuant to section 509(c) and § 1.50(c)–1 such organization must apply for recognition of exemption as an organization described in section 501(c)(3) in accordance with the provisions of section 508(a).

(4) See § 53.4947–1(c)(7) of this chapter as to the application of section 507(a) to certain split-interest trusts.

(5) For purposes of section 508(d)(1), the Internal Revenue Service shall make notice to the public (such as by publication in the Internal Revenue Bulletin) of any notice received from a private foundation pursuant to section 507(a)(1) or of any notice given to a private foundation pursuant to section 507(a)(2).

(6) If a private foundation transfers all or part of its assets to one or more other private foundations (or one or more private foundations and one or more section 509(a)(1), (2), (3), or (4) organizations) pursuant to a transfer described in section 507(b)(2) and § 1.507–3(c), such transferor foundation will not have terminated its private foundation status under section 507(a)(1). See § 1.507–3, however, for the special rules applicable to private foundations participating in section 507(b)(2) transfers.

(7) If a private foundation transfers all of its assets to one or more persons, but less than all of its net assets to one or more organizations described in section 509(a)(1) which have been in existence and so described for a continuous period of 60 calendar months, for purposes of this paragraph such transferor foundation will not be deemed to have terminated its private foundation status under section 507(a). Such foundation will continue to be treated as a private foundation for all purposes. For example, if a private foundation transfers all of its net assets to a section 509(a)(2) organization in 1971 and receives a bequest in 1973, the bequest will be regarded as having been made to a private foundation and the foundation will be subject to the provisions of chapter 42 with respect to such funds. If a private foundation makes a transfer of all of its net assets to a section 509(a)(2) or (3) organization, for example, it must retain sufficient income or assets to pay the tax imposed under section 4940 for that portion of its taxable year prior to such transfer. For additional rules applicable to a transfer by a private foundation of all of its net assets to a section 509(a)(1) organization which has not been in existence and so described for a continuous period of 60 calendar months, see § 1.507–3(e).

(8) If a private foundation makes a transfer described in subparagraph (7) of this paragraph and prior to, or in connection with, such transfer, liability for any tax under chapter 42 is incurred by the transferor foundation, transferee liability may be applied against the transferee organization for payment of such taxes. For purposes of this subparagraph, liability for any tax imposed under chapter 42 for failure to correct any act or failure to act shall be deemed incurred on the date on which the act or failure to act giving rise to the initial tax liability occurred.

(9) A private foundation which transfers all of its net assets is required to file Form 990, Annual Information Return, and the foundation managers are required to file Form 990–AR, Annual Report of Private Foundation, or the equivalent thereof, for the taxable year in which such transfer occurs. However, neither such foundation nor its foundation managers will be required to file such forms for any taxable year following the taxable year in which the last of any such transfers occurred, if at no time during the subsequent taxable years in question the foundation has either legal or equitable title to any assets or engages in any activity.

(c) *Involuntary termination under section 507(a)(2).* (1) For purposes of section 507(a)(2)(A), the term "willful repeated acts (or failures to act)" means at least two acts or failures to act both of which are voluntary, conscious, and intentional.

(2) For purposes of section 507(a)(2)(A), a "willful and flagrant act (or failure to act)" is one which is voluntarily, consciously, and knowingly committed in violation of any provision of chapter 42 (other than section 4940 or 4948(a)) and which appears to a reasonable man to be a gross violation of any such provision.

(3) An act (or failure to act) may be treated as an act (or failure to act) by the private foundation for purposes of section 507(a)(2) even though tax is imposed upon one or more foundation managers rather than upon the foundation itself.

(4) For purposes of section 507(a)(2), the failure to correct the act or acts (or failure or failures to act) which gave rise to liability for tax under any section of chapter 42 by the close of the correction period for such section may be a willful and flagrant act (or failure to act).

(5) No motive to avoid the restrictions of the law or the incurrence of any tax is necessary to make an act (or failure to act) willful. However, a foundation's act (or failure to act) is not willful if the foundation (or a foundation manager, if applicable) does not know that it is such an act (or failure to act).

PAR. 2. Immediately after § 1.507–2, insert the following sections:

§ 1.507–3 Special rules; transferee foundations.

(a) *General rule.* (1) For purposes of Part II, Subchapter F, Chapter 1 of the Code, in the case of a transfer of assets of any private foundation to another private foundation pursuant to any liquidation, merger, redemption, recapitalization, or other adjustment, organization, or reorganization, the transferee organization shall not be treated as a newly created organization. Thus, in the case of a significant disposition of assets to one or more private foundations within the meaning of paragraph (c) of this section, the transferee organization shall not be treated as a newly created organization. A transferee organization to which this paragraph applies shall be treated as possessing those attributes and characteristics of the transferor organization which are described in subparagraphs (2), (3), and (4) of this paragraph.

(2) (i) A transferee organization to which this paragraph applies shall succeed to the aggregate tax benefit of the transferor organization in an amount determined as follows: Such amount shall be an amount equal to the amount of such aggregate tax benefit multiplied by a fraction the numerator of which is the fair market value of the assets transferred to such transferee and the denominator of which is the fair market value of the assets of the transferor immediately before the transfer. Fair market value shall be determined as of the time of the transfer.

(ii) Notwithstanding subdivision (i) of this subparagraph, a transferee organization which is not effectively controlled (directly or indirectly) by the same person or persons who effectively control the transferor organization shall not succeeed to an aggregate tax benefit in excess of the fair market value at the time of the transfer of the assets transferred.

(iii) This subparagraph may be illustrated by the following examples:

Example (1). Pursuant to a transfer described in section 507(b)(2), F, a private foundation, transfers to G, a private foundation, all of its assets, which have a fair market value of $400,000. Immediately before the transfer F's aggregate tax benefit was $200,000, and G's aggregate tax benefit was $300,000. After the transfer G's aggregate tax benefit is $500,000 ($200,000+$300,000).

Example (2). Pursuant to a transfer described in section 507(b)(2), M, a private foundation, transfers all of its assets, which immediately prior to the transfer have a fair market value of $100,000. The assets were transferred to the following organizations at the following fair market values (determined at the time of transfer) $40,000 to N, a private foundation, $30,000 to O, a private foundation, and $30,000 to P, an organization described in section 170(b)(1)(A)(vi). Immediately before the transfer M's aggregate tax benefit was $50,000. Therefore, N succeeds to M's aggregate tax benefit to the extent of $20,000 ($50,000×$40,000/$100,000) and O succeeds to M's aggregate tax benefit to the extent of $15,000 ($50,000×$30,000/$100,000). The remaining $15,000 of M's aggregate tax benefit is retained by M as M has not terminated under section 507.

Example (3). Assume the same facts as in Example (2) except that the transfers were made as follows: M transferred $30,000 to N on January 1, 1972, $40,000 to P on July 1, 1972, and $30,000 to O on December 31, 1972. Further, assume that the fair market value of the assets and the aggregate tax benefit do not change during 1972 and that O is not effectively controlled (directly or indirectly) by the same person or persons who effectively control M. N succeeds to M's aggregate tax benefit to the extent of $15,000 ($50,000×$30,000/$100,000). However, since $40,000 of the remaining $70,000 ($100,000−$30,000) of assets of M was transferred to P on July 1, 1972, immediately before the transfer to O, the fair market value of the assets held by M is $30,000 ($70,000−$40,000). On the other

hand, because P is not a private foundation, M's aggregate tax benefit immediately before the transfer to O remains $35,000 ($50,000−$15,000). Therefore, before applying subdivision (ii) of this subparagraph, O would succeed to $35,000 ($35,000×$30,000/$30,000) of M's aggregate tax benefit. However, applying subdivision (ii) of this subparagraph since M transferred only $30,000 to O, O shall succeed to only $30,000 of M's aggregate tax benefit. The remaining $5,000 ($35,000−$30,000) of M's aggregate tax benefit is retained by M as M has not terminated under section 507.

(3) For purposes of section 507(d)(2), in the event of a transfer of assets described in section 507(b)(2), any person who is a "substantial contributor" (within the meaning of section 507(d)(2)) with respect to the transferor foundation shall be treated as a "substantial contributor" with respect to the transferee foundation, regardless of whether such person meets the $5,000-two percent test with respect to the transferee organization at any time. If a private foundation makes a transfer described in section 507(b)(2) to two or more transferee private foundations, any person who is a "substantial contributor" with respect to the transferor foundation prior to such transfer shall be considered a "substantial contributor" with respect to each transferee private foundation.

(4) If a private foundation incurs liability for one or more of the taxes imposed under chapter 42 (or any penalty resulting therefrom) prior to, or as a result of, making a transfer of assets described in section 507(b)(2) to one or more private foundations, in any case where transferee liability applies each transferee foundation shall be treated as receiving the transferred assets subject to such liability to the extent that the transferor foundation does not satisfy such liability.

(5) Except as provided in subparagraph (9) of this paragraph, a private foundation is required to meet the distribution requirements of section 4942 for any taxable year in which it makes a section 507(b)(2) transfer of all or part of its net assets to another private foundation. Such transfer shall itself be counted toward satisfaction of such requirements to the extent the amount transferred meets the requirements of section 4942(g).

(6) For purposes of section 4943(c)(4), (5), and (6), whenever a private foundation makes a section 507(b)(2) transfer of all or part of its net assets to another private foundation, the applicable period of time described in section 4943(c)(4), (5), or (6) shall include both the period during which the transferor foundation held such assets and the period during which the transferee foundation holds such assets.

(7) Except as provided in subparagraph (9) of this paragraph, where the transferor has disposed of all of its assets section 4945(d)(4) and (h) shall not apply during any period in which it has no assets. However, the exception contained in this subparagraph shall not apply with respect to any information reporting requirements imposed by section 4945 and the regulations thereunder for any year in which any such transfer is made.

(8) (i) Except as provided in subdivision (ii) of this subparagraph or subparagraph (9) of this paragraph, whenever a private foundation makes a transfer of assets described in section 507(b)(2) to one or more private foundations, the transferee foundation:

(*a*) Will not be treated as being in existence prior to January 1, 1970, with respect to any transferred assets;

(*b*) Will not be treated as holding the transferred assets prior to January 1, 1970; and

(*c*) Will not be treated as having engaged in, or become subject to, any transaction, lease, contract, or other obligation with respect to the transferred assets prior to January 1, 1970.

(ii) The provisions of subdivision (i) of this paragraph shall not apply to the special rules or savings provisions contained in:

(*a*) Section 4940(c)(4)(B) and the regulations thereunder with respect to basis of property,

(*b*) Section 4942(f)(4) and the regulations thereunder with respect to distributions of income,

(*c*) Section 101(l)(2) of the Tax Reform Act of 1969 (83 Stat. 533) with respect to the provisions of section 4941,

(*d*) Section 101(*l*)(3)(A) of the Tax Reform Act of 1969 (83 Stat. 534) with respect to the provisions of section 4942, but only if the transferor qualified for the application of such section immediately before the transfer, and at least 85 percent of the fair market value of the net assets of the transferee immediately after the transfer was received pursuant to the transfer,

(*e*) Section 101(*l*)(3)(B) through (E) of the Tax Reform Act of 1969 (83 Stat. 534) with respect to the provisions of section 4942,

(*f*) Section 101(*l*)(5) of the Tax Reform Act of 1969 (83 Stat. 535) with respect to the provisions of section 4945, and

(*g*) Section 101(*l*)(6) of the Tax Reform Act of 1969 (83 Stat. 535) with respect to the provisions of section 508(e).

(9) (i) If a private foundation transfers all of its net assets to one or more private foundations which are effectively controlled (directly or indirectly) by the same person or persons which effectively controlled the transferor private foundation, for purposes of chapter 42 (section 4940 et seq.) and part II of subchapter F of chapter 1 of the Code (sections 507 through 509) such a transferee private foundation shall be treated as if it were the transferor. However, where proportionality is appropriate, such a transferee private foundation shall be treated as if it were the transferor in the proportion which the fair market value of the assets transferred to such transferee bears to the fair market value of the assets of the transferor immediately before the transfer.

(ii) Subdivision (i) of this subparagraph shall not apply to the requirements under sections 6033, 6056, and 6104 which must be complied with by the transferor private foundation, nor to the requirement under section 6043 that the transferor file a return with respect to its liquidation, dissolution, or termination.

(iii) This subparagraph may be illustrated by the following examples:

Example (1). The trustees of X charitable trust, a private foundation, form the Y charitable corporation, also a private foundation, in order to facilitate the conduct of their activities. The trustees of X are also the directors of Y. Y has the same charitable purposes as X. All of the assets of X are transferred to Y, and Y continues to carry on X's charitable activities. Under such circumstances, Y shall be treated as if it were X for the purposes of subdivision (i) of this subparagraph. Thus, for example, Y will be permitted to take advantage of any special rules or savings provisions with respect to chapter 42 to the same extent as X could have if X had continued in existence.

Example (2). A and B are the trustees of the P charitable trust, a private foundation, and are the only substantial contributors to P. On July 1, 1973, in order to facilitate accomplishment of diverse charitable purposes, A and B create and control the R Foundation, the S Foundation and the T Foundation and transfer the net assets of P to R, S, and T. As of the end of 1973, P has an outstanding grant to Foundation W and has been required to exercise expenditure responsibility with respect to this grant under sections 4945(d)(4) and (h). Under these circumstances, R, S, and T shall each be treated as if they are P in the proportion the fair market value of the assets transferred to each bears to the fair market value of the assets of P immediately before the transfer. Since R, S, and T are treated as P, absent a specific provision for exercising expenditure responsibility with respect to the grant to W, each of them is required to exercise expenditure responsibility with respect to such grant. If, as a part of the transfer to R, P assigned, and R assumed, P's duties with respect to the expenditure responsibility grant to W, only R would be required to exercise expenditure responsibility with respect to the grant to W. Since R, S, and T are treated as P rather than as recipients of "expenditure responsibility" grants, there are no expenditure responsibility requirements which must be exercised under sections 4945(d)(4) and (h) with respect to the transfers of assets to R, S, and T.

(10) For certain rules relating to filing requirements where a private foundation has transferred all its net assets, see § 1.507–1(b)(9).

(b) *Status of transferee organization under section 507*(b)(2). Since a transfer of assets pursuant to any liquidation, merger, redemption, recapitalization, or other adjustment, organization or reorganization to an organization not described in section 501(c)(3) or 4947 is a taxable expenditure under section 4945(d)(5), in order for such a transfer of assets not to be a taxable expenditure, it must be to an organization described in section 501(c)(3) or treated as described in section 501(c)(3) under section 4947. See § 53.4945–6(c)(3) of this chapter. Consequently, unless such a transferee is an organization described in section 509(a)(1), (2), or (3), the transferee is a private foundation and the rules of section 507(b)(2) and paragraph (a) of this section apply. On the

other hand, if such a transfer of assets is made to a transferee organization which is not described in either section 501(c)(3) or 4947, and in order to correct the making of a taxable expenditure, such assets are transferred to a private foundation, section 507(b)(2) and paragraph (a) of this section shall apply as if the transfer of assets had been made directly to such private foundation.

(c) *Section 507(b)(2) transfers.* (1) A transfer of assets is described in section 507(b)(2) if it is made by a private foundation pursuant to any liquidation, merger, redemption, recapitalization, or other adjustment, organization, or reorganization .This shall include any organization or reorganization described in subchapter C of chapter 1. For purposes of section 507(b)(2), the terms "other adjustment, organization, or reorganization" shall include any partial liquidation or any other significant disposition of assets to one or more private foundations, other than transfers for full and adequate consideration or distributions out of current income.

(2) The term "significant disposition of assets to one or more private foundations" shall include any disposition for a taxable year where the aggregate of:

(i) The dispositions to one or more private foundations for the taxable year, and

(ii) Where any disposition to one or more private foundations for the taxable year is part of a series of related dispositions made during prior taxable years, the total of the related dispositions made during such prior taxable years,

is 25 percent or more of the fair market value of the net assets of the foundation at the beginning of the taxable year (in the case of subdivision (i) of this subparagraph) or at the beginning of the first taxable year in which any of the series of related dispositions was made (in the case of subdivision (ii) of this subparagraph). A "significant disposition of assets" may occur in a single taxable year (as in subdivision (i) of this subparagraph) or over the course of two or more taxable years (as in subdivision (ii) of this subparagraph). The determination whether a significant disposition has occurred through a series of related distributions (within the meaning of subdivision (ii) of this subparagraph) will be made on the basis of all the facts and circumstances of the particular case. However, if one or more persons who are disqualified persons (within the meaning of section 4946) with respect to the transferor private foundation are also disqualified persons with respect to any of the transferee private foundations, such fact shall be evidence that the transfer is part of a series of related dispositions (within the meaning of subdivision (ii) of this subparagraph). In the case of a series of related dispositions described in subdivision (ii) of this subparagraph, each transferee private foundation shall (on any date) be subject to the provisions of section 507(b)(2) (with respect to all such dispositions made to it on or before such date) to the extent described in paragraphs (a) and (b) of this section.

(3) A private foundation which fails to meet the requirements of section 507(b)(1)(A) for a taxable year may be required to file a return under section 6043(b) by reason of a transfer of assets to one or more section 509(a) (1), (2), or (3) organizations. Hence, such filing does not necessarily mean that a section 507(b)(2) transfer has occurred. See § 1.6043–3(f)(1).

(4) This paragraph applies to any section 507(b)(2) transfer made by a private foundation referred to in section 170(b)(1)(E) (i), (ii), or (iii).

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

Example (1). M is a private foundation on the calendar year basis. It has net assets worth $100,000 as of January 1, 1971. In 1971, in addition to distributions out of current income, M transfers $10,000 to N, $10,000 to O, and $10,000 to P. N, O, and P are all private foundations. Under subparagraph (2)(i) of this paragraph, M has made a significant disposition of its assets in 1971 since M has disposed of more than 25 percent of its net assets (with respect to the fair market value of such assets as of January 1, 1971). M has therefore made section 507(b)(2) transfers within the meaning of this paragraph, and section 507(b)(2) applies to the transfers made to N, O, and P.

Example (2). U, a tax-exempt private foundation on the calendar year basis, has net assets worth $100,000 as of January 1, 1971. As part of a series of related dispositions in 1971 and 1972, U transfers in 1971, in addition to distributions out of current income, $10,000 to private foundation X and $10,000 to private foundation Y, and in 1972, in addition to distributions out of current income, U transfers $10,000 to private foundation Z. Under subparagraph (2)(ii) of this paragraph, U is treated as having made a series of related dispositions in 1971 and 1972. The aggregate of the 1972 disposition (under subparagraph (2)(i) of this paragraph) and the series of related dispositions (under subparagraph (2)(ii) of this paragraph) is $30,000, which is more than 25 percent of the fair market value of U's net assets as of the beginning of 1971 ($100,000), the first year in which any such disposition was made. Thus, U has made a significant disposition of its assets and has made transfers described in section 507(b)(2). The provisions of paragraphs (a) and (b) of this section apply to each of the transferees as of the date on which it received assets from U.

(d) *Inapplicability of section 507(a) to section 507(b)(2) transfers.* Unless a private foundation voluntarily gives notice pursuant to section 507(a)(1), a transfer of assets described in section 507(b)(2) will not constitute a termination of the transferor's private foundation status under section 507(a)(1). Such transfer must, nevertheless, satisfy the requirements of any pertinent provisions of chapter 42. See subparagraphs (5) through (7) of paragraph (a) of this section. However, if such transfer constitutes an act or failure to act which is described in section 507(a)(2)(A), then such transfer will be subject to the provisions of section 507(a)(2) rather than section 507(b)(2). For example, X, a private nonoperating foundation, transfers all of its net assets to Y, a private operating foundation, in 1971. X does not file the notice referred to in section 507(a)(1) and the transfer does not constitute either a willful and flagrant act (or failure to act), or one of a series of willful repeated acts (or failures to act), giving rise to liability for tax under chapter 42. Under these circumstances, the transfer is described in section 507(b)(2) and the provisions of paragraph (a) of this section apply with respect to Y. The private foundation status of X has not been terminated under section 507(a).

(e) *Transfers to certain section 509(a) (1), (2), or (3) organizations.* If a private foundation transfers all or part of its assets to one or more organizations described in section 509(a) (1), (2), or (3) and, within a period of 3 years from the date of such transfers, one or more of the transferee organizations lose their section 509(a) (1), (2), or (3) status and become private foundations, then for purposes of this section, a transfer of assets within the meaning of paragraph (c) of this section to such an organization which becomes a private foundation will be treated as a transfer described in section 507(b)(2), and the provisions of paragraph (a) of this section shall be treated as applying to such a transferee organization from the date on which any such transfer was made to it.

(f) *Certain transfers made during section 507(b)(1)(B) terminations.* If—

(1) During the course of the 12-month or 60-month period described in section 507(b)(1)(B), a private foundation makes one or more transfers to one or more private foundations;

(2) Such transfers are described in § 1.507–3(c)(1); and

(3) Even though the transferor foundation thereafter meets the requirements of section 507(b)(1)(B),

then for purposes of this section, the provisions of § 1.507–2(e) shall not apply with respect to such transfers, and such transfers will be treated as transfers described in section 507(b)(2) and § 1.507–3 rather than as transfers from an organization described in section 509(a) (1), (2), or (3).

§ 1.507–4 Imposition of tax.

(a) *General rule.* Section 507(c) imposes on each organization the private foundation status of which is terminated under section 507(a) a tax equal to the lower of:

(1) The amount which such organization substantiates by adequate records (or other corroborating evidence which may be required by the Commissioner) as the aggregate tax benefit (as defined in section 507(d)) resulting from the section 501(c)(3) status of such organization, or

(2) The value of the net assets of such organization.

(b) *Transfers not subject to section 507(c).* Private foundations which make transfers described in section 507(b)(1)(A) or (2) are not subject to the tax imposed under section 507(c) with respect to such transfers unless the provisions

of section 507(a) become applicable. See §§ 1.507–1(b), 1.507–2(a)(6) and 1.507–3(d).

§ 1.507–5 Aggregate tax benefit; in general.

(a) *General rule.* For purposes of section 507(c)(1), the aggregate tax benefit resulting from the section 501(c)(3) status of any private foundation is the sum of:

(1) The aggregate increases in tax under chapters 1, 11, and 12 (or the corresponding provisions of prior law) which would have been imposed with respect to all substantial contributors to the foundation if deductions for all contributions made by such contributors to the foundation after February 28, 1913, had been disallowed,

(2) The aggregate increases in tax under chapter 1 (or the corresponding provisions of prior law) which would have been imposed with respect to the income of the private foundation for taxable years beginning after December 31, 1912, if (i) it had not been exempt from tax under section 501(a) (or the corresponding provisions of prior law), and (ii) in the case of a trust, deductions under section 642(c) (or the corresponding provisions of prior law) had been limited to 20 percent of the taxable income of the trust (computed without the benefit of section 642(c) but with the benefit of section 170(b)(1)(A)),

(3) The amount succeeded to from transferors under § 1.507–3(a) and section 507(b)(2), and

(4) Interest on the increases in tax determined under subparagraphs (1), (2), and (3) of this paragraph from the first date on which each such increase would have been due and payable to the date on which the organization ceases to be a private foundation.

(b) *Contributions.* In computing the amount of the aggregate increases in tax under subparagraph (1) of this paragraph, all deductions attributable to a particular contribution shall be included. For example, if a substantial contributor has taken deductions under sections 170 and 2522 (or the corresponding provisions of prior law) with respect to the same contribution, the amount of each deduction shall be included in the computations under section 507(d)(1)(A). Accordingly, the aggregate tax benefit may exceed the fair market value of the property transferred.

PAR. 3. Immediately after § 1.507–6, insert the following sections:

§ 1.507–7 Value of assets.

(a) *In general.* For purposes of section 507(c), the value of the net assets shall be determined at whichever time such value is higher:

(1) The first day on which action is taken by the organization which culminates in its ceasing to be a private foundation, or

(2) The date on which it ceases to be a private foundation.

(b) *Valuation dates.* (1) In the case of a termination under section 507(a)(1), the date referred to in paragraph (a)(1) of this section shall be the date on which the terminating foundation gives the notification described in section 507(a)(1).

(2) In the case of a termination under section 507(a)(2), the date referred to in paragraph (a)(1) of this section shall be the date of occurrence of the willful and flagrant act (or failure to act) or the first of the series of willful repeated acts (or failures to act) giving rise to liability for tax under chapter 42 and the imposition of tax under section 507(a)(2).

(c) *Fair market value.* For purposes of this section, fair market value shall be determined pursuant to the provisions of § 53.4942(a)–2(c)(2) of this chapter.

(d) *Net assets.* For purposes of section 507 and the regulations thereunder, the term "net assets" shall mean the gross assets of a private foundation reduced by all liabilities of the foundation, including appropriate estimated and contingent liabilities. Thus, a determination of net assets may reflect reductions for any liability or contingent liability for tax imposed upon the private foundation under chapter 42 with respect to acts or failures to act prior to termination, for any liability or contingent liability for failures to correct such acts or failures to act, or for any liability or estimated or contingent liability with respect to expenses associated with winding up the organization. If a private foundation's determination of net assets reflects any reduction for any estimated or contingent liability, such private foundation must establish, to the satisfaction of the Commissioner, the reasonableness of such reduction. If the amount of net assets reflects a reduction for any estimated or contingent liability, at the earlier of the final determination of the contingency or the termination of a reasonable time, any excess of the amount by which the gross assets was reduced over the amount of the liability shall be treated in the same manner as if such excess had been considered part of the net assets.

§ 1.507–8 Liability in case of transfers.

For purposes of determining liability for the tax imposed under section 507(c) in the case of assets transferred by the private foundation, such tax shall be deemed to have been imposed on the first day on which action is taken by the organization which culminates in its ceasing to be a private foundation. If an organization's private foundation status is terminated under section 507(a)(2), the first day on which action is taken which culminates it is ceasing to be a private foundation (within the meaning of section 507(f)) shall be the date described in § 1.507–7(b)(2). If an organization terminates its private foundation status under section 507(a)(1), the first day on which action is taken which culminates in its ceasing to be a private foundation (within the meaning of section 507(f)) shall be the date described in §1.507–7(b)(1).

§ 1.507–9 Abatement of taxes.

(a) *General rule.* The Commissioner may at his discretion abate the unpaid portion of the assessment of any tax imposed by section 507(c), or any liability in respect thereof, if:

(1) The private foundation distributes all of its net assets to one or more organizations described in section 170(b)(1)(A) (other than in clauses (vii) or (viii)) each of which has been in existence and so described for a continuous period of at least 60 calendar months, or

(2) Effective assurance is given to the Commissioner in accordance with paragraphs (b) and (c) of this section that the assets of the organization which are dedicated to charitable purposes will, in fact, be used for charitable purposes.

The provisions of § 1.507–2(a)(2), (3), and (7) shall apply to distributions under subparagraph (1) of this paragraph. Since section 507(g) provides only for the abatement of tax imposed under section 507(c), no tax imposed under any provision of chapter 42 shall be abated under section 507(g). Where the taxpayer files a petition with the Tax Court with respect to a notice of deficiency regarding any tax under section 507(c), such tax shall be treated as having been assessed for the purposes of abatement of such tax under section 507(g) and the regulations thereunder.

(b) *State proceedings.* (1) The Commissioner may at his discretion abate the unpaid portion of the assessment of any tax imposed by section 507(c), or any liability in respect thereof, under the procedures outlined in subparagraphs (2) and (3) of this paragraph. Such tax may not be abated by the Commissioner unless he determines that corrective action as defined in paragraph (c) of this section has been taken. The Commissioner may not abate by reason of section 507(g) any amount of such tax which has already been collected since only the unpaid portion thereof can be abated.

(2) The appropriate State officer shall have 1 year from the date of notification prescribed in section 6104(c) that a notice of deficiency of tax imposed under section 507(c) has been issued with respect to a foundation, to advise the Commissioner that corrective action has been initiated pursuant to State law as may be ordered or approved by a court of competent jurisdiction. Corrective action may be initiated either by the appropriate State officer or by an organization described in section 509(a)(1), (2), or (3) which is a beneficiary of the private foundation and has enforceable rights against such foundation under State law. Copies of all pleadings and other documents filed with the court at the initial stages of the proceedings shall be attached to the notification made by the State officer to the Commissioner. Prior to notification by the appropriate State officer that corrective action has been initiated, the Commissioner shall follow those procedures which would apply with respect to the assessment and collection of the tax imposed under section 507(c) without regard to section 507(g)(2). Subsequent to notification by the appropriate State officer that corrective action has been initiated, the Commissioner shall suspend action with respect to the assessment or collection of tax imposed under section 507(c) until notified of the final determination of

such corrective action, as long as any such resulting delay does not jeopardize the collection of such tax and does not cause collection to be barred by operation of law or any rule of law. In any case where collection of such tax is about to be barred by operation of section 6502 and the Commissioner has not been advised of the final determination of corrective action, the Commissioner should make every effort to obtain appropriate agreements with the foundation subject to such tax to extend the period of limitations under section 6502(a)(2). Where such agreements are obtained, action with respect to the assessment and collection of such tax may be suspended to the extent not inconsistent with this subparagraph.

(3) Upon receipt of certification from the appropriate State officer that action has been ordered or approved by a court of competent jurisdiction, the Commissioner may abate the unpaid portion of the assessment of tax imposed by section 507(c), or any liability in respect thereof, if in his judgment such action is corrective action within the meaning of paragraph (c) of this section. In the event that such action is not corrective action, the Commissioner may in his discretion again suspend action on the assessment and collection of such tax until corrective action is obtained, or if in his judgment corrective action cannot be obtained, he may resume the assessment and collection of such tax.

(c) *Corrective action.* The term "corrective action" referred to in paragraph (b) of this section means vigorous enforcement of State laws sufficient to assure implementation of the provisions of chapter 42 and insure that the assets of such private foundation are preserved for such charitable or other purposes specified in section 501(c)(3). Except where assets of the terminated private foundation are transferred to an organization described in section 509(a)(1) through (4) the State is required to take such action to assure that the provisions of section 508(e)(1)(A) and (B) are applicable to the terminated foundation (or any transferee) with respect to such assets as if such organization were a private foundation. Thus, the governing instrument of such organization must include provisions with respect to such assets—

(1) Requiring its income therefrom for each taxable year to be distributed at such time and in such manner as not to subject such organization to tax under section 4942 (as if the organization were a private foundation),

(2) Prohibiting such organization from engaging in any act of self-dealing (as defined in section 4941(d) as if the organization were a private foundation),

(3) Prohibiting such organization from retaining any excess business holdings (as defined in section 4943(c) as if the organization were a private foundation),

(4) Prohibiting such organization from making any investments in such manner as to subject such organization to tax under section 4944 (as if the organization were a private foundation), and

(5) Prohibiting such organization from making any taxable expenditures (as defined in section 4945(d) as if the organization were a private foundation). Consequently, in cases where the preceding sentence applies, although the private foundation status of an organization is terminated for tax purposes, it is contemplated that its status under State law would remain unchanged, because the tax under section 507(c) has been abated solely because the Commissioner has been given effective assurance that there is vigorous enforcement of State laws sufficient to assure implementation of the provisions of chapter 42. Therefore, in such a case while chapter 42 will not apply to acts occurring subsequent to termination which previously would have resulted in the imposition of tax under chapter 42, it is contemplated that there will be vigorous enforcement of State laws (including laws made applicable by the provisions in the governing instrument) with respect to such acts. Notwithstanding the preceding three sentences, no amendment to the organization's governing instrument is necessary where there are provisions of State law which have the effect of requiring a terminated private foundation to which the rules of subparagraphs (1) through (5) of this paragraph apply to be subject to such rules whether or not there are such provisions in such terminated private foundation's governing instrument.

PAR. 3. Paragraph (b) of § 53.4945–5 is amended by adding the following subparagraphs:

§ 53.4945–5 Grants to organizations.

* * * * *

(b) *Expenditure responsibility.* * * *

(7) *Expenditure responsibility with respect to certain transfers of assets described in section 507*—(i) *Transfers of assets described in section 507(b)(2).* For rules relating to the extent to which the expenditure responsibility rules contained in section 4945 (d)(4) and (h) and this section apply to transfers of assets described in section 507(b)(2), see §§ 1.507–3(a)(7), 1.507–3(a)(8)(ii)(*f*), and 1.507–3(a)(9) of this chapter.

(ii) *Certain other transfers of assets.* For rules relating to the extent to which the expenditure responsibility rules contained in section 4945 (d)(4) and (h) and this section apply to certain other transfers of assets described in § 1.507–3(b) of this chapter, see § 1.507–3(b) of this chapter.

(8) *Restrictions on grants (other than program-related investments) to organizations not described in section 501(c)(3).* For other restrictions on certain grants (other than program-related investments) to organizations which are not described in section 501(c)(3), see § 53.4945–6(c).

PAR. 4. Section 53.4945–6 is amended by adding the following paragraphs:

§ 53.4945–6 Expenditures for noncharitable purposes.

* * * * *

(c) *Grants to "noncharitable" organizations*—(1) *In general.* Since a private foundation cannot make an expenditure for a purpose other than a purpose described in section 170(c)(2)(B), a private foundation may not make a grant to an organization other than an organization described in section 501(c)(3) unless

(i) The making of the grant itself constitutes a direct charitable act or the making of a program-related investment, or

(ii) Through compliance with the requirements of subparagraph (2) of this paragraph, the grantor is reasonably assured that the grant will be used exclusively for purposes described in section 170(c)(2)(B).

For purposes of this paragraph, an organization treated as a section 509(a)(1) organization under § 53.4945–5(a)(4) shall be treated as an organization described in section 501(c)(3).

(2) *Grants other than transfers of assets described in § 1.507–3(c)(1).* If a private foundation makes a grant which is not a transfer of assets pursuant to any liquidation, merger, redemption, recapitalization, or other adjustment, organization or reorganization to any person (other than an organization described in section 501(c)(3)), the grantor is reasonably assured (within the meaning of subparagraph (1)(ii) of this paragraph) that the grant will be used exclusively for purposes described in section 170(c)(2)(B) only if the grantee organization agrees to maintain and does continuously maintain the grant funds (or other assets transferred) in a separate fund dedicated to one or more purposes described in section 170(c)(2)(B). The grantor of a grant described in this paragraph must also comply with the expenditure responsibility provisions contained in sections 4945 (d) and (h) and § 53.4945–5.

(3) *Transfers of assets described in § 1.507–3(c)(1).* If a private foundation makes a transfer of assets (other than a transfer described in subparagraph (1)(i) of this paragraph) pursuant to any liquidation, merger, redemption, recapitalization, or other adjustment, organization, or reorganization to any person, the transferred assets will not be considered used exclusively for purposes described in section 170(c)(2)(B) unless the assets are transferred to a fund or organization described in section 501(c)(3) or treated as so described under section 4947(a)(1).

[FR Doc.72–6145 Filed 4–21–72;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service [1]

[7 CFR Part 953]

IRISH POTATOES GROWN IN THE SOUTHEASTERN STATES

Proposed Limitation of Shipments

Consideration is being given to the issuance of the limitation of shipments regulation, hereinafter set forth, which was unanimously recommended by the

[1] Formerly Consumer and Marketing Service. Name changed to Agricultural Marketing Service effective April 2, 1972, 37 F.R. 6327.

Southeastern Potato Committee, established pursuant to Marketing Agreement No. 104 and Order No. 953, both as amended (7 CFR Part 953). This marketing order program regulates the handling of Irish potatoes grown in the designated counties of Virginia and North Carolina and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The recommendations by the Southeastern Potato Committee are consistent with the marketing policy it unanimously adopted and reflect its appraisal of the crop and prospective market conditions.

The marketing outlook appears more favorable than last season (when the area's average farm price was only about $2.54 per hundredweight) due to reduced potato plantings in numerous spring and early summer States, fewer overlapping supplies from California and a further advance in consumers' net disposable income with the demand for food expected to continue firm.

However, North Carolina and Virginia potato growers can expect to encounter marketing problems similar to those in other recent seasons. The heavy supply of storage potatoes, particularly in the East, has kept pressure on the farm prices. Also, recent cold storage holdings of frozen potato products have set new record highs.

Shipments of potatoes from the production area are expected to begin about June 5. The proposed regulation contains the same grade, size, and maturity requirements that have been issued for the past five seasons. They are necessary to prevent potatoes of poor quality or undesirable sizes from being distributed to fresh market channels of commerce. They will also provide consumers with good quality potatoes and maximize the returns to producers for preferred grades and sizes.

The specific requirements, hereinafter set forth, will promote orderly marketing by standardizing and improving the quality of the potatoes shipped from the production area, and should thereby tend to maximize the returns to the producers pursuant to the declared policy of the act.

All persons who desire to submit written data, views, or arguments in connection with this proposal may file the same in four copies with the Hearing Clerk, Room 112–A, United States Department of Agriculture, Washington, D.C. 20250, not later than 7 days after publication 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 regulation is as follows:

§ 953.312 Limitation of shipments.

During the period June 5 through July 31, 1972, no person shall ship any lot of potatoes produced in the production area unless such potatoes meet the requirements of paragraphs (a) and (b) of this section or unless such potatoes are handled in accordance with paragraphs (c) and (d) of this section.

(a) *Minimum grade and size requirements.* All varieties U.S. No. 2, or better grade, 1½ inches minimum diameter.

(b) *Inspection.* Each first handler shall, prior to making each shipment of potatoes cause each shipment to be inspected by an authorized representative of the Federal-State Inspection Service. No handler shall ship any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto by the Federal-State Inspection Service and the certificate is valid at the time of shipment.

(c) *Special purpose shipments.* The grade, size, and inspection requirements set forth in paragraphs (a) and (b) of this section shall not be applicable to shipments of potatoes for canning, freezing, "other processing" as hereinafter defined, livestock feed or charity: *Provided,* That the handler thereof complies with the safeguard requirements of paragraph (d) of this section. *Further provided,* That shipments of potatoes for canning, freezing, and "other processing" shall be exempt from inspection requirements specified in § 953.50 and from assessment requirements specified in § 953.34.

(d) *Safeguards.* Each handler making shipments of potatoes for canning, freezing, "other processing," livestock feed, or charity in accordance with paragraph (c) of this section shall:

(1) Notify the committee of his intent to ship potatoes pursuant to paragraph (c) of this section by applying on forms furnished by the committee for a certificate of privilege applicable to such special purpose shipments;

(2) Obtain an approved certificate of privilege;

(3) Prepare on forms furnished by the committee a special purpose shipment report for each such individual shipment; and

(4) Forward copies of such special purpose shipment report to the committee office and to the receiver with instructions to the receiver that he sign and return a copy to the committee's office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for suspension of such handler's certificate of privilege applicable to such special purpose shipments.

(e) *Minimum quantity exception.* Each handler may ship up to, but not to exceed, 5 hundredweight of potatoes any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any portion of a shipment that exceeds 5 hundredweight of potatoes.

(f) *Definitions.* The term "U.S. No. 2" shall have the same meaning as when used in the U.S. Standards for Grades of Potatoes (§§ 51.1540–51.1566 of this title), including the tolerances set forth therein. The term "other processing" has the same meaning as the term appeared in the act as temporarily amended February 20, 1970 (said act having been so permanently amended on February 15, 1972, by Public Law 92–233) and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or the application of material to prevent oxidation does not constitute "other processing." All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 104 and this part, both as amended.

(g) *Applicability to imports.* Pursuant to section 608e–1 of the act and § 980.1 "Import regulations" (7 CFR 980.1), Irish potatoes of the round white type imported during the effective period of this section shall meet the grade, size, quality, and maturity requirements specified in paragraph (a) of this section.

Dated: April 19, 1972.

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

[FR Doc.72–6237 Filed 4–21–72;8:52 am]

FARM CREDIT ADMINISTRATION

[12 CFR Part 611]

FEDERAL LAND BANK ASSOCIATIONS

Compensation of District Board Members

The notice of proposed rule making published by the Farm Credit Administration in the FEDERAL REGISTER for April 12, 1972 (37 F.R. 7218), inadvertently had omitted therefrom § 611.1020 which deals with compensation of district board members. This section as proposed by the Federal Farm Credit Board, applies only to members of district boards of directors, and does not affect the public at large. It is considered, therefore, that the public interest would not be served by deferring the final date for submission of written data, views, or arguments on this proposed rule to E. A. Jaenke, Governor, Farm Credit Administration, Washington, D.C. 20578, as provided in the FEDERAL REGISTER for April 12, beyond May 12, 1972.

The proposed Part 611 of Chapter VI of Title 12 of the Code of Federal Regulations (37 F.R. 7218, 7225) is amended by adding a new § 611.1020 as follows:

§ 611.1020 Compensation of district board members.

Directors may be compensated at per diem rates not to exceed $75 for attendance at board meetings and for special

assignments, including reasonable travel time from and to their residences.

(Secs. 5.9, 5.18, 5.26, 85 Stat. 619, 621, 624)

E. A. JAENKE,
Governor,
Farm Credit Administration.

[FR Doc.72-6173 Filed 4-21-72;8:47 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release No. IC-7107]

BONDING OF OFFICERS AND EMPLOYEES OF REGISTERED INVESTMENT COMPANIES

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration the amendment of Rule 17g-1 [17 CFR 270.17g-1] pursuant to sections 17(g) and 38(a) of the Investment Company Act of 1940 ("Act") [15 U.S.C. 80a-17(g), 80a-37(a)].

As a result of the experience gained by the Commission in its administration and enforcement of the Act, including the experience derived from staff inspections of registered investment companies, it appears to the Commission that its existing rule may require amendment to include provisions as are set forth hereinbelow.

Section 17(g) of the Act authorizes the Commission to require by rules and regulations, for the protection of investors, that any officer and any employee of a registered management investment company be bonded by a reputable fidelity insurance company against larceny and embezzlement if such officer or employee has access, singly or jointly, with others, to securities or funds of any registered investment company, either directly or through authority to draw upon such funds, or to direct generally the disposition of such secu ities.

Rule 17g-1, as now in effect, in general, requires that there shall be fidelity bonds in such reasonable amount as a majority of the board of directors who are not "covered persons" may determine, subject to modification by the Commission as to the amount, type, form, and coverage of such bonds. It also requires, among other things, that a copy of the bond be filed with the Commission, and that the investent company notify the Commission immediately upon cancellation or termination of such bond.

The proposed rule sets forth minimum required amounts of coverage and provides that (1) the bond may be in the form of an individual bond for each covered person or a schedule or blanket bond covering such persons, or (2) may be in the form of a blanket bond which names the registered management investment company as the only insured, or (3) in the form of a bond which names the registered management investment company and one or more other parties as insureds: *Provided,* That such other insured parties shall be limited to (i) persons engaged in the management or distribution of the shares of the registered management investment company, (ii) other registered investment companies which are managed and/or whose shares are distributed by the same persons (or affiliates of such persons), or (iii) persons who are engaged in the management and/or distribution of shares of companies included in (ii) above.

Also, the proposed rule extends the period for notification by an insurer to the registered management investment company and the Commission from 30 days to 60 days prior to the effective date of cancellation or termination of the bond. It further requires that a majority of the board of directors of the registered management investment company who are not "interested persons" shall determine as often as their fiduciary duties require, but at least once every 12 months, the minimum amount of coverage under the bond and the portion of the premium to be paid by the registered management investment company under a joint insured bond, under which the coverage shall be at least equal to an amount computed in accordance with the schedule in the proposed rule, plus the amount of coverage, if any, which may be required of other insureds under the bond.

Each party named as an insured under the proposed rule would be required to enter into an agreement with all of the other named insureds providing that in the event of recovery under the bond as the result of loss sustained by one or more insureds, the registered management investment company would receive a portion of the recovery at least equal to the amount which it would have received had it maintained a single insured bond. Also, each of the other insureds is required to notify the registered management investment company within 10 days of the filing and of the settlement of any claim under the bond by such insureds. The amended rule would provide, as does the existing rule, that registered management investment companies comply with certain filing requirements with respect to the bond, and with respect to claims and settlements thereunder by such registered management investment companies.

Registered management investment companies and other insured parties would be required to conform their bonds to the requirements of the rule within 3 months from its effective date.

The text of Rule 17g-1 as it is proposed to be amended is as follows:

Commission action. The Commission proposes to amend Part 270 of Chapter II of Title 17 of the Code of Federal Regulations by revising § 270.17g-1. As so revised §270.17g-1 would read as follows:

§ 270.17g-1 Bonding of officers and employees of registered management investment companies.

(a) Each registered management investment company shall be named as an insured under a bond which shall be issued by a reputable fidelity insurance company, authorized to do business in the place where the bond is issued, against larceny and embezzlement, covering, among other persons, each officer and employee of the investment company, who may singly, or jointly with others, have access to securities or funds of the investment company, either directly or through authority to draw upon such funds or to direct generally the disposition of such securities (hereinafter referred to as "covered persons").

(b) The bond may be in the form of:

(1) An individual bond for each covered person or a schedule or blanket bond covering such persons,

(2) A blanket bond which names the registered management investment company as the only insured (hereinafter referred to as a "single insured bond") or,

(3) A blanket bond which names the registered management investment company and one or more other parties as insureds (hereinafter referred to as a "joint insured bond"), such other insured parties being limited to (i) persons engaged in the management or distribution of the shares of the registered management investment company, (ii) other registered investment companies which are managed and/or whose shares are distributed by the same persons (or affiliates of such persons) and (iii) persons who are engaged in the management and/or distribution of shares of companies included in subdivision (ii) of this subparagraph.

(c) The bond shall provide that it shall not be canceled or terminated except after written notice shall have been given by the acting party to the affected party and to the Commission not less than 60 days prior to the effective date of cancellation or termination.

(d) An insured bond shall be in such reasonable amount as a majority of the board of directors of the registered management investment company who are not "interested persons" of such investment company as defined by section 2(a)(19) of the Act shall determine as often as their fiduciary duties require, but not less than once every 12 months, with due consideration, among other factors, to the value of the aggregate assets of the registered management investment company to which any covered person may have access, the type and terms of the arrangements made for the custody and safekeeping of such assets, and the nature of securities in the company's portfolio: *Provided, however,*

(1) The amount of a single insured bond shall be at least equal to an amount computed in accordance with the following schedule:

Amount of Registered Management Investment Company Gross Assets—at the end of the most recent fiscal quarter prior to date of determination (In dollars)	*Minimum amount of bond (In dollars)*
Up to 500,000	50,000.
500,000–1,000,000	75,000.
1,000,000–2,500,000	100,000.
2,500,000–5,000,000	125,000.
5,000,000–7,500,000	150,000.
7,500,000–10,000,000	175,000.
10,000,000–15,000,000	200,000.
15,000,000–20,000,000	225,000.
20,000,000–25,000,000	250,000.
25,000,000–35,000,000	300,000.
35,000,000–50,000,000	350,000.
50,000,000–75,000,000	400,000.
75,000,000–100,000,000	450,000.
100,000,000–150,000,000	525,000.
150,000,000–250,000,000	600,000.
250,000,000–500,000,000	750,000.
500,000,000–750,000,000	900,000.
750,000,000–1,000,000,000	1,000,000.
1,000,000,000–1,500,000,000	1,250,000.
1,500,000,000–2,000,000,000	1,500,000.
Over 2,000,000,000	1,500,000 plus 200,000 for each 500,000,000 of net assets up to a maximum bond of 2,500,000.

(2) A joint insured bond shall be in an amount at least equal to the sum of (i) the amount of coverage which would have been provided and maintained as required by the schedule hereinabove had the registered management investment company not been named as an insured under a joint insured bond, plus (ii) the amount of each bond which each named insured other than a registered management investment company would have been required to provide and maintain pursuant to Federal statutes or regulations had it not been named as an insured under a joint insured bond. No premium may be paid for any joint insured bond and each amendment thereto, unless (*a*) a majority of the board of directors of each registered management investment company named as an insured therein who are not "interested persons" of such company shall approve the portion of the premium to be paid by such company, taking into consideration the number of the other parties named as insureds, the nature of the business activities of such other parties, the amount of the joint insured bond, the amount of the premium for such bond, and other relevant factors, and (*b*) each registered management investment company named as an insured therein shall enter into an agreement with all of the other named insureds providing that (*1*) in the event recovery is received under the bond as a result of a loss sustained by the registered management investment company and one or more other named insureds, the registered management investment company shall receive a portion of the recovery at least equal to the amount which it would have received had it provided and maintained a single insured bond; and (*2*) each of the other named insureds shall notify the registered management investment company within 10 days of the filing and the settlement, of any claim under the bond by such other named insured.

(e) Each registered management investment company shall:

(1) File with the Commission within 10 days after the execution of the bond or any amendment thereof (i) a copy of each resolution of the board of directors of the investment company determining the amount, type, form, and coverage of each single insured bond, or a copy of each resolution of the board of directors of the investment company approving the amount, type, form, and coverage of each joint insured bond and determining the amount of each single insured bond which the investment company would have provided and maintained had it not been named as an insured under a joint insured bond, and a copy of each resolution of the board of directors of the investment company for each joint insured bond, (ii) a statement as to the period for which the premiums for each bond have been paid, (iii) a copy of each such bond and each amendment thereto, and (iv) a copy of each agreement and each amendment thereto between the investment company and all of the other named insureds under each joint insured bond entered into pursuant to paragraph (d) of this § 270.17g–1,

(2) File with the Commission, in writing, within 5 days after the making of any claim under the bond, a statement of the nature and amount thereof,

(3) File with the Commission, within 5 days of the receipt thereof, a copy of the terms of the settlement of any claim made under the bond by the investment company, and

(4) Notify by registered mail each member of the board of directors of the investment company at his last known residence address of (i) any cancellation, termination, or modification of the bond, not less than 45 days prior to the effective date of cancellation or termination or modification, (ii) the filing and of the settlement of any claim under the bond by the investment company, at the time the filings required by subparagraphs (2) and (3) of this paragraph (e) are made with the Commission, and (iii) the filing and of the settlement of any claim under the bond by any other named insured, within 5 days of the receipt of a notice from such other named insured.

(f) Each registered management investment company shall designate an officer thereof who shall make the filings and give the notices required by paragraph (e) of this § 270.17g–1.

(g) Where the registered management investment company is an unincorporated company managed by a depositor, trustee or investment adviser, the terms "officer" and "employee" shall include, for the purposes of this § 270.17g–1, the officers and employees of the depositor, trustee, or investment adviser.

(h) Not later than 3 months from the effective date of this § 270.17g–1, arrangements between registered management investment companies and fidelity insurance companies and arrangements between registered management investment companies and other parties named as insureds under joint insured bonds which would not permit compliance with the provisions of this § 270.17g–1 shall be modified by the parties so as to effect such compliance.

All interested persons are invited to file, in triplicate, their views and comments with respect to the proposed amended rule. Such communications should be submitted to the Securities and Exchange Commission, Washington, D.C. 20549 on or before May 17, 1972, and should refer to File No. S7–435. Such communications will be available for public inspection.

(Secs. 17(g), 38(a), 54 Stat. 815, 841; 15 U.S.C. 80a–17(g), 80a–37(a))

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

APRIL 5, 1972.

[FR Doc.72–6177 Filed 4–21–72;8:47 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 72-113]

CUSTOMHOUSE BROKER'S LICENSES

Cancellation With Prejudice

APRIL 17, 1972.

Notice is hereby given that the Acting Commissioner of Customs on April 17, 1972, pursuant to section 641, Tariff Act of 1930, as amended, and § 111.51(b), Customs Regulations, as amended, upon the specific request of George Carlo canceled with prejudice customhouse broker's licenses No. 2943 issued to him on April 4, 1956, for Customs Collection District No. 10 (now the Customs Region II, N.Y.), No. 3510 issued to him on June 3, 1963, for Customs Collection District No. 18 (now the Customs District of Miami), and No. 3852 issued to him on October 20, 1966, for the Customs District of Tampa. The Commissioner's decision is effective as of April 17, 1972.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[FR Doc.72-6238 Filed 4-21-72;8:53 am]

[T.D. 72-114]

TEMPORARY IMPORTATION UNDER BOND

Sale of Articles to Domestic International Sales Corporation (DISC)

APRIL 18, 1972.

There is set forth below the abstract of a ruling dated March 24, 1972. This ruling clarifies the status of a temporary importation bond covering articles which are subsequently sold to a DISC.

[SEAL] LEONARD LEHMAN,
Assistant Commissioner, Office of Regulations and Rulings.

Sale of articles imported under a temporary importation bond to a Domestic International Sales Corp. (DISC). The sale of articles imported under a temporary importation bond to a DISC subsequent to importation would not violate the conditions of the bond taken under the authority of headnote 1, subpart 5C, schedule 8, Tariff Schedules of the United States. The actual articles imported must in fact be exported in accordance with the temporary importation law. Department memorandum dated March 24, 1972. (516)

[FR Doc.72-6239 Filed 4-21-72;8:53 am]

Internal Revenue Service

[Cost of Living Council Ruling 1972—45]

DEFINITION OF "SUCH UNITS"

Cost of Living Council Ruling

Facts. Landlord X owns eight one-family dwelling units of which three are under a long-term lease on January 19, 1972, and five are occupied by month-to-month tenants.

Issue. Are the three units which were under a long-term lease on January 19, 1972, considered exempt from the controls by Economic Stabilization Regulation, 6 CFR 101.33(a)(2)(iv), 37 F.R. 2678 (February 4, 1972)?

Ruling. No. Regulation § 101.33(a)(2)(iv) exempts, single-family dwelling units and rental units in owner-occupied multifamily dwellings which were rented for a term of longer than month to month on January 19, 1972, only when, "the owner and members of his family do not own or have an interest, directly or indirectly in more than an aggregate of four such units." "Such units" means the aggregate of single-family dwelling units and rental units in an owner-occupied multifamily dwelling without regard to the rental terms in effect on January 19, 1972. As a result, none of the eight units would be considered exempt.

This ruling has been approved by the General Counsel of the Cost of Living Council.

Dated: April 14, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel, Internal Revenue Service.

Approved: April 14, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel, Department of the Treasury.

[FR Doc.72-6192 Filed 4-21-72;8:48 am]

[Pay Board Ruling 1972-26]

NEW ORGANIZATION

Pay Board Ruling

Facts. An inactive, but legally existing, corporate "shell" is being revived by investors. It is anticipated that the employees will participate in the employee compensation benefits which existed before the corporation became inactive.

Issue. Would the revived Corporation constitute a "new organization" under the Economic Stabilization Regulations, so as to be required to file a report with the Pay Board with respect to the establishment of variable and executive compensation plans?

Ruling. Yes. Economic Stabilization Regulations, 6 CFR 201.79(a), 37 F.R. 3357 (February 15, 1972), provides that "Any business * * * organized or established on or after November 14, 1971," must report all executive and variable compensation plans to the Pay Board within the later of 90 days after their establishment or 90 days after February 15, 1972.

Although the corporation had existed at an earlier time, the intervening period of inactivity would make the revival of the corporation analogous to the organization or establishment of a new corporation. All that would remain of the old entity would be the original paperwork through which it was created. The act of raising new capital, making business commitments, and staffing the corporation would be identical to the procedures followed in the organizing of an entirely new business. Therefore, the revived corporation would come within the thrust of Regulations § 201.79(a) and would be required to report all employee compensation benefits to the Pay Board for review.

This ruling has been approved by the General Counsel of the Pay Board.

Dated: April 17, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel, Internal Revenue Service.

Approved: April 17, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel, Department of the Treasury.

[FR Doc.72-6194 Filed 4-21-72;8:48 am]

[Pay Board Ruling 1972—27]

PAY PRACTICE PREVIOUSLY SET FORTH

Pay Board Ruling

Facts. On November 13, 1971, a company announced that it would grant a prospective pay increase to employees, but did not specify how much or when the increase might be granted.

Issue. Whether the mere announcement on November 13, 1971, of a pay increase to be granted after that date constitutes a "pay practice previously set forth" within the meaning of Economic Stabilization Regulations, 6 CFR 201.14, 36 F.R. 21791 (November 13, 1971)?

Ruling. The mere announcement on November 13, 1971, of a prospective pay increase does not constitute a "pay practice previously set forth" within the meaning of Economic Stabilization Regulations, 6 CFR 201.14, 36 F.R. 21791 (November 13, 1971). The announcement specified neither the amount of the increase, a method or formula for determining such amount, whether the increase would be applicable to certain or all employees of the company, nor any date or dates such an increase would be put into effect after November 13, 1971.

This ruling has been approved by the General Counsel of the Pay Board.

Dated: April 17, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: April 17, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-6195 Filed 4-21-72;8:48 am]

[Pay Board Ruling 1972-28]

BASE SALARY COMPUTATION

Pay Board Ruling

Facts. A is the president of M Corporation. A's compensation is $200,000 per year payable as follows: salary in the amount of $100,000 and a number of shares of stock of M Corporation having a fair market value of $100,000.

Issue. Does the stock award in the amount of $100,000 constitute base salary within the meaning of Economic Stabilization Regulations, 6 CFR 201.72(c), 37 F.R. 3357 (February 15, 1972)?

Ruling. No. Economic Stabilization Regulations, 6 CFR 201.72(c), 37 F.R. 3357 (February 15, 1972) require that an item of base salary be paid in cash. Accordingly, the item paid in stock of M Corporation is an incentive bonus described in Economic Stabilization Regulations, 6 CFR 201.72(e), 37 F.R. 3357 (February 15, 1972).

This ruling has been approved by the General Counsel of the Pay Board.

Dated: April 18, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: April 18, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-6196 Filed 4-21-72;8:48 am]

[Pay Board Ruling 1972-29]

PARTY AT INTEREST FOR PURPOSES OF A PAY CHALLENGE

Pay Board Ruling

Facts. The X County Board of Supervisors is a governing body with authority under State law to determine salaries of county judges. Pursuant to a resolution adopted by the Board of Supervisors, the salaries of county judges were increased on January 2, 1972, by amounts in excess of the 5.5 percent wage guideline. Three of the board members, constituting a minority of the board, voted against the salary increase and desire to initiate a pay challenge with the Internal Revenue Service in accordance with Regulation 6 CFR 401.401, 37 F.R. 1010 (January 21, 1972).

Issue. Whether a minority of the board is a "party at interest" for purposes of initiating a pay challenge.

Ruling. No. A minority of the board would not be an employer who could be required to pay the wages and salaries in question and would not be a "party at interest" as that term is defined in Regulation 6 CFR 201.3, 36 F.R. 21790 (November 13, 1971). Accordingly, the minority would not be authorized to initiate a pay challenge. However, it could submit a complaint to the appropriate district office of the Internal Revenue Service pursuant to Regulation 6 CFR 401.501, 37 F.R. 1010 (January 21, 1972).

This ruling has been approved by the General Counsel of the Pay Board.

Dated: April 18, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: April 18, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-6197 Filed 4-21-72;8:48 am]

[Pay Board Ruling 1972-30]

CONSTRUCTION WORKERS

Pay Board Ruling

Facts. As employees, the members of local union A perform "in shop" maintenance on construction equipment. That is, all repair and servicing of equipment is done in a special repair shop; the only time field repair service is performed is when the field mechanic cannot make the necessary repair because of a manufacturer's warranty. Most of the shops with whom the union has contracts are manufacturer distributors under dealerships for various types of construction products and are not in direct construction or building work.

The employment contracts for shop mechanics are negotiated separately from the construction mechanic's contracts. The rates of pay for shop mechanics are substantially lower than those for members of the union working in the construction field. In addition, because of their year-round employment, as opposed to the seasonal construction employee, their fringe benefits are entirely different.

Issue. Are these employees to be considered as being "construction" workers, so that a wage agreement affecting them would require the prior approval of the Construction Industry Stabilization Committee before taking effect?

Ruling. 29 CFR 9.2(e), 36 F.R. 19577 (October 8, 1971), issued pursuant to authority granted by Executive Order No. 11588, made by the President on March 29, 1971, to implement the power delegated to him by the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799), as amended, provides that:

(e) "Construction" means (1) all work relating to the erecting, constructing, altering, remodeling, painting, or decorating of installations such as buildings, bridges, highways * * * but shall not include maintenance work performed by workers employed on a permanent basis in a particular plant or facility for the purpose of keeping such plant or facility in efficient operating condition.

Moreover, 29 CFR 9.2(p), 36 F.R. 19577 (October 8, 1971), defines "construction industry" as including:

Every person, firm, company, or entity * * * and every employee employed by such person, firm, company, or entity for the performance of work relating to a project of construction. Also excluded from the construction industry are * * * suppliers of * * * services or supplies to members of the industry generally, except those operation's * * * or services which are performed in connection with specific projects of consrtuction in such a manner as to make them a part thereof.

Clearly, maintenance work, performed under the above limitations, would not be within these definitions of "construction" or "construction industry." In fact, it would be closely related to the type of work specifically excepted from the definition. These workers perform maintenance on a permanent basis, within a delineated shop area, in order to keep the equipment in efficient operating condition.

Moreover, the compensation system for these workers is totally divorced from that of the construction workers, although they may be a part of the same union. The salary range is lower and the fringe benefits differ: Even the term of employment is different. The only connection with the construction industry which these workers retain is in the fact that they repair construction equipment. However, they do this work in the employ of equipment distributors, not the construction companies.

Therefore, there can be no doubt but that these workers, under the specific conditions set forth herein, are not considered to be "construction" workers, and their employment contracts would not require prior approval by the CISC before taking effect.

This ruling has been approved by the General Counsel of the Pay Board.

Dated: April 18, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: April 18, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-6198 Filed 4-21-72;8:48 am]

[Price Commission Ruling 1972—134]

RENT CHARGEABLE UNDER FORMULA DETERMINED RENTAL

Price Commission Ruling

Facts. Lessor L and lessee A executed a lease on June 1, 1971, with a 2-year term calling for a rent of $400 per month. The lease also provided that L could make an adjustment in June of each year for property taxes and maintenance costs incurred during the prior 12 months which were allocable to the residence. Assume that in June, 1972, L computes these

costs and determines that A should pay $31 per month for the prior 12-month period in addition to the $400 monthly rent already charged.

Issue. What are the limitations on the amount of additional rent which L may charge A?

Ruling. The lease in this case is a formula determined rental. A formula determined rental exists where the periodic rental payments under the lease are variable and depend upon the passage of time, costs of the lessor or other external factors such as the Cost of Living Index. It makes no difference whether a formula increase is levied at the same time costs are incurred or retroactively after the costs are incurred. However, where the increase in monthly rent resulting from a cost incurred formula is retroactive to the beginning of a prior period, the costs are considered to have been incurred equally each month during that period. The rent which can be charged under the lease in this case is determined by the regulations in effect at the various times since June 1, 1971.

June 1, 1971 through August 14, 1971. There were no regulations in effect during this period. The monthly rent which can be charged is the full amount called for in the lease. That amount is $400 plus $31 or $431 per month.

August 15, 1971 through November 13, 1971. During this period, formula rental leases entered into before August 15, 1971, could operate according to the terms agreed upon by the parties except that increases in rent for the following reasons were not allowed. Cost of Living Council Economic Stabilization Circular No. 21 (October 18, 1971):

(1) Rent increases contingent upon the passage of time.

(2) Increases keyed to the consumer price index.

(3) Increases based on taxes, except surcharges or sales or excise taxes as specified in section 402(1) of Circular No. 19, which increased during the freeze period.

(4) Increases due to the import surcharges and other permitted increases in costs of imported goods.

NOTE: The landlord may pass on, under such a lease agreement, taxes which were increased and legally effective prior to August 15 (even if exact tax liability for the property is not computed until after August 15, 1971).

The monthly rent which can be charged by L during this period is thus $431 per month less any amount of the $31 formula increase which resulted from any increase in property taxes which became legally effective during the period. For example, assume that taxes on the residence were increased from $120 per year prior to September 1, 1971, to $240 per year legally effective on that date. L's total tax on the residence from June 1, 1971, to June 1, 1972, is thus $210. Prorating this tax over that 12-month period results in $17.50 of the $31 per month additional charge being attributable to taxes. If taxes had not been increased, the tax portion of the additional charge would have been $10 per month. Therefore, $7.50 of the $31 additional rent per month may not be charged during the freeze.

November 14, 1971 through December 28, 1971. During this period, formula rental leases entered into before August 15, 1971, could operate according to the terms agreed upon by the parties except increases in the "period rental price," i.e., monthly rent, for the following reasons were not allowed, Economic Stabilization Regulations, 6 CFR 300.111, 36 F.R. 23874 (December 16, 1971).

(1) Passage of time.

(2) Increases keyed to the consumer price index.

The monthly rent which can be charged during the postfreeze period prior to December 29, 1971, is $431. The formula increase in this case did not depend either on the passage of time or on an increase in the consumer price index.

After December 28, 1971. During the period after December 28, 1971, formula rental leases may operate according to the terms agreed upon by the parties. However, the total dollar amount of the monthly rent determined pursuant to that formula may not exceed the amount which would otherwise be allowable under Subpart B (rent adjustments) of the rent regulations in Part 301, Economic Stabilization Regulations, 6 CFR 301.104, 36 F.R. 25386 (December 30, 1971).

The recomputation of any monthly rent under a formula rental lease is considered a transaction for the purposes of limiting any increase to an amount not greater than the rent adjustments found in Subpart B. Aside from a capital improvement rent increase, the rent adjustments in Subpart B are 2½ percent of the base rent and any increase in allowable costs. Economic Stabilization Regulations, 6 CFR 301.102, 37 F.R. 6565 (March 31, 1972). The base rent of this residence is $400 because the lease was entered into between May 16, 1971 and August 14, 1971. Economic Stabilization Regulations, 6 CFR 301.202(b), 36 F.R. 25386 (December 30, 1971).

Therefore, the maximum rent which can be charged after December 28, 1971, is the rent determined under the formula $431, or the following, whichever is less:

(1) $400 times 2½ percent or $410 plus

(2) That portion of the $31 per month that is attributable to any increase in property taxes occurring after August 15, 1971.

The "increase" in property taxes is not the absolute level of property taxes in effect on June 1, 1972. The increase is the difference between the allowable costs in effect during the 12 months before the first payable date for an increase after August 15, 1972, and the costs which will be charged during the 12 months after that payable date. This increase is divided by 12 to determine the amount allocable to the allowable monthly rent of $410. Section 301.102 (a)(2) of the regulations and Price Commission Ruling 1972–75, 37 F.R. 4099 (February 26, 1972).

This ruling has been approved by the General Counsel of the Price Commission.

Dated: April 17, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: April 17, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-6199 Filed 4-21-72;8:48 am]

[Price Commission Ruling 1972—135]

RENT 10 PERCENT RULE

Price Commission Ruling

Facts. A landlord of a 100-unit apartment building requires a 1-year lease from tenants. All units in the building are substantially identical and prior to July 16, 1971, all were rented for $2,400 per year, payable $200 per month. Five leases expired between July 16 and August 14, 1971, were for the same amount, and all were renewed prior to August 14, 1971, with a 10 percent increase in rent to $2,640 per year. No other rental transactions occurred during this period.

Issue. Could the landlord, after November 13, 1971, increase the rent for leases expiring after this date to $2,640 per year?

Ruling. Yes. The landlord may renew leases expiring after November 13, 1971, at $2,640 per year. The base price for a lease of an interest in real property is the highest price charged by the lessor with respect to the same or substantially identical rental units in a substantial number of transactions during the freeze base period. The highest price in a substantial number of transactions during the freeze base period is the highest price at or above which 10 percent of the units were priced in transactions with a specific class of purchase during the freeze base period. Economic Stabilization Regulations, 6 CFR 300.407, 36 F.R. 23974 (December 16, 1971). All leases that expired during the freeze base period (beginning July 16 and ending August 14, 1971), were renewed at a yearly rental of $2,640, which is the base price for the new leases executed after November 13, 1971, because $2,640 is the highest price at or above which 10 percent of the units involved in transactions during the freeze base period were priced. This ruling is not applicable to transactions occuring after December 28, 1971, or requests for information concerning those transactions. New regulations have been issued covering transactions after December 28, 1971. See Economic Stabilization Regulations, 6 CFR 301.1 et seq., 36 F.R. 25384 (December 30, 1971).

This ruling supersedes Price Commission Ruling 1972–71, 37 F.R. 3997 (February 25, 1972).

This ruling has been approved by the General Counsel of the Price Commission.

Dated: April 17, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: April 17, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-6200 Filed 4-21-72;8:48 am]

[Price Commission Ruling 1972—136]

PRICE—LONG TERM CONTRACTS

Price Commission Ruling

Facts. A wholesaler W, sells a food product X. W entered into a contract with a school district S, on August 1, 1971, for the sale of X to S during the 1971–1972 school year (September 1, 1971–May 31, 1972). The price specified in the contract was $20 per unit of X. W also tered into additional contracts on August 1, 1971, which specified different per unit prices with other school districts. The price at which W had previously sold X was $15. Any price per unit which exceeds $19 will result in an increase in W's profit margin over that which prevailed during the base period.

Situation. (A) Assume that the $20 per unit price meets the substantial transaction test. (B) Assume that the $20 per unit price in the contract with S does not meet the substantial transactions test. Rather, contracts which specify a per unit price of $18 meet the substantial transaction test (i.e. less than 10 percent of W's contracts with school districts specified a per unit price in excess of $18).

Issue. (A) Whether in situation A, W may charge S the price specified in the contract with S after November 13, 1971?

(B) Whether in situation B, W may charge S the price specified in the contract with S after November 13, 1971?

Ruling. (A) Yes. The base price for X in this situation is $20 per unit. 6 CFR 300.405(a), 36 F.R. 23974 (December 16, 1971), amended 37 F.R. 3913 (February 24, 1972). Section 300.11 prohibits a person from charging a price with respect to any sale of an item of property after November 13, 1971, which exceeds the base price of that item unless another price is authorized in Subpart A. 6 CFR 300.11, 36 F.R. 23974 (December 16, 1971) amended 37 F.R. 3828 (February 23, 1972). Since the price specified in the contract does not exceed the base price of X, W may charge $20 after November 13, 1971. In this case, the provisions of § 300.101 do not apply. 6 CFR 300.101, 36 F.R. 23974 (December 16, 1971).

(B) No. The base price for X in this situation is $18 per unit. 6 CFR 300.405 (a), 36 F.R. 23974 (December 16, 1971), amended 37 F.R. 3913 (February 24, 1972). Under the provisions of § 300.11, W is prohibited from charging a price for X in excess of the base price unless another price is authorized under Subpart A. Section 300.101 provides as follows:

> The price specified in any contract for the sale of property * * * entered into before August 15, 1971, with respect to any delivery or performance occurring after November 13, 1971, shall be allowable if that contract price does not exceed that amount which would result in an increase in the person's profit margin over that prevailing during the base period. 6 CFR 300.101, 36 F.R. 23974 (December 16, 1971).

In other words, W can charge the price for X specified in this contract with S after November 13, 1971, but only to the extent that the contract price will not result in an increase in his profit margin. Price Commission Ruling 1972–86, 34 F.R. 4371 (March 2, 1972). Thus in situation B, W may charge $19 per unit of X after November 13, 1971.

This ruling has been approved by the General Counsel of the Price Commission.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: April 17, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc. 72-6201 Filed 4-21-72;8:48 am]

[Price Commission Ruling 1972-137]

PROFIT MARGIN—LOW-PROFIT FIRMS

Price Commission Ruling

Facts. X is a firm which has a base period profit margin (calculated in accordance with 6 CFR 300.5, 37 F.R. 3913 (February 24, 1972) of 4 percent. During its most recently ended fiscal year, however, its profit margin was 1.2 percent. X wishes to raise its prices under the "low-profit firms" regulation (6 CFR 300.31, 37 F.R. 5044 (March 9, 1972)) and there is no question that it qualifies under this provision. X has a "capital turnover ratio" of 3.9 and is therefore entitled to raise its prices as much as 8 percent over a price otherwise authorized under part 300 to bring its profit margin up to 2.6 percent by the end of the third fiscal quarter following the fiscal quarter in which prices are increased. X believes that its current low-profit situation is temporary and that even with no price adjustments its profit picture will eventually return to normal.

Issue. If X raises its prices in accordance with 6 CFR 300.31 it is "locked-in" to the 1.2 percent profit margin for the duration of the Stabilization program or may it use its "normal" 4 percent profit margin as a limitation on additional price increases at such time as it no longer qualifies as a low-profit firm?

Ruling. X is never "locked-in" to the profit margin calculated under 6 CFR 300.31. This section is a relief provision and is intended to liberalize the regulations as to qualifying firms. Section 300.31 allows firms which are "low-profit firms" to raise prices to a limited extent without cost justification to achieve a prescribed profit margin.

If X increases its prices under § 300.31 it may retain that increase as long as the "relief" profit margin is not exceeded. In X's case this would be 2.6 percent.

If the price increase made pursuant to the relief provision results in a profit margin in excess of 2.6 percent, X would no longer qualify as a low-profit firm and would thus become subject to the general rules regarding prices. X must therefore be prepared to cost justify the price increase made pursuant to § 300.31 to the extent that it results in a profit margin in excess of 2.6 percent. If it cannot, its prices must be reduced to maintain the 2.6 percent profit margin allowed under § 300.31. Again, according to the general rule, the amount of the price increase that could be justified would be limited by X's profit margin computed under the general rule of 6 CFR 300.5 ("Base Period") or 4 percent.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: April 18, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: April 18, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-6202 Filed 4-21-72;8:49 am]

[Price Commission Ruling 1972-138]

REPRICING MANUFACTURERS' INVENTORIES

Price Commission Ruling

Facts. Manufacturer M requested approval from the Price Commission of price increases on certain products. The Price Commission approved the increases. On the effective date of Commission approval, M has in its inventory a supply of the items upon which the price increase has been approved.

Issue. May manufacturer M apply the approved price increase to the items in its inventory on the date of the approved price increase?

Ruling. No. Manufacturers are restricted to repricing only finished goods produced after the authorized effective date of the price increase. However, this effective date may be made retroactive by the Commission. For example, if M manufacturers the product on an annual new model basis, the Commission may set the effective date of the approved price increase so that items manufactured after the incurred cost increase and already shipped to sellers, but not yet available for sale and still in M's inventory, or in which M maintains a security interest, may be sold for the increased price.

To the extent applicable, this ruling amends Price Commission Ruling 1972–20, 37 F.R. 767 (January 18, 1972).

This ruling has been approved by the General Counsel of the Price Commission.

Dated: April 18, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: April 18, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-6203 Filed 4-21-72;8:49 am]

[Price Commission Ruling 1972-139]

RETAILER'S INVENTORY REPRICING

Price Commission Ruling

Facts. Retailer A has in inventory 50 items which cost him $10 per item in stock, and he receives 400 more of the same merchandise which cost him $11 per item on March 15th. A's customary initial percentage markup during the markup base period was 30 percent. He now wishes to reprice his inventory items to reflect his current landed costs.

Issue. Under the Economic Stabilization Regulations, how may a retailer reprice inventory which has been supplemented at higher cost?

Ruling. A retailer may use any pricing method to reprice inventory which does not result in a maximum selling price for any item which exceeds that price which would result from applying his customary initial percentage markup (as calculated during the markup base period) to the actual (landed) cost of merchandise. Economic Stabilization Regulations, 6 CFR 300.5, 36 F.R. 25386 (December 30, 1971); 6 CFR 300.13(a), 36 F.R. 23976 (December 16, 1971). Some acceptable methods of calculating the maximum selling price are:

(1) Delaying markup repricing. When he restocks with higher priced items the retailer, by means of a forecast based on his historical inventory depletion rate, determines the date on which his old, lower-priced inventory items will be entirely replaced by the new higher-cost items. On that forecast date the retailer reprices his entire inventory based upon the higher price of the replacement items. Example: If A predicts that his items will be sold at the rate of five per selling day, he can apply his 30 percent markup to the $11 replacement cost 10 selling days after receiving the higher priced goods, which in the illustration given would be on March 27 (assuming A sells on all days of the week except Sunday).

(2) Item-by-item pricing based on actual (landed) cost of each item. Example: A tags each item with its price, applying the 30 percent markup to each actual cost, and instructs his clerks to place the lower priced items on the shelves first.

(3) Averaging of new and old inventory costs so that the resulting maximum single selling price for the entire inventory reflects a weighting of lower cost stock on hand and new higher cost stock to which the retailer's customary initial percentage markup is applied. This price is applied at least until the entire inventory is sold. Example: On March 16th A reprices the item to $14.15 and sells at that price for at least 90 selling days beginning March 16th. $14.15 is computed as follows: 50 times $13, the selling price of the old items, plus 400 times $14.30, the price at which the new items could be sold if they were not mixed with the old, equals $6,370. $6,370 divided by 450 equals $14.15. In other words, A adds his customary initial percentage markup (30 percent) to the total cost ($500+$4,400 =$4,900) of the old items and the items received March 15th.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: April 18, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: April 18, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-6204 Filed 4-21-72;8:49 am]

[Price Commission Ruling 1972—140]

ALLOWABLE COSTS—MUNICIPAL WATER CHARGES

Price Commission Ruling

Facts. Landlord L leases five single family residences. He charges $175 per month for each of these residences and pays for water provided by the city to each. Each residence is equipped with a water meter. L has noticed that tenant A's consumption of water has increased for the month of March to 2,000 gallons from an average of 1,000 gallons for the previous 12 months as a result of recently commenced diaper washing. The city increased the rate of water from 50 cents to 75 cents per thousand gallons on April 1, 1972. Water bills are payable when the meters are read on May 1, 1972.

Issue. How much may Landlord L increase tenant A's rent?

Ruling. L may increase A's rent 50 cents per month to reflect the increase in the per unit cost of water charged by the city on A's consumption of water for the 12 months after the increase is payable. However, L could not increase A's rent to recover the increase in allowable costs solely due to A's increased consumption of water. To determine the amount of the increase, L may reasonably estimate A's consumption during the 12 months after the increase is payable. If A's consumption decreases or the city reduces the per unit cost of water, the decrease in allowable cost for either of these reasons must be reflected in a reduced monthly rent.

Economic Stabilization Regulations, 6 CFR 301.102(a)(2), 36 F.R. 25386 (December 30, 1971), permits a rent to be charged which exceeds the base rent to reflect, "The amount of any increase in allowable costs occurring after December 28, 1971, allocable to the residence * * *"

A municipal charge for water is an allowable cost under § 301.102(b)(1)(ii) of the regulations. In the context of a product or service provided by a municipality or State the "increase" referred to in § 301.102(a)(2) is the increase in per unit cost. In this case, the increase is a jump from 50 cents per 1,000 gallons to 75 cents per 1,000 gallons or 25 cents.

Section 301.102(b)(2) provides a rule for determining the allocable increase in allowable costs. The increase is the difference between the "Allowable costs related to the residence * * * which were charged," during the 12-month period before the first installment of the increase is payable and the, "allowable costs related to the same residence * * * which will be charged," during the 12 month period after and including the increase. This increase is allocated to the monthly rent of the residence. See Price Commission Ruling 1972-75, 37 F.R. 4099 (February 26, 1972).

The total increase which "will be charged" necessarily requires both a prediction of the continuation of the increased per unit cost and A's water consumption during the 12-month period after the increase in rates. L may make a reasonable estimate of A's consumption based upon past consumption patterns and also assume that the increased cost per 1,000 gallons will hold during the 12 months after the increase. However, if the increase in allowable costs which is in fact charged is less than the estimate, either due to a reduction in rates or consumption less than predicted consumption, L must reduce the monthly rent to reflect the actual increase which he must pay. In other words, as the increase which "will be charged" becomes known and is at variance with the prediction, the actual increase must be substituted for that prediction.

If A's consumption of water is reasonably estimated by L to be 2,000 gallons per month after May 1, 1972, and the new higher rate is predicted to hold, then the yearly increased rent due to the increase in allowable costs will be 25 cents per 1,000 gallons×12 months×2,000 gallons per month or $6 per year. This results in a 50 cent per month permitted rent increase.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: April 18, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: April 18, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-6205 Filed 4-21-72;8:49 am]

[Price Commission Ruling 1972–141]

VENDING MACHINES AS RETAILERS

Price Commission Ruling

Facts. Vending Company is in the business of selling food, cigarettes and general merchandise through its vending machines. Some of the machines sell individually brewed coffee; others sell food which is heated by the machines. Vending purchases the instant coffee, individually wrapped and prepared for insertion into the machine, directly from a wholesaler. Vending also purchases some of the food products from the wholesaler, but prepares the sandwiches on its own premises.

Vending Company also owns a fleet of lunch trucks which visit individual places of employment. The driver of the truck sells the same products that are available in the machines, except that coffee, freshly brewed on Vending's premises and doughnuts purchased from a local bakery are available.

Issue. Is Vending Company a retailer under Economic Stabilization Regulations, 6 CFR 300.13, 37 F.R. 2843 (February 8, 1972) or a service organization under Economic Stabilization Regulations 6 CFR 300.14, 37 F.R. 775 (January 19, 1972)?

Ruling. Vending Company is a retailer for most of its sales and a service organization for its self-prepared items. Economic Stabilization Regulation 6 CFR 300.5, 36 F.R. 23974 (December 16, 1971) defines "retailer" as

> A person who carries on the trade or business of purchasing property and, without substantially changing the form of that property, reselling it to ultimate consumers * * *

Packaged food, cigarettes, and general merchandise sold through a vending machine experience no change in form whatsoever. Food products heated by the machine are slightly changed in form. Similarly soft drinks mixed by the machine and instant coffee mixed and brewed by the machine undergo a change in form, but the change is not "substantial" within the meaning of the definition. The sale of the same products and doughnuts on the lunch truck by the driver is a similar activity. All of the above are considered retail sales.

The remaining functions are those of a service organization. The sales of all of the food products and coffee actually prepared by Vending are considered to be a service activity, since Vending substantially changes the form of the products before reselling them.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: April 18, 1972.

LEE H. HENKEL, JR.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: April 18, 1972.

SAMUEL R. PIERCE, JR.,
General Counsel,
Department of the Treasury.

[FR Doc.72-6206 Filed 4-21-72;8:49 am]

[Price Commission Ruling 1972—142]

CONTRACT PRENOTIFICATION

Price Commission Ruling

Facts. Manufacturer X is a category I or prenotification firm under 6 CFR 101.11, 37 F.R. 1237 (January 27, 1972). X is under a 10-year supply contract to sell product A to buyer I. The contract contains a formula which will result in the payment of an increased price per unit on June 1, 1972, for units shipped in the prior 3 months. X is also under a 3-year nonsupply contract to provide product A to buyer II with the next delivery by May 1, 1972, and payment by June 1, 1972. This contract states that the price to be paid may be increased over the previous price if certain (allowable) costs have increased. In addition X is about to sign a 6-month contract with buyer III to supply product A at a fixed price which will be higher than has been previously paid by anyone in the same class of purchasers as buyer III. The first payment under this contract will become due on June 1, 1972, for units to be shipped during the next 3 months. Increased allowable costs justifying all of these increased prices have been incurred since the last price increase. The last price increase also established the base price.

Issue. Must the firm request Price Commission approval by its prenotification procedure under § 300.51(a) of the regulations for any of these increases?

Ruling. The firm must prenotify in each case before charging the increased price. Under the facts stated, the firm could prenotify as to all three price increase on the same PC–1 form.

A manufacturer which is a prenotification firm, "[M]ay not charge a price in excess of the base price * * * until the Price Commission has approved that price in excess of the base price * * * If the Price Commission does not act upon a request under this paragraph within 30 days after receiving it * * * (the) increased price may go into effect without Commission action." 6 CFR 300.51(a), 37 F.R. 5223 (March 11, 1972). For purposes of Part 300 of the Economic Stabilization Regulations, "Charge" means to become due and payable without regard to when a contract setting the price, if any, became binding and without regard to delivery date. Progress payments and other partial payments are not considered the "charging" of a price under the regulations, however, unless the payments are allocable to and payment in full or substantially payment in full for specific portions of the products or services being provided.

This interpretation is consistent with the requirement that prenotification firms which entered into a long term contract before August 15, 1971, must comply with § 300.51 of the regulations with regard to any price specified in such contract. 6 CFR 300.101, 36 F.R. 23974 (December 16, 1971).

This ruling has been approved by the General Counsel of the Price Commission.

Dated: April 18, 1972.

LEE H. HENKEL, JR.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: April 18, 1972.

SAMUEL R. PIERCE, JR.,
General Counsel,
Department of the Treasury.

[FR Doc.72-6207 Filed 4-21-72;8:49 am]

[Price Commission Ruling 1972—143]

DETERMINATION AND APPLICATION OF CUSTOMARY INITIAL PERCENTAGE MARKUP

Price Commission Ruling

Facts. During the markup base period and generally during periods of rising replacement prices wholesaler X, whenever he purchased an inventory item, would apply an upward adjustment to the purchase price of that item and reprice his entire inventory of that item at the price so determined. Additionally, to the inventory price so determined, X would add a percentage service fee to each total order from a customer based upon such variables as the nature and number of items sold, delivery times, and manner of purchase by the customer.

Wholesaler Y, whenever he purchased an inventory item, would apply a certain customary percentage markup to the purchase price of that item and reprice his entire inventory of that item at the price so determined.

X and Y wish to continue repricing existing inventory items under their respective methods.

Issue. May X and Y continue to utilize these methods under the provisions of the Economic Stabilization Regulations?

Ruling. No. The continuance of either practice is not in accord with existing provisions of the Economic Stabilization Regulations.

Section 300.13(a) states that a wholesaler may charge a price in excess of its base price whenever its customary initial percentage markup (CIPM) is equal to or less than its last CIPM before November 14, 1971, or, at its option, its CIPM during its last fiscal year ending before August 15, 1971. Economic Stabilization Regulations, 6 CFR 300.13(a), 37 F.R. 284 (January 8, 1972). CIPM means the markup applied to cost (puchase price plus transportation charges) when the item is first offered for sale. Economic Stabilization Regulations, 6 CFR 300.5, 36 F.R. 23974 (December 16, 1971).

Under the Regulations, therefore, a wholesaler's permitted selling price is determined in relation to cost. Cost is determined by utilization of LIFO, FIFO, a weighted average, or any other generally accepted inventory cost accounting method. The CIPM is the amount (expressed as a percent of cost) which is applied to cost when the item is first offered for sale, which presumably occurs when the item or category of items is priced and made available for sale

through the wholesaler's customary sales channels.

Neither practice for repricing inventory, however, constitutes an acceptable method for determining or applying the CIPM. Under the regulations, once cost is determined through the inventory cost accounting method utilized by the wholesaler, the sales price becomes fixed and determinate when the item or category of items is offered for sale. Within a stock of inventory the cost of individual items may vary under the particular inventory cost accounting method utilized, however no provision in the regulations allows such periodic upward price adjustments to inventory items which have been previously offered for sale. To allow either X or Y to continue to use his repricing practice would mean that CIPM is indeterminate until the moment of actual sale. It would also lead to the illogical consequence that whenever a wholesaler wishes to increase his prices he merely needs to find the highest price for an inventory item and purchase it at that price. Such a result is wholly inconsistent with existing provisions of the regulations.

Similarly, X's customary percentage add-on fee is an element of his CIPM and is to be determined and applied only when the item or category of items is first offered for sale. In this case a correct interpretation of the regulations requires application of the CIPM, based upon a "customary price differential," to cost when the item or category of items is first offered for sale. "Customary price differential" is defined in § 300.5 as including a price distinction based upon a discount, allowance, add-on, premium, and an extra based on a difference in volume, grade, quality, or location or type of purchaser, or a term or condition of sale or delivery. Economic Stabilization Regulations, 6 CFR 300.5, 36 F.R. 23974 (December 16, 1971).

Thus, if a practice of price distinction based upon such variables is customarily followed, CIPM consists of a range of separate markups where varying conditions of sale are individually provided for. The range is determined and applied when the item or category of items is first offered for sale. Separate markups within the range of markups serve only to reflect these variables and, once established, do not change. Conditions subsequent to the moment an item or category of items is first offered for sale merely determine the price differential by establishing the appropriate markup which will be utilized.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: April 18, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: April 18, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-6208 Filed 4-21-72;8:49 am]

[Pay Board Ruling 1972—25; Price Commission Ruling 1972—133]

DIRECTORS' FEES

Pay Board Ruling and Price Commission Ruling

Facts. A is a director of XYZ Corporation. As a director, he is paid a specified amount for each board of directors meeting he attends. A is also president of XYZ Corporation, and receives a salary for his services as president, under the terms of an employment contract with the corporation.

Issue. Are the amounts paid to A "wages" or "prices" within the Economic Stabilization Regulations?

Ruling. Amounts paid to A as a director are fees for a "service" within the Economic Stabilization Regulations; amounts paid to A as an officer of the corporation are "wages" within the Regulations.

A director, as such, is not an employee of his corporation. No person can order a director to act or vote in a particular way. Even though stockholders are entitled to remove a director from his position, they may not dictate his actions so long as he remains in that office. 19 C.J.S. Corporations secs. 742–743.

Because a director's activities are not generally subject to the control of a superior within the corporation, he cannot therefore be classified as an "employee" for purposes of Economic Stabilization Program.

As defined in the Economic Stabilization Regulations, a "service" includes any service performed by a person for another person other than in an employment relationship. Economic Stabilization Regulations 6 CFR 300.5, 36 F.R. 23974 (December 16, 1971). Therefore the amounts paid to A by XYZ Corporation for his services as a director are fees for a service; and thus are subject to the Price Commission Regulations.

If a person who is a corporation director performs services for the corporation beyond those required of him as a director, and subject to the control of the board of directors or a superior officer of the corporation, he may be an employee. Whether or not services are performed as an employee of the corporation must be determined on the basis of all the facts and circumstances. "Wharton v. Fidelity—Baltimore National Bank," 222 Md. 177, 158 A. 2d 887 (1960).

This ruling has been approved by the General Counsels of the Price Commission and the Pay Board.

Dated: April 17, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: April 17, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-6193 Filed 4-21-72;8:48 am]

DEPARTMENT OF THE INTERIOR

National Park Service

MAMMOTH CAVE NATIONAL PARK, KY.

Suitability as Wilderness; Public Hearing

Notice is hereby given in accordance with the provisions of the Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1131, 1132), and in accordance with departmental procedures as identified in 43 CFR 19.5, that a public hearing will be held beginning at 9 a.m. on June 23, 1972, in Room 103, Paul L. Garrett Conference Center Building, Western Kentucky University, Bowling Green, Ky., for the purpose of receiving comments and suggestions as to the suitability of lands within Mammoth Cave National Park for designation as wilderness. The park is located in Edmonson, Hart, and Barren Counties, in south-central Kentucky.

A packet containing a draft master plan, a map depicting the roadless areas studied, and providing additional information about the suitability study, may be obtained from the Superintendent, Mammoth Cave National Park, Mammoth Cave, Ky. 42259, or from the Director, Southeast Region, National Park Service, Scott-Hudgents Building, 3401 Whipple Avenue, Atlanta, GA 30344.

A topographic map of the areas studied for their suitability or nonsuitability as wilderness is available for review in the above offices and in Room 1013 of the Department of the Interior Building at 18th and C Streets NW., Washington, D.C.

Interested individuals, representatives of organizations and public officials are invited to express their views in person at the aforementioned public hearing, provided they notify the Hearing Officer, in care of the Superintendent, Mammoth Cave National Park, Mammoth Cave, Ky. 42259, by June 21 of their desire to appear. Those not wishing to appear in person may submit written statements on the suitability study to the Hearing Officer, at that address for inclusion in the official record, which will be held open for 30 days following conclusion of the hearing.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement which may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the transcribed hearing record. However, all materials so presented at the hearing shall be subject to determinations that they are appropriate for inclusion in the transcribed hearing record. To the extent that time is available after presentation of oral

statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the proposal by a representative of the National Park Service, the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements:

(1) Governor of the State or his representative.
(2) Members of the Congress.
(3) Members of the State Legislature.
(4) Official representatives of the counties in which the national park is located.
(5) Officials of other Federal agencies or public bodies.
(6) Organizations in alphabetical order.
(7) Individuals in alphabetical order.
(8) Others not giving advance notice, to the extent there is remaining time.

Dated: April 13, 1972.

THOMAS FLYNN,
Deputy Director,
National Park Service.

[FR Doc.72-5982 Filed 4-21-72;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service [1]

GRAIN STANDARDS

Port Arthur, Tex., Grain Inspection Point

Statement of considerations. On February 3, 1972, there was published in the FEDERAL REGISTER (37 F.R. 2600) a notice announcing (1) a proposed transfer of the designation to operate the official grain inspection agency, as defined in section 3(m) of the U.S. Grain Standards Act (7 U.S.C. 75(m)), at Port Arthur, Tex., and (2) the application by the Beaumont Board of Trade, Beaumont, Tex., for designation to operate the official grain inspection agency. Inspection agencies, members of the grain trade, and other interested parties were given until March 6, 1972, to submit written data, views, or arguments with respect to the proposed transfer and to make application for designation.

No comments were received from any interested parties and no applications for designation were received other than the application from the Beaumont Board of Trade.

After due consideration of all relevant matters, and pursuant to the authority contained in sections 3(m) and 7(f) of the U.S. Grain Standards Act (7 U.S.C. 75(m) and 79(f)), the designation as the official grain inspection agency at Port Arthur, Tex., is hereby transferred from the Houston Merchants Exchange, Houston, Tex., to the Beaumont Board of Trade, Beaumont, Tex.

Effective date. This notice shall become effective 30 days after publication in the FEDERAL REGISTER.

Done in Washington, D.C., on April 18, 1972.

G. R. GRANGE,
Acting Administrator.

[FR Doc.72-6235 Filed 4-21-72;8:52 am]

[1] Formerly Consumer and Marketing Service. Name changed to Agricultural Marketing Service, effective Apr. 2, 1972, 37 F.R. 6327.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. S-579]

ROBERT L. TOWNSEND

Notice of Loan Application

APRIL 18, 1972.

Robert L. Townsend, 11158 Beacon Avenue South, Seattle WA 98178, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 45 feet in length, to engage in the fishery for salmon, albacore, tuna, and bottomfish off the coasts of Washington, Oregon, California, and Alaska.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

ROBERT W. SCHONING,
Acting Director.

[FR Doc.72-6161 Filed 4-21-72;8:46 am]

Office of Import Programs

BOWMAN GRAY SCHOOL OF MEDICINE ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00102-33-46040. Applicant: Bowman Gray School of Medicine, Department of Microbiology, Winston-Salem, N.C. 27103. Article: Electron microscope, Model EM9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used in research to study the interactions of bacteria and viruses with their hosts and investigations of the ultrastructure of micro-organisms, animal cells, and plant cells. The article will be used for education for courses in general microbiology and "Ultrastructure of micro-organisms and mammalian cells." Application received by Commissioner of Customs: August 18, 1971.

Advice submitted by Department of Health, Education, and Welfare on: March 3, 1972.

Docket No. 72-00122-33-46040. Applicant: Westfield State College, Western Avenue, Westfield, Mass. 01085. Article: Electron microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used in biological research, involving morphology and physiology, of plant and animal tissue. The article will also be used in a course in electron microscopy for beginning students. Application received by Commissioner of Customs: September 2, 1971. Advice submitted by Department of Health, Education, and Welfare on: March 3, 1972.

Docket No. 72-00133-33-46040. Applicant: The University of Texas at Houston, M. D. Anderson Hospital & Tumor Institute, 6723 Bertner, Houston, TX 77025. Article: Electron microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used to investigate fine structural morphology of normal and neoplastic human tissues in extensive studies of a wide range of human benign and malignant tumors, categorizing their fine structure and correlating the electron microscopic findings with light microscopy. The article will also be used in training graduate students, members of the professional staff, and medical technologists in the principles and techniques of electron microscopy. Application received by Commissioner of Customs: September 15, 1971. Advice submitted by Department of Health, Education, and Welfare on: March 17, 1972.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used,

is being manufactured in the United States.

Reasons: Each applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. Each of the foreign articles to which the foregoing applications relate is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU-4C electron microscope which is a relatively complex instrument designed primarily for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its respectively cited memoranda, that the relative simplicity of design and ease of operation of the foreign articles described above are pertinent to the applicants' educational purposes. We, therefore, find that the Forgflo Model EMU-4C electron microscope is not of equivalent scientific value to any of the foreign articles described above for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-6191 Filed 4-21-72;8:50 am]

UNIVERSITY OF CALIFORNIA AT SAN DIEGO

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00173-33-43780. Applicant: University of California, San Diego, 3175 Miramar Road, La Jolla, CA 92037. Article: Medical flowmeter system. Manufacturer: SE Laboratories (Engineering) Ltd., United Kingdom. Intended use of article: The article will be used to perform velocity studies on human subjects to evaluate left ventricular myocardial contractility in normal and diseased states.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated January 19, 1971, that for the applicant's human blood flow velocity studies the signal-to-noise ratio of the foreign article is a pertinent characteristic. HEW further advises that it knows of no comparable domestic instrument which provides a signal-to-noise ratio equivalent to that of the foreign article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-6186 Filed 4-21-72;8:50 am]

UNIVERSITY OF CALIFORNIA AT SANTA BARBARA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00166-01-77030. Applicant: University of California, Santa Barbara, Calif. 93106. Article: NMR spectrometer and electromagnet. Manufacturer: Bruker Scientific Inc., West Germany. Intended use of article: The article will be used for research in the nature of enzymesubstrate, enzymeinhibitor, and membrane-drug interactions by NMR spectroscopy. Preliminary work has shown that chemical shift and relaxation phenomena can be used to characterize the environment provided by the protein active site. By learning more about the active or binding centers of the systems, the applicant hopes to arrive at characteristic features and differences that can be exploited in the design of new drugs.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (May 29, 1969).

Reasons: The captioned application is a resubmission of Docket Numbers 70-00309-01-30500 and 70-00310-01-77030 which were denied without prejudice to resubmission due to procedural and informational deficiencies. The foreign article provides magnetic homogeneity over a 7-14 kilogauss range. The most closely comparable domestic instrument at the time the foreign article was ordered was the pulsed nuclear magnetic system, Model PS-60, manufactured by Nuclear Magnetic Specialties which utilizes a Varian 12 or 15 inch magnet. The Varian magnet does not provide magnetic homogeneity over a 7-14 kilogauss range. The foreign article will be used in work planned by the applicant to elucidate the mechanisms of nuclear relaxation in which field-dependent studies are often required. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated February 11, 1972, and the National Bureau of Standards (NBS) in its memorandum dated March 7, 1972, that the capability described above is pertinent to the purposes for which the foreign article is intended to be used.

We, therefore, find that the Model PS-60 with a Varian 12- or 15-inch magnet is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-6187 Filed 4-21-72;8:50 am]

EMORY UNIVERSITY ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00091-33-46500. Applicant: Emory University, Department of Anatomy, Atlanta, Ga. 30322. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article is intended to be used in experiments which include: (1) Studies on the ultrastructural development of cardiac tissue in normal fetal and adult animals with hereditary or experimentally produced cardiomyopathy and heart failure; (2) experiments on variations in

protein synthesis in normal and myopathic heart cells; and (3) structural changes in the inner membranes of mitochondria isolated from normal and diseased hearts. The article will also be used in teaching preparative techniques for electron microscopy to advanced graduate students. Application received by Commissioner of Customs: August 13, 1971. Advice submitted by Department of Health, Education, and Welfare on: February 25, 1972.

Docket No. 72-00101-33-46500. Applicant: University of California, School of Medicine, La Jolla, Calif. 92037. Article: Ultramicrotome, LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used in research directed at the study of the process by which the cerebral spinal fluid and materials within the cerebral spinal fluid are absorbed from around the brain back into the vascular system through the arachnoid villi. Application received by Commissioner of Customs: August 18, 1972. Advice submitted by Department of Health, Education, and Welfare on: March 3, 1972.

Docket No. 72-00104-33-46500. Applicant: University of Miami, Post Office Box 8184, Coral Gables, FL 33124. Article: Ultramicrotome, LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article is intended to be used in experiments on normal hard and soft dental tissues, the ultrastructural aspects of the osteogenic cells in regards to their osteoclastic and osteoblastic actions by determined microorganisms in the oral cavity. The article will also be used in teaching investigations of ultrastructural conditions of normal and pathological hard tissues of the oral cavity in human and experimental animals. Application received by Commissioner of Customs: August 20, 1971. Advice submitted by Department of Health, Education, and Welfare on: March 3, 1972.

Docket No. 72-00123-33-46500. Applicant: College of William and Mary, Department of Biology, Williamsburg, Va. 23185. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used in experiments which include investigation of the ultrastructural aspects of both differentiating vegetative and reproductive cells of marine red algae and the early stages of development of algal thalli (plants) derived from spore germination within controlled environment culture incubators. Cell wall otogeny, the establishment of polarity, mitosis, meiosis and cytokinesis (cell division) comprise several of the features of this poorly-studied group of plants that will be investigated. A course in "Experimental Electron microscopy" will be taught at the graduate level with the article. Application received by Commissioner of Customs: September 9, 1971. Advice submitted by Department of Health, Education, and Welfare on: March 3, 1972.

Docket No. 72-00124-33-46500. Applicant: DHEW, PHS, HSMHA, Center for Disease Control, 255 East Paces Ferry Road, Northeast, Atlanta, GA 30305. Article: Ultramicrotome and Knifemaker. Combination. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used to study the ultrastructural histology in punch biopsies from experimental animals in investigating the development of glumerulonephritis. Application received by Commissioner of Customs: September 9, 1971. Advice submitted by Department of Health, Education, and Welfare on: March 3, 1972.

Docket No. 72-00131-33-46500. Applicant: Veterans Administration Hospital, Neurology Research, 4150 Clement Street, San Francisco, CA 94121. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article is intended to be used for ultrastructural studies of human peripheral nerve and in electron microscopic autoradiography of experimental neuropathies in mice. Application received by Commissioner of Customs: September 14, 1971. Advice submitted by Department of Health, Education, and Welfare on: March 17, 1972.

Docket No. 72-00132-33-46500. Applicant: State University of New York, School of Basic Sciences, Stony Brook, N.Y. 11790. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of Article: The article will be used to reveal by ultrastructural analysis the localization of rhodopsin in the frog retinal and structural changes which occur during the shortening of horseshoe crab striated muscle. In addition the article will be used for training of students in the course "Techniques in Electron Microscopy." Application received by Commissioner of Customs: September 14, 1971. Advice submitted by Department of Health, Education, and Welfare on: March 17, 1972.

Docket No. 72-00152-33-46500. Applicant: University of Hawaii, Department of Anatomy, 1960 East-West Road, Honolulu, HI 96822. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article is intended to be used in a research study of the uterus and its decidual reaction at the time of pregnancy. Differences between pregnant and pseudopregnant uteri will be observed to determine: (1) Enzymatic differences employing ultracytochemistry, (2) relationships of hormonal control to enzyme systems using ultracytochemistry and autoradiography, (3) changes in cell morphology using routine electron microscopy morphological techniques. Application received by Commissioner of Customs: September 24, 1971. Advice submitted by Department of Health, Education, and Welfare on: March 24, 1972.

Docket No. 72-00181-33-46500. Applicant: College of Medicine and Dentistry of New Jersey at Newark, 100 Bergen Street, Newark, NJ 07103. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The foreign article will be used to produce positive identification of the sites of termination of selected pathways in the central nervous system of mammals and to reveal the normal ultrastructural organization of brain regions receiving the fiber pathways in question. Application received by Commissioner of Customs: October 13, 1971. Advice submitted by Department of Health, Education, and Welfare on: March 24, 1972.

Docket No. 72-00195-33-46500. Applicant: University of Rochester, School of Medicine and Dentistry, 260 Crittenden Boulevard, Rochester, NY 14642. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to section normal and neoplastic mammalian tissue derived from experimental animals for ultrastructural studies into the mechanism of vascular growth in tumors and the mechanism of tumor parenchymal response to therapeutic agents. Application received by Commissioner of Customs: October 21, 1971. Advice submitted by Department of Health, Education, and Welfare on: March 24, 1972.

Docket No. 72-00217-33-46500. Applicant: Huntington Institute of Applied Medical Research, 734 Fairmount Avenue, Pasadena, CA 91105. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section mammalian normal and pathological tissues collected from experimental animals previously injected with radioisotopes or electron dense markers. These sections will be investigated to (a) characterize certain barrier systems in the central nervous system, (b) determine sites of elaboration and egress of the cerebrospinal fluid, and (c) assess junctional transport of solutes in normal and pathological preparations. Application received by Commissioner of Customs: November 3, 1971. Advice submitted by Department of Health, Education, and Welfare on March 24, 1972.

Comments: No comments have been received with respect to any of the foregoing applications: Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: Each of the foreign articles provides a range of cutting speeds from 0.1 to 20 millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket No. 69-00665-33-46500), which relates to the

duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "smooth cuts are obtained when the speed of cutting (among such (other) factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior application (Docket No. 70-00077-33-46500) which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments.

For these reasons, we find that the Sorvall Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-6188 Filed 4-21-72;8:50 am]

OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT CENTER AND VETERANS ADMINISTRATION HOSPITAL, SAN DIEGO, CALIF.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00086-33-46040. Applicant: Ohio Agricultural Research and Development Center, Wooster, Ohio 44691. Article: Electron microscope, Elmiskop 101. Manufacturer: Siemens A. G.,, West Germany. Intended use of article: The article is intended to be used in research projects ranging from, the investigation of plant virus pathology of soybean, corn, and wheat-involving local lesion formation mechanisms, virus location within the tissue and general ultrastructural phenomena resulting from the infection-to pathological conditions in animals such as TGE virus in swine. Application received by Commissioner of Customs: August 9, 1971. Advice submitted by Department of Health, Education, and Welfare on: February 25, 1972.

Docket No. 72-00082-33-46040. Applicant: Veterans Administration Hospital, 3350 La Jolla Village Drive, San Diego, CA 92161. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens A. G., West Germany. Intended use of article: The article is intended to be used for the following diagnostic purposes:

(1) Renal, liver, muscle and nerve, brain and tumor biopsies;

(2) Examination of smears from body secretion for the identification of viral particles;

(3) Study of sedimentation pellets of body fluid;

(4) Identification of viruses from biopsy specimens grown in cultures.

The article will also be used to train young pathologists in both technical and interpretive aspects of electron microscopy as a diagnostic tool in pathology. Application received by Commissioner of Customs: August 5, 1971. Advice submitted by Department of Health, Education, and welfare on: February 25, 1972.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States.

Reasons: Each foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope which is manufactured by the Forgflo Corporation (Forflo). The Model EMU-4C has a specified resolving capability of 5 angstroms. (Resolving capability bears an inverse relationship to its numerical rating in angstrom units, i.e., the lower the rating, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda, that the additional resolving capability of the foreign articles is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. We, therefore, find that the Forgflo Model EMU-4C is not of equivalent scientific value to any of the articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-6189 Filed 4-21-72;8:50 am]

UNIVERSITY OF TEXAS

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00146-00-46040. Applicant: The University of Texas at Austin, Purchasing Office, Box 7306, University Station, Austin, TX 78712. Article: High voltage cables for electron microscope. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article is an accessory for an existing electron microscope.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to components for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used.

The Department of Commerce knows of no similar compenents being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-6185 Filed 4-21-72;8:50 am]

WASHINGTON UNIVERSITY ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific,

and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00096-33-46040. Applicant: Washington University, School of Medicine, 660 South Euclid, St. Louis, MO 63110. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, the Netherlands. Intended use of article: The article is intended to be used to study the effects of a variety of experimental agents on cultured nervous tissue from various parts of the central peripheral nervous system; study the myelin sheath of the central and peripheral nervous systems; and aid in the analysis of the fine structure of the nervous system. Application received by Commissioner of Customs: August 13, 1971. Advice submitted by Department of Health, Education, and Welfare on: February 25, 1972.

Docket No. 72-00114-01-46040. Applicant: University of Texas Medical Branch, Office of the Purchasing Agent, Administration Building, Galveston, Tex. 77550. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electron Instruments, N.V.D., the Netherlands. Intended use of article: The article will be used by qualified investigators for research on biogenic amines and synaptic interconnections in the nervous system. Application received by Commissioner of Customs: August 30, 1971. Advice submitted by Department of Health, Education, and Welfare on: March 3, 1972.

Docket No. 72-00119-33-46040. Applicant: University of California, Santa Barbara, 4219P Administration Building, Santa Barbara, Calif. 93106. Article: Electron microscope, EM 300. Manufacturer: Philips Electronic Instruments, the Netherlands. Intended use of article: The article is intended to be used in the following biological research: (1) Fine structural studies of mature and differentiating phloem cells to try to determine the relation of structure to function of the various subcellular systems; (2) cytochemical studies on mature and differentiating phloem sieve elements; (3) ultrastructure of the adrenal cortex of the domestic duck, *Anas Platyrhynchos*. Application received by Commissioner of Customs: August 31, 1971. Advice submitted by Department of Health, Education, and Welfare on: March 3, 1972.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States.

Reasons: Each foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope which is manufactured by the Forgflo Corp. (Forgflo). The Model EMU-4C has a specified resolving capability of 5 angstroms. (Resolving capability bears an inverse relationship to its numerical rating in angstrom units, i.e., the lower the rating, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda, that the additional resolving capability of the foreign articles is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. We, therefore, find that the Forgflo Model EMU-4C is not of equivalent scientific value to any of the articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-6190 Filed 4-21-72;8:50 am]

Office of the Secretary

[Dept. Organization Order 10-5]

ASSISTANT SECRETARY FOR ADMINISTRATION

Designation and Authority

This amendment effective April 3, 1972, amends the material appearing at 34 F.R. 19827 of December 18, 1969.

Department Organization Order 10-5 of December 2, 1969, is hereby amended as follows:

1. In Section 3. *Scope of authority*, paragraph .02 is amended to read:

.02 The authority delegated to the Assistant Secretary for Administration in paragraph .01 above shall include:

a. Serving as "agency head" with respect to the authorities in chapter 4, title 41 of the United States Code, which deal with purchases and contracts for property or services, and other authorities of the Secretary relating to procurement.

b. Carrying out the Secretary's responsibilities for fulfilling the objectives and effecting compliance throughout the Department with the requirements of title VI of the Civil Rights Act of 1964, Executive Orders 11246, 11247, and 11375, and any other statutes, Executive orders, and regulatory provisions relating to equal opportunity under which the Secretary or the Department may have responsibilities. For purposes of carrying out these responsibilities and as required by the applicable Executive orders or implementing regulations of the Secretary of Labor or the Civil Service Commission, the Assistant Secretary for Administration is designated as the Contracts Compliance Officer and the Director of Equal Employment Opportunity for the Department and is authorized to (1) upon recommendations of the heads of operating units, and with the approval of the respective Program Secretarial Officers involved, designate Deputy Contracts Compliance and Equal Employment Opportunity Officers for the operating units; and (2) designate Deputy Contracts Compliance and Equal Employment Opportunity Officers for the Office of the Secretary.

2. In Section 4. *Office of Assistant Secretary for Administration*, section 4 is amended to read:

.01 The Office of the Assistant Secretary for Administration shall consist of:

a. The Deputy Assistant Secretary for Administration, who shall be the principal Assistant of the Assistant Secretary and shall perform the functions of the Assistant Secretary during the latter's absence.

b. The Special Assistant for Civil Rights.

c. Such departmental offices as the Assistant Secretary may establish for the purpose of assisting him in carrying out his administrative management functions.

.02 The Appeals Board is assigned to the Office of the Assistant Secretary for Administration for administrative purposes only.

Effective date: April 3, 1972.

LARRY A. JOBE,
Assistant Secretary
for Administration.

[FR Doc.72-6242 Filed 4-21-72;8:53 am]

[Dept. Organization Order 45-1]

ECONOMIC DEVELOPMENT ADMINISTRATION

Organization and Functions

This order effective March 22, 1972 supersedes the material appearing at 35 F.R. 14472 of September 15, 1970 and 36 F.R. 11870 of June 22, 1971.

SECTION 1. *Purpose.* This order prescribes the organization and assignment of functions within the Economic Development Administration (EDA). Department Organization Order 10-4, "Assistant Secretary for Economic Development," prescribes the scope of authority of the Assistant Secretary for Economic Development and the functions of EDA.

SEC. 2. *Organization Structure.* The principal organization structure and line of authority of the Economic Development Administration shall be as depicted in the attached organization chart (Exhibit 1). A copy of the organization chart is on file with the original of this document of the Office of the Federal Register.

SEC. 3. *Office of the Assistant Secretary for Economic Development.* .01 The Assistant Secretary directs the programs and is responsible for the conduct of all

activities of the Economic Development Administration subject to the policies and directives prescribed by the Secretary of Commerce.

.02 The Deputy Assistant Secretary shall direct and coordinate the Regional Offices and assist the Assistant Secretary in all matters affecting the Economic Development Administration and perform the duties of the Assistant Secretary during the latter's absence.

.03 The Investigations and Inspections Staff shall investigate alleged violations of law or other impropriety on the part of applicants or recipients; conduct inspections relating to the conduct and performance of field personnel and review the suitability of applicants for financial assistance. The Staff shall also conduct special investigations requested by the Assistant Secretary, as well as inspections to assure the physical security of all EDA offices.

.04 The Indian Program Staff shall administer the Indian economic development program and advise the Deputy Assistant Secretary concerning its general effectiveness. It shall recommend approval or denial of projects proposed for Indian areas and negotiate and monitor interagency agreements relating to Indian economic development.

SEC. 4. *Deputy Assistant Secretary for Policy Coordination.* The Deputy Assistant Secretary for Policy Coordination, as the principal adviser to the Assistant Secretary on matters of policy coordination, shall:

a. Exercise responsibility for EDA's interagency and intergovernmental relations and its relations with those quasi-public and private agencies interested in economic development;

b. Develop policies for improving Federal, State, and local government economic development programing;

c. Provide staff assistance in defining policy issues, coordinate the development and formulations of policy for consideration by the Assistant Secretary, explain the position of the administration, and exercise principal staff responsibility for policy review and evaluation;

d. Represent the Administration international organizations when so designated;

e. Coordinate and manage Administration representation on interagency committees;

f. Serve as Executive Secretary and, as required, provide or arrange for staff support for the National Public Advisory Committee on Regional Economic Development;

g. Act as an alternate to the Assistant Secretary in serving as Chairman of EDA's Policy Planning Board and provide secretariat services for the Policy Planning Board; and

h. Review and evaluate legislative and administrative proposals related to economic development and intergovernmental relations for substantive and policy implications.

SEC. 5. *Deputy Assistant Secretary for Economic Development Planning.*

.01 The Deputy Assistant Secretary for Economic Development Planning is the principal adviser to the Assistant Secretary on matters of development planning. Through the offices reporting to him, he shall:

a. Coordinate and direct EDA economic development planning activities relating to regions, districts (including economic development centers), redevelopment areas, and other areas of substantial need;

b. Formulate and recommend to the Assistant Secretary standards and criteria for administration of economic development planning by Regional Offices;

c. Inform the Deputy Assistant Secretary for Policy Coordination of significant developments and problems affecting interagency and intergovernmental development planning for districts and areas;

d. Recommend designation of economic development districts, economic development centers, redevelopment areas, and Title I areas which fulfill the statutory criteria;

e. Conduct an annual review of the areas and districts designated for assistance under the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121) (the Act), and recommend such modifications or terminations of eligibility as may be appropriate;

f. Provide economic data, analyses and studies, and planning grants to development districts and areas; and

g. Recommend technical assistance proposals for areas and districts.

.02 The Deputy Assistant Secretary for Economic Development Planning shall direct and supervise the following organization elements:

a. The Office of Planning and Program Support which shall:

1. Have prime responsibility for coordinating the preparation, review and approval of EDA-developed planning documents;

2. Develop analyses and recommended strategies of economic development, including a system of priorities for EDA's financial assistance, for areas and districts;

3. Develop economic development planning systems that reflect EDA objectives and respond to local and regional problems and potentials;

4. Develop the methods and techniques needed to evaluate established planning systems including the ability of local representatives to understand and utilize the planning system as well as the compatibility of locally developed plans with annual agency objectives;

5. Participate in the development of budgetary requirements and coordinate with the office of Administration and Program Analysis in the allocation of resources among Regional Offices as well as among EDA programs;

6. Provide information and special services on domestic and international regional development planning;

7. Provide guidance to Regional Offices on the application of economic development planning techniques and systems to the specific problems of the Region;

8. Advise and assist Regional Offices in implementing economic planning activities after the formal designation of economic development districts and areas;

9. Guide Regional Offices in assisting development organizations to prepare Overall Economic Development Programs (OEDP's);

10. In coordination with Regional Offices, provide guidance to economic development district and area organizations on the techniques and methods of economic analysis;

11. Formulate planning and development policies and procedures for guiding the preparation and submission of district and area OEDP's, including the establishment of policies and standards for their review by Regional Offices;

12. Initiate suspension of the receipt and processing of all applications for assistance from areas and districts which fail to submit acceptable OEDP progress reports;

13. Evaluate services, efficient existing capacity, and competitive producers for use in making determinations on excess capacity, pursuant to section 702 of the Act; and

14. Identify industries which have demonstrated growth trends for the purpose of relating those industries to agency plans.

b. The Office of Economic Research which shall:

1. Direct and conduct a program of internal and external economic research designed to meet both planning and operating needs and concerned with economic development problems and opportunities for geographical subdivisions (e.g., regions, development districts, redevelopment areas, etc.);

2. Arrange for and monitor EDA-sponsored research conducted by other elements of the Department, other Government agencies, or private organizations;

3. Encourage and stimulate research and data collection on economic development, both in and out of Government;

4. Review, evaluate, integrate and disseminate (a) the results of research sponsored by EDA, and (b) current methodological and other research findings wherever generated that are relevant to EDA's objectives and programs;

5. Maintain a central reference collection of economic development materials; and

6. Study and evaluate the effects of Government policies on subnational economic development.

c. The Office of Development Organizations which shall:

1. Design and direct a program to establish multicounty development districts in consultation and with the assistance and cooperation of EDA Regional Offices, and with the concurrence of the States affected;

2. Initiate policy guidelines and criteria concerning the development district and area organizations for use by other elements of EDA, and by appropriate State and local agencies;

3. Evaluate and approve proposed area and district economic development organizations;

4. Assist Regional Office efforts to organize economic development districts, including the recruitment of staff;

5. Develop and recommend model administrative budgets, reporting procedures, and job specifications for use by area and district economic development organizations;

6. Establish policies and standards for the review of progress reports by Regional Offices in cooperation with the Office of Planning Program Support;

7. Design a system of records to indicate progress as compared to planned objectives on all grants made under section 301(b) of the Act and assist Regional Offices in implementing system;

8. Provide guidelines to Regional Offices in order to administer planning grants made under the Act to State, district, and area agencies;

9. Evaluate and recommend candidates for appointments to professional staff positions in economic development districts in cooperation with the Regional Offices;

10. Review Regional Office recommendations for the designation and/or termination of economic development districts and economic development centers;

11. Promptly advise interested Federal, State, and local agencies of all changes affecting the eligibility status of existing or proposed economic development districts;

12. Prepare and distribute maps and related materials showing organizational and designation status of economic development districts;

13. Determine whether an area meets the statistical criteria to qualify as a redevelopment area or a Title I area;

14. Recommend changes in the qualification status of redevelopment areas and Title I areas;

15. Recommend designation or change in the designation status of redevelopment or Title I areas;

16. Conduct an annual review of area eligibility and recommend termination of areas no longer eligible for designation; and

17. Recommend minor adjustments to boundaries of redevelopment areas.

SEC. 6. *Deputy Assistant Secretary for Economic Development Operations.* .01 The Deputy Assistant Secretary for Economic Development Operations, through the offices reporting to him, shall:

a. Provide coordinated direction of all EDA activities related to financial assistance for or to physical projects which will improve local economies and supervise the execution of this aspect of EDA's programs;

b. Recommend standards, policies and criteria for the technical evaluation and processing of project applications for financial assistance, including public works grants and loans, business loans, and technical assistance;

c. Direct, conduct, coordinate, monitor and, where appropriate, originate technical assistance projects (including management assistance and feasibility studies) subject to coordination with the Deputy Assistant Secretary for Economic Development Planning on proposed technical assistance projects related to area, district or center planning;

d. Review and recommend approval or denial of project applications;

e. Evaluate activities of the Regional Offices in applying policies, standards, and procedures for processing project applications to assure efficient, effective, and economical accomplishment of approved projects;

f. Execute agreements with other Federal departments and agencies in consultation with the Deputy Assistant Secretary for Policy Coordination for the conduct of specialized technical assistance; and

g. Study and evaluate the manpower development and training needs of redevelopment areas and of economic development districts, and recommend appropriate joint action with the Departments of Labor and Health, Education, and Welfare.

.02 The Deputy Assistant Secretary for Economic Development Operations shall direct and supervise the following organization elements:

a. The Office of Public Works which shall:

1. Recommend policies, standards and procedures for accepting, processing, reviewing, and approving requests for public works grants and loans, consistent with the procedures contained in the Act;

2. Review and recommend for approval or denial public works grant and loan project applications, and suggest alternate methods of financing where indicated;

3. Maintain surveillance, evaluate progress, and submit reports on the application by Regional Offices of standards, policies, and procedures to assure efficient, effective, and economical accomplishment of the approved projects;

4. Arrange for services from other Federal agencies for the administration of approved public works grants and loans; and

5. Maintain operating liaison with Federal agencies having grant-in-aid programs which may supplement EDA programs, and with those Federal agencies delegated responsibility for administering or servicing EDA projects.

b. The Office of Business Development which shall:

1. Recommend policies, standards, and procedures for processing and approving applications for financial assistance for industrial or commercial usage, consistent with the criteria contained in the Act;

2. Review applications for commercial or industrial loans and working capital guarantees, and recommend approval or denial;

3. Maintain surveillance over the implementation by Regional Offices of policies, standards and procedures related to processing loan applications for business development to assure efficient, effective, and economical accomplishment of the business development programs;

4. Develop and implement EDA approved agreements with the Small Business Administration and other Federal agencies to secure support of the business development programs;

5. Monitor operations of industrial and commercial projects approved by EDA, including outstanding loans for projects approved under provisions of the Area Redevelopment Act, and prepare reports of accomplishments;

6. Arrange for or provide needed specialized assistance to recipients of EDA industrial and commercial loans and guarantees and Area Redevelopment Act loans;

7. Develop policies, plans, and procedures to improve or terminate projects in default of loan conditions;

8. Provide assistance in the liquidation of the affairs and functions conducted under the Area Redevelopment Act;

9. Establish contact and promote large scale involvement of the private sector in EDA's economic development activities; and

10. Maintain operating liaison with other agencies concerned with the activities of this Office.

c. The Office of Technical Assistance which shall:

1. Propose policies, standards, and procedures pertaining to the acceptance, review, and approval of requests for technical assistance, consistent with the criteria of the Act;

2. Plan and develop technical assistance projects in cooperation with other offices, where appropriate;

3. Direct or monitor the performance and implemeneation of approved technical assistance projects;

4. Recommend policies, standards, and procedures for evaluating and utilizing the results of technical assistance projects;

5. Execute agreements with other Federal departments and agencies for the the conduct of specialized technical assistance, in consultation with the Deputy Assistant Secretary for Policy Coordination;

6. Recommend, to the Deputy Assistant Secretary for Policy Coordination, policies and practices to facilitate effective relationships with other Government agencies which have complementary programs for technical assistance;

7. Maintain surveillance over the application of policies, standards, and procedures by the Regional Offices in processing project applications;

8. Review and recommend project applications for approval or denial; and

9. Coordinate the efforts of EDA in the manpower training program.

SEC. 7. *Office of Administration and Program Analysis.* The Office of Administration and Program Analysis shall be responsible for providing the full range of administrative management services and for program analysis and evaluation functions with respect to EDA's substantive programs. These functions shall be carried out through the principal organizational elements of the Office, as prescribed below, except that personnel management services, accounting for administrative funds, and in-house equal

opportunity staff services shall be obtained from the appropriate Departmental offices.

.01 The Program Analysis Division shall: Develop and implement measures of resource utilization for programing and budgeting purposes; develop and conduct a systematic program evaluation effort for EDA; prepare the annual Program Memorandum and analytical studies required by the Office of Management and Budget; and develop cost benefits studies to aid the Assistant Secretary in making choices and decisions between alternative programs for economic development projects, activities, and programs in achieving the objectives of the Act and EDA.

.02 The Management Analysis Division shall: Conduct organization and management studies and surveys; plan and conduct a program for achieving maximum economy, effectiveness, and efficiency, and for obtaining optimum personnel utilization; develop and conduct a program for the efficient management of all official records, including an issuance system for administrative and program orders, and the design and control of official forms; and develop and administer a report control system for all administrative and operational reports.

.03 The Budget Division shall: Develop and manage an integrated financial management and budgeting system for EDA. It shall develop and prepare the annual budget for EDA; be responsible for the total financial program of EDA, and for the fiscal aspects of EDA programs entrusted to other Federal agencies; and operate a fiscal control system for both program and administrative expenses consistent with the requirements of the Anti-Deficiency Act, which shall include but not be restricted to, allotment of funds, operating budgets, employment limitations, and analyses of reports and proposed actions relating thereto.

.04 The Accounting Division shall: Develop and maintain accounting systems and prepare financial reports for internal and external use, according to the needs of management, the requirements of laws or regulations, and established policies; analyze financial and operating data to assure that financial and management policies are being followed; and serve as the liaison with the Office of the Secretary and other Federal agencies in all accounting matters.

.05 The Information Systems and Services Division shall: Plan, develop, acquire, and coordinate the use of automatic data processing systems and equipment for EDA; provide data processing services, including the conduct of feasibility studies and the development of systems and programs for the applications of automatic data processing techniques; develop and maintain a comprehensive information and data base system to meet specified requirements for administrative, planning, operational, program management, and program evaluation purposes; and provide periodic and special summary reports on current optional trends and performance comparisons to planned goals.

.06 The Office Services Division shall: Provide or arrange for office services for EDA's headquarters and, as required, for the Regional Offices, including the procurement of administrative supplies, vehicle hire, furniture, equipment, and the distribution of printed and bound materials; evaluate, report on, and make recommendations on the utilization of space, supplies, equipment, communications, and related services within EDA; and serve as liaison with the Office of the Secretary on office services matters.

.07 The Executive Secretariat shall: Receive all correspondence addressed to the Office of the Assistant Secretary, and assign it to the appropriate office for action; record controlled and non-controlled correspondence, maintain prompt followup of replies to insure that deadlines are met; and provide a selective referense service to files as requested by EDA officials.

SEC. 8. *Office of the Chief Counsel.* The Office of the Chief Counsel shall:

a. Render all necessary legal services, subject to the provisions of Department Organization Order 10–6; and

b. Have primary responsibility for the preparation, coordination, and clearance of all legislation, regulations, and external orders subject to the provisions of applicable Department orders.

SEC. 9. *Office of Public Affairs.* The Office of Public Affairs shall:

a. Advise on all public information matters;

b. Conduct a public information program under the policy guidance of the Assistant Secretary; and

c. Provide assistance in the editing, printing or reproduction, and distribution of technical materials and publications.

SEC. 10. *Office of Congressional Relations.* The Office of Congressional Relations shall:

a. Advise on all congressional matters pertinent to the activities under the direction of the Assistant Secretary; and

b. Serve as the primary point of coordination for continuing liaison with the Congress in collaboration with the Special Assistant of the Secretary for Congressional Relations.

SEC. 11. *Office of Civil Rights.* The Office of Civil Rights shall:

a. Advise the Assistant Secretary in the development and implementation of policy and guidance affecting equality of opportunity connected with economic development programs;

b. Maintain liaison with Federal, State and local governmental organizations and with nongovernmental organizations to coordinate and assist in planning operations aimed at achieving nondiscrimination and equality of opportunity;

c. Provide leadership, staff services and advice in matters affecting nondiscrimination to economic development program units, to organizations obligated as participants in an economic development program to achieve nondiscrimination, and to ultimate beneficiaries of economic development program activities;

d. Conduct, sponsor, or coordinate meetings, conferences, and training courses for equal employment specialists, program managers, and executives to achieve nondiscrimination in economic development programs;

e. Establish effective systems throughout EDA to obtain and monitor reports concerning the program of equality of opportunity and assure conformance thereto;

f. Establish report requirements to insure equality of opportunity by participants in economic development programs, conduct on-site inspections, and receive, investigate, and adjust complaints; and

g. Receive, investigate, reviews, adjust complaints, and evaluate EDA experience relating to the Equal Employment Opportunity program and make recommendations to the Assistant Secretary for improvement of employment practices within EDA.

SEC. 12. *Economic Development Regional Offices.* .01 The Economic Development Regional Offices, headed by Regional Directors, are as follows:

Name	Located at—	Serves
Atlantic	Philadelphia, Pa.	Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia, Virgin Islands, and West Virginia.
Southeastern	Atlanta, Ga.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.
Midwestern	Chicago, Ill.	Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.
Rocky Mountain	Denver, Colo.	Colorado, Kansas, Iowa, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.
Southwestern	Austin, Tex.	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.
Western	Seattle, Wash.	Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, and Washington.

.02 Each Regional Director, for the EDA programs in his region, shall:

a. Assist designated areas and districts in organizing, staffing, and funding for economic planning through the development of (OEDPs);

b. Assist local communities in the development of applications for financial assistance to meet the needs of areas and districts serviced by the Regional Office; and

c. Process applications for economic development assistance, monitor and service approved projects, including appropriate public works construction projects and, when appropriate, liquidate projects.

.03 The geographic areas of the EDA Regional Offices are depicted in Exhibit

2.[2] (A copy of Exhibit 2 is on file with the original of this document with the Office of the Federal Register.)

Effective date: March 22, 1972.

LARRY A. JOBE,
Assistant Secretary for Administration.

[FR Doc.72-6240 Filed 4-21-72;8:53 am]

[Dept. Organization Order 25-2]

MARITIME ADMINISTRATION

Organization and Functions

This order effective March 24, 1972, supersedes the material appearing at 36 F.R. 20123 of October 15, 1971, and 36 F.R. 23834 of December 15, 1971.

SEC. 1. *Purpose.* This order prescribes the organization and assignment of functions within the Maritime Administration. The delegations of authority to the Assistant Secretary for Maritime Affairs and the Maritime Subsidy Board are set forth in Department Organization Order 10-8.

This revision assigns the functions of the former Assistant Administrator for Administration and Assistant Administrator for Finance, to the Assistant Administrator for Administration and Finance (Section 10). It also moves certain functions from the Office of Policy and Plans to the Assistant Administrator for Administration and Finance.

SEC. 2. *Organization Structure.* The organization structure and line of authority of the Maritime Administration shall be as depicted in the attached organization chart (Exhibit 1). (A copy of the organization chart is filed with the original of this document with the Office of the Federal Register).

SEC. 3. *Office of the Assistant Secretary for Maritime Affairs.* .01 The Assistant Secretary for Maritime Affairs (the "Assistant Secretary"), who is ex-officio Maritime Administrator, is the head of the Maritime Administration and serves as Chairman of the Maritime Subsidy Board.

.02 The Deputy Assistant Secretary for Maritime Affairs shall assist the Assistant Secretary in carrying out his responsibilities and perform such duties as the Assistant Secretary shall prescribe, together with the duties which he performs as a member of the Maritime Subsidy Board. In addition, he shall be the Acting Assistant Secretary during the absence or disability of the Assistant Secretary and, unless the Secretary of Commerce designates another person, during a vacancy in the office of the Assistant Secretary. He shall also be responsible for supervision and coordination of contract compliance activities and activities under Title VI of the Civil Rights Act of 1964.

.03 The Executive Staffs shall consist of the Secretary of the Maritime Administration who also serves as Secretary of the Maritime Subsidy Board, the hearing examiners, and officials concerned with other special services for the Assistant Secretary and the Maritime Subsidy Board.

SEC. 4. *Maritime Subsidy Board.* The Maritime Subsidy Board shall be responsible for and perform the following functions:

a. The functions with respect to making, amending, and terminating subsidy contracts, which shall be deemed to include, in the case of construction-differential sudsidy, the contract for the construction, reconstruction or reconditioning of a vessel and the contract for the sale of the vessel to the subsidy applicant or the contract to pay a construction-differential subsidy and the cost of the national defense features, and, in the case of operating-differential subsidy, the contract with the subsidy applicant for the payment of the subsidy;

b. The functions with respect to: (1) Conducting hearings and making determinations antecedent to making, amending, and terminating subsidy contracts, under the provisions of Titles V, VI, and VIII, and sections 301 (except investigations, hearings and determinations, including changes in determinations, with respect to minimum manning scales, minimum wage scales and minimum working conditions), 708, 805(a), and 805(f) of the Merchant Marine Act, 1963, as amended (the Act), (2) making readjustments in determinations as to operating cost differentials under section 606 of the Act, and (3) the approval of the sale, assignment, or transfer of any operating subsidy contract under section 608 of the Act;

c. The functions with respect to investigating and determining (1) the relative cost of construction of comparable vessels in the United States and foreign countries, (2) the relative cost of operating vessels under the registry of the United States and under foreign registry, and (3) the extent and character of aids and subsidies granted by foreign governments to their merchant marines, under the provisions of subsections (c), (d), and (e) of section 211 of the Act;

d. So much of the functions specified in section 12 of the Shipping Act, 1916, as amended, as the same relate to the functions of the Board under subparagraphs a. through c. of this paragraph; and

e. So much of the functions with respect to adopting rules and regulations, subpenaing witnesses, administering oaths, taking evidence, and requiring the productions of books, papers, and documents, under sections 204 and 214 of the Act, as relate to the functions of the Board.

SEC. 5. *Office of Policy and Plans.* The Office of Policy and Plans shall develop and recommend long-range marine affairs policies and plans, including plans for the revitalization of the U.S. Merchant Marine; in coordination with the Office of Budget and Accounts, develop and maintain a system of multiyear program planning, analysis and evaluation; direct and coordinate the development and maintenance of plans for carrying out the Administration's responsibilities and functions in the event of mobilization for war or other national emergency; conduct economic studies and operations research activities in support of the planning functions and recommend solutions to problems affecting shipping; and review and evaluate operating programs to determine their effectiveness in accomplishing established goals and objectives.

SEC. 6. *Office of the General Counsel.* The Office of the General Counsel shall, subject to the overall authority of the Department's General Counsel as provided in Department Organization Order 10-6, serve as the law office of the Administration; review and give legal clearance to applications for subsidy and other Government aids to shipping, sales, mortgages, charters, and transfers of ships; prepare and approve as to form and legality, contracts, agreements, performance bonds, deeds, leases, general orders, and related documents; render legal opinions as to the interpretation of such documents and the statutes; prepare drafts of proposed legislation, executive orders, and legislative reports to Congressional committees and the Office of Management and Budget; negotiate and settle, or recommend settlement of, admiralty claims, just compensation claims, tort claims, and claims referred to the office for litigation; assist the Department of Justice in the trial, appeal and settlement of litigation; represent the Administration in public proceedings involving all shipping matters before administrative agencies of the Government, and in State and Federal courts; and handle court litigation in actions involving enforcement or defense of the jurisdiction, general orders, and regulations of the Administration.

SEC. 7. *Office of Public Affairs.* The Office of Public Affairs shall develop and coordinate a public information and publications program as needed to further the objectives of the Administration's programs; issue or clear for issuance all information for the general public on shipping and on decisions and activities of the Administration; and prepare periodic and special reports, as assigned.

SEC. 8. *Office of Civil Rights.* The Office of Civil Rights shall formulate and conduct programs to assure compliance by Federal contractors and subcontractors with Executive Orders 11246 and 11375 and related regulations, and applicants for and recipients of Federal financial assistance and their contractors and subcontractors with Title VI of the Civil Rights Act of 1964 and related regulations; plan and direct special programs to assure equal opportunity in employment in the ship and boat building and repair industries, water transportation industry, and related industries as assigned; provide assistance in communicating to minority communities the career opportunities available in the Merchant Marine; assist in the recruitment of qualified minority cadet candidates for the U.S. Merchant Marine Academy and assure equal opportunity for the Academy cadets; conduct compliance reviews of the civil rights and equal employment

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[2] Filed as a part of the original document.

opportunity programs relating to Maritime Administration employees, and make recommendations for improvement.

SEC. 9. *Office of International Activities.* The Office of International Activities shall plan, conduct, and coordinate Maritime Administration's participation in intergovernmental and international organizations concerned with shipping matters; keep abreast of developments in the United States and foreign countries with a foreign relations impact that may affect the U.S. Merchant Marine; take and/or coordinate action to establish and present Maritime Administration's position in these matters. Within this Office are personnel responsible for representing the Maritime Administration in international activities, as assigned, for development of maritime foreign cost data, and other technical maritime activities in foreign countries.

SEC. 10. *Office of the Assistant Administrator for Administration and Finance.* The Assistant Administrator for Administration and Finance shall be the principal assistant and adviser to the Assistant Secretary on administrative services, personnel, management and organization, financial management, automatic data processing, and management information systems matters. He shall direct the activities of the following organizational units:

.01 The Office of Administrative Services shall plan and establish national policies and programs for the conduct of facilities and supply management and office services activities, including material control and disposal of real and personal property, other than ships; administer the security program; settle loss or damage claims arising from shipments on Government bills of lading; secure allocations of the production capacity of private plants for the manufacture of components and materials required in the event of mobilization; administer programs for the management of mail, files, records equipment, vital records, and records disposition; and, for headquarters of the Maritime Administration, provide or obtain travel and office services, including space, communications, correspondence control, central files, and administrative property management services.

.02 The Office of Management and Organization shall conduct manpower surveys to determine staffing requirements for all components of the Administration; conduct surveys and studies to improve management practices, organization structures, delegations of authorities, procedures, and work methods; maintain a system for the issuance of the manual of orders and other directives; administer programs for the management of reports, forms, correspondence, and committee activities; coordinate the management improvement program; and prepare special progress and administrative reports to the Office of the Secretary and others, as required.

.03 The Office of Personnel shall plan and administer personnel programs and activities relating to recruitment, placement, promotion, separation, employee performance evaluation, training and career development, employee recognition and incentives, employee relations and services, employee-management relations, classification, pay management, and various employee benefit programs. This office shall also plan and administer the equal opportunity program for employment in the Maritime Administration.

.04 The Office of Budget and Accounts shall formulate, recommend, and interpret budgetary policies and procedures; collaborate with the Office of Policy and Plans in discharging that Office's responsibilities for development and maintenance of a system of multi-year program planning, analysis and evaluation; collaborate with operating officials in the development of fiscal plans and budget estimates; develop and present budget requests and justifications; allocate and maintain budgetary control of funds available; review status of funds and program performance in relation to fiscal plans; develop and maintain financial systems of the Administration; perform accounting functions, including maintenance of general accounts and related fiscal records, preparation of financial statements and reports, issuance of invoices, and audits and certification of vouchers for payment; and take necessary action to effect collection of amounts due the Administration.

.05 The Office of Financial Analysis shall render financial advice and opinions with respect to the substantive programs and contractual activities of the Administration; prescribe a uniform system of accounts for subsidized operators, agents, charters, and other contractors; administer a program of external audits of contractors' accounts (except those of research and development contractors) to determine compliance with applicable laws, regulations and contract provisions concerning costs and profits; analyze financial statements and other data submitted by contractors to determine financial qualifications and limitations; and develop and make continuing analyses of data to determine financial condition of the American merchant marine or segments thereof.

.06 The Office of Management Information Systems shall plan and develop data processing and management information systems; develop systems and programs for the application of computer techniques; operate the electronic data processing facility, including auxiliary equipment; and plan, coordinate, and operate the Administration's management data and information center.

SEC. 11. *Office of the Assistant Administrator for Research and Development.* The Assistant Administrator for Research and Development shall be the principal assistant and adviser to the Assistant Secretary on research and development programs. He shall direct the activities of the following organizational units:

.01 The Office of Maritime Technology shall develop, coordinate and manage programs to establish a scientific and technological base for achieving a more productive and competitive U.S. Merchant Marine; initiate, solicit, develop, and recommend specific projects, such as research in hydrodynamics, structures, and oceanographic subjects which have a bearing on improvements in the merchant marine, and institutional and university research in marine science and technology appropriate to maritime affairs; and negotiate and administer technical aspects of contracts in above areas.

.02 The Office of Advanced Ship Development shall develop, organize, coordinate, and manage programs for the application of scientific and technological developments to improve ship systems, shipbuilding, ship machinery, equipment, and other components, with the objective of increasing the efficiency, productivity, and effectiveness of the U.S. Merchant Marine; initiate, solicit, develop, and recommend specific projects; and negotiate and administer technical aspects of contracts in these areas.

.03 The Office of Advanced Ship Operations shall develop, organize, coordinate, and manage programs for the application of scientific, technological, and other developments to upgrade the operational efficiency and competitive position of the U.S. Merchant Marine; develop, coordinate, and implement programs for the application of nuclear power to merchant ships; initiate, solicit, develop, and recommend specific projects in these areas, including navigation and communications, port and terminal operations, cargo handling, marine personnel requirements, automation, ship handling and other operational aspects of the ship; and negotiate and administer technical aspects of contracts in above areas.

.04 The Office of Maritime Research Centers shall plan, direct, coordinate, and control the activities of the National Maritime Research Centers, located at Kings Point, N.Y., and Galveston, Tex. These Centers shall formulate and recommend research and development projects; carry out assigned research programs and projects; serve as test and evaluation centers for appraising the effectiveness of proposed improvements for the Merchant Marine; and sponsor conferences and seminars on maritime research and related subjects.

SEC. 12. *Office of the Assistant Administrator for Operations.* The Assistant Administrator for Operations shall be the principal assistant and adviser to the Assistant Secretary on ship construction, ship operations, domestic shipping, port development, and intermodal transportation systems activities. Within his office are personnel responsible for the conduct of trial, acceptance, and guarantee surveys of ships. He shall direct the activities of the following organizational units:

.01 The Office of Ship Construction shall collect and analyze data on relative costs of shipbuilding in the United States and foreign countries; calculate and recommend the amount of construction-differential subsidy; develop preliminary

designs establishing the basic characteristics of proposed ships; review and approve ship designs submitted by applicants for Government aid; recommend and, upon request, conduct research and development projects in ship design and construction; develop or approve contract plans and specifications for the construction, reconstruction, conversion, reconversion, reconsidering, and betterment of ships; review, obtain approval and certification of national defense features by the Department of the Navy; prepare cost estimates, invitations to bid, and recommendations for the award of ship construction-type contracts; administer ship construction contracts; provide naval architectural and engineering services in connection with construction of small special purpose ships for other Government agencies; approve designs, supervise construction, and undertake final acceptance of fishing vessels constructed under Public Law 86–516, as amended; maintain current records of commercial shipyard ways in the United States; and develop requirements for mobilization ship construction programs.

.02 The Office of Domestic Shipping shall formulate and implement national policies and programs for the development and promotion of domestic waterborne commerce, including the Great Lakes, inland waterways, and noncontiguous, coastwise and intercoastal trade; conduct studies, formulate plans, and make recommendations to improve the competitive position and increase the utilization of the domestic waterborne transportation; give national program direction for maintenance and preservation of the national defense reserve fleet, and for the operation, maintenance and repair of Maritime Administration-owned or acquired merchant ships, conduct of ship conditions surveys, and related activities; administer the ship sales and ship exchange programs; provide safety engineering services; approve or recommend approval of transfers of ships to foreign ownership, registry or flag; review and approve maintenance and repair costs for subsidy participation; and develop plans for the acquisition, allocation, and operation of merchant ships in time of national emergency and administer these activities as required.

.03 The Office of Ports and Intermodal Systems shall formulate national policies and programs, and conduct programs for the development and promotion of intermodal transportation systems; conduct studies and formulate plans for the promotion, development, and utilization of ports and port facilities; provide technical advice to other Government agencies, private industry and State and municipal governments in the above fields; and conduct emergency planning for the utilization and control of ports and port facilities under national mobilization conditions.

SEC. 13. *Office of the Assistant Administrator for Maritime Aids.* The Assistant Administrator for Maritime Aids shall be the principal assistant and advisor to the Assistant Secretary on subsidy administration, Title XI mortgage insurance, and other Government aids programs, maritime manpower, marine insurance, and market development activities. He shall direct the activities of the following organizational units:

.01 The Office of Subsidy Administration shall process applications for construction-differential subsidy, operating-differential subsidy, Federal Ship Mortgage and/or Loan Insurance, trade-in allowances, and other forms of Government aid to shipping; conduct negotiations with applicants, obtain comments of other offices and within delegated authority, approve or recommend approval or disapproval, and take other actions in relation to the award and the administration of aid contracts; administer Construction Reserve Funds and Capital Construction Funds; approve actions relating to the administration of Special and Capital Reserve Funds; maintain control records of statutory and contractual reserve funds; collect, analyze, and evaluate costs of operating ships under United States and foreign registry; calculate and recommend operating-differential subsidy rates; analyze and recommend trade route structure and service requirements of the ocean-borne commerce of the United States, and extent of foreign flag competition on essential trade routes; and collect, maintain, analyze, and disseminate statistical data on cargo and commodity movements in the ocean-borne commerce of the United States, composition of world's merchant fleets, and utilization of U.S.-flag ships.

.02 The Office of Maritime Manpower shall analyze and advise the Administration regarding labor management relations and problems as they apply to seamen, longshoremen, and shipyard workers, including labor trends, potential areas of dispute, and the effects of technological changes and proposed legislation on labor; develop plans in cooperation with the Department of Labor to provide reserve maritime manpower for mobilization and other emergencies; obtain, analyze, and publish data for use of industry, labor, Government, and the public concerning maritime employment, wages, hours, manning, working conditions, and manpower requirements; process nominations for appointment of cadets to the U.S. Merchant Marine Academy; administer a grant-in-aid program for the State maritime academies; determine need for and coordinate training programs for licensed and unlicensed personnel in martime industries; coordinate technical maritime training assistance to foreign countries under international cooperative programs; and issue merchant marine decorations and awards.

.03 The Office of Market Development shall formulate national policies and programs, and conduct programs for the promotion and development of increased trade for U.S.-flag ships in the foreign commerce of the United States; regulate, review and report on the administration of cargo preference activities under Public Law 664, 83d Congress, Public Resolution 17, 73d Congress, and other statutes, in accordance with section 901 of the Merchant Marine Act, 1936, as amended; and calculate and recommend guideline rates, terms, and conditions for transportation of Government-financed cargoes.

.04 The Office of Marine Insurance shall develop, coordinate, control, and administer the marine insurance and the marine war risk insurance activities and programs of the Maritime Administration; maintain contact with the commercial insurance markets, analyze events and trends, and take action to meet changing conditions and foster cooperation between the Federal Government and American marine insurance underwriters in helping to strengthen the domestic marine insurance market; gather, analyze, and disseminate information on marine insurance useful to ship operators and the marine insurance industry; and settle or recommend settlement of claims of a marine insurance and marine war risk insurance nature.

SEC. 14. *Field Organization.* .01a. There shall be three field organizations called Regions, each headed by a Region Director, as specified below:

Region	*Headquarters location*
Eastern Region	New York, N.Y.
Central Region	New Orleans, La.
Western Region	San Francisco, Calif.

b. The Regions shall have geographic areas of responsibility as shown in Exhibit 2. (A copy of Exhibit 2 is on file with the original of this document with the Office of the Federal Register.)

c. The Region Directors shall be responsible for all field operations and programs of the Maritime Administration within their respective Regions, except ship construction and the U.S. Merchant Marine Academy, subject to national policies, determinations, procedures, and directives of the appropriate office chief in Washington, D.C. The programs and activities under their jurisdiction shall include the custody and preservation of ships in the national defense reserve fleet; operation, repair, and maintenance of ships; marine inspections; training for marine personnel in radar, loran, etc.; accounting and external auditing; contract compliance activities, and activities to assure equal opportunity in employment in water transportation industries, as assigned; market development; development of ports and intermodal transportation systems; procurement and disposal of property and supplies; facilities management; and administrative support activities.

.02 The U.S. Merchant Marine Academy, Kings Point, N.Y., shall develop and maintain programs for the training of U.S. citizens to become officers in the U.S. Merchant Marine.

Effective Date: March 24, 1972.

LARRY A. JOBE,
Assistant Secretary for Administration.

[FR Doc.72-6241 Filed 4-21-72;8:53 am]

[Dept. Administrative Order DAO 208-2]

DIRECTOR, OFFICE OF ADMINISTRATIVE SERVICES

Delegation of Procurement Authority

This order effective April 3, 1972 supersedes the material appearing at 34 F.R. 335 of January 9, 1969.

SECTION 1. *Purpose.* This order redelegates certain procurement authority of the Assistant Secretary for Administration delegated to him in Department Organization Order 10-5. It supersedes existing delegations of procurement authority rendered obsolete by centralization of most procurement performed in the Washington area.

SEC. 2. *Definitions.* .01 "Procurement" means the acquisition (and directly related matters), from non-Federal sources, of personal property, personal and nonpersonal services (including construction) by such means as purchasing, renting, leasing (including real property), contracting, or bartering, but not seizure, condemnation, donation, or requisition.

.02 "Procurement authority" means the powers of an executive agency and of an agency head to perform procurement as set forth in chapter 4, title 41 of the United States Code or other law. It also includes the power to authorize the publication of advertisements, notices, or proposals in a newspaper required by 44 U.S.C. 3702, which is delegable under 5 U.S.C. 302(b)(2). It does not include the authority to decide the objects of procurement, i.e., what procurement items or services are required. The latter is implicit in the managerial authorities of officials of the Department as delegated or assigned to them.

.03 "Contracting Officer" means an official who by delegation or designation has authority to enter into or administer procurement contracts on behalf of the Government and to make related findings and determinations, to the extent and within the limitations of the authority specified in said delegation or designation. Contracting officer includes a person authorized to make small purchases of property or services which in any one transaction do not exceed $2,500.

.04 "Field Office" means, for purpose of this order, any organizational element in a city or locality outside the Washington Metropolitan area, whose head reports to an official in a different city or locality, including the Washington area.

.05 "Management consulting services" means any survey, research study, analysis, or consultation concerned primarily with improving the management system or practices of the Department as a whole or of any of its organizational units.

SEC. 3. *Procurement Authority of Office of Administrative Services.* .01 Except as provided in section 4 and subject to the limitations contained in section 5 of this order, the Departmental Office of Administrative Services shall perform procurement for all elements of the Department. For this purpose, the Director, Office of Administrative Services, is herewith delegated procurement authority.

.02 The Director, Office of Administrative Services, may redelegate his procurement authority, with or without further conditions or limitations, to the Chief, Procurement Division, Office of Administrative Services, who may further delegate such authority of any aspect thereof, subject to further conditions or limitations, to other employees within the Division. Each such delegation or redelegation shall be made by specific written delegation or designation, and shall include or make specific reference to any conditions or limitations on the scope of authority to be exercised. The Chief, Procurement Division, shall be the chief officer responsible for procurement for the Department, subject to the general supervision of the Director, for purposes of 41 U.S.C. 257(b), except as provided in section 4 of this order.

SEC. 4. *Procurement Authority of Operating Units.* .01 The head of each operating unit, or his designee, may give to heads of field offices, with power of redelegation, authority to purchase from commercial sources, supplies, materials and services not to exceed normal imprest fund limitations.

.02 The head of each operating unit is authorized to delegate procurement authority to the head of a field office that has program responsibilities which require the field office to perform procurement beyond that specified in paragraph .01 of this section. Each such delegation shall:

a. Require the advance approval of the Assistant Secretary for Administration, who will review the need for the field office's proposed procurement activity and determine whether staffing arrangements will permit selection and designation of qualified contracting officers for the designated procurement authority.

b. Specify the kinds of procurement actions and classes of procurement items to which exercise of the authority shall be limited, the extent of redelegation of authority that is authorized, and such other conditions and limitations on the scope of authority as the head of the operating unit may desire or be required to impose.

c. Be subject to the conditions and limitations provided in Section 5 of this order.

d. Provide that the head of a field office to whom procurement authority is delegated shall be the chief officer responsible for procurement (41 U.S.C. 257(b)) for that field office, and that he may by written delegation or designation redelegate his procurement authority to other contracting officers within the field office, subject to such conditions and limitations on the scope of their authority as he may provide.

.03 The Director, Office of Administrative Services, may give specified procurement authority to a designated person or persons in the headquarters of operating units whose headquarters are principally located outside the Main Commerce building. The granting of procurement authority under this provision shall be limited to the kinds and amounts of procurement that the Director, Office of Administrative Services, determines can be procured for the operating units more advantageously under such an arrangement, all factors considered, than through the centralized procurement unit of his office. The granting of such procurement authority and the designation of a person or persons in an operating unit headquarters to serve as a contracting officer for such purpose shall be subject to the concurrence of the head of the operating unit involved, or his designee.

.04 The Assistant Secretary for Maritime Affairs is delegated procurement authority, subject to the conditions and limitations provided in section 5 of this order, for (a) general agency services for operating ships, (b) ship construction for the Government's account, and (c) ship construction subsidy contracts under section 502 of the Merchant Marine Act, as amended. The Assistant Secretary for Maritime Affairs may redelegate such authority to a chief officer responsible for procurement for purposes of 41 U.S.C. 257(b) and to other contracting officers within the Maritime Administration, by written delegation or designation, subject to such conditions and limitations on the scope of their authority as he may provide.

.05 The Assistant Secretary for Administration may, in the interests of economy and efficiency, by arrangement with affected heads of operating units, designate certain units to perform centralized field procurement, and make appropriate delegations of procurement authority to effect such operations.

SEC. 5. *Limitations Relating to Delegated Procurement Authority.* .01 The Assistant Secretary for Administration, designated in Department Organization Order 10-5 to serve as "agency head," shall make the determinations and decisions specified in 41 U.S.C. 252(c)(12) and (13), and in 41 U.S.C. 252(c)(11) for each contract or supplement thereto which requires the expenditure of more than $25,000. If the expenditure under (c)(11) is $25,000 or less, the determination shall be made only by a chief officer responsible for procurement indicated in sections 3 and 4 of this order. A determination for advance payments (41 U.S.C. 255) shall also be made by a chief officer responsible for procurement.

.02 With respect to the procurement of management consulting services by contract where the total cost of the contract or any supplement thereto is expected to be greater than $10,000, the approval of the proposed procurement shall be obtained from the Assistant Secretary for Administration prior to submission of the procurement request.

.03 Invitations for bids, requests for proposals, contractual documents, including supplements thereto, notices terminating contracts, and final determinations made by contracting officers under the disputes clause, shall be subject to such legal clearance as specified in instructions to be issued by the General Counsel or his designee with the concurrence of the Assistant Secretary for

Administration or his designee. Legal advice shall be sought before other actions are taken in connection with contract awards or contract administration wherever it is apparent that such actions may have potential legal consequences of substance.

.04 Procurement authority shall be exercised in accord with applicable statutory requirements, Executive orders, the Federal Procurement Regulations and implementing Departmental regulations, policies, and instructions, and other related laws and regulations.

SEC. 6. *Recording Delegations of Procurement Authority.* Contracting Officers other than those designated in this order shall be selected, designated and their designations terminated in accord with 41 CFR 1–1.404. A file of each instrument of designation and termination of designation shall be maintained by the head of each office where procurement is performed. A copy of such instrument shall be forwarded promptly to the Director, Office of Administrative Services, who shall arrange to maintain a central record of contracting officers of the Department authorized to exercise procurement authority covered by this order.

SEC. 7. *Revisions.* The Assistant Secretary for Administration may amend or revise this order without the approval signature of the Secretary.

Effective date: April 3, 1972.

LARRY A. JOBE,
Assistant Secretary for Administration.

[FR Doc.72–6243 Filed 4–21–72;8:53 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

OCCUPATIONAL SAFETY AND HEALTH

Request for Information on Certain Chemical and Physical Agents

Section 20(a)(3) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(3)) provides that the Secretary of Health, Education, and Welfare, on the basis of information available to him, shall develop criteria dealing with toxic materials and harmful physical agents and substances which will describe exposure levels that are safe for various periods of employment. Section 22(c) of the Act authorizes the National Institute for Occupational Safety and Health to develop recommended occupational safety and health standards and to perform all functions of the Secretary of Health, Education, and Welfare, under sections 20 and 21 of the Act. The Institute is developing recommended biologic standards for persons exposed to a number of chemical agents in the work environment including:

1. Arsenic.
2. Benzene.
3. Toluene.
4. Parathion.
5. Malathion.
6. Methanol.

A biologic standard is the level of such agent, metabolite, or other effect of exposure which may be present within man without his suffering ill effects, taking into consideration (1) the correlation of airborne concentrations of, and extent of exposure to, such substances with effects on specific biological systems of man such as the circulatory, respiratory, urinary, and nervous system, and (2) the analytical methods for determining the amount of the substance which may be present within man.

Any person having information or data which is not readily available in "open scientific literature" in the two areas listed above or in other areas which the person considers relevant to establishing a biologic standard for persons exposed to any of the chemical agents set forth above, is invited to submit such information, with accompanying documentation, to the Assistant Director, National Institute for Occupational Safety and Health; Office of Research and Standards Development, Room 10–28, 5600 Fishers Lane, Rockville, Md. 20852, within 30 days after publication of this notice.

All information received concerning any agent will be available for public inspection after the development of the respective recommended standard.

Dated: April 18, 1972.

JAMES H. EAGEN,
Acting Director, National Institute for Occupational Safety and Health.

[FR Doc.72–6209 Filed 4–21–72;8:50 am]

OCCUPATIONAL SAFETY AND HEALTH

Request for Information on Certain Airborne Dust Contaminants and Chemical and Physical Agents

Section 20(a)(3) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(3)) provides that the Secretary of Health, Education, and Welfare, on the basis of information available to him, shall develop criteria dealing with toxic materials and harmful physical agents and substances which will describe exposure levels that are safe for various periods of employment. Section 22(c) of the Act authorizes the National Institute for Occupational Safety and Health to develop recommended occupational safety and health standards and to perform all functions of the Secretary of Health, Education, and Welfare, under sections 20 and 21 of the Act. The Institute is developing criteria documents and recommended occupational health standards for a number of airborne dust contaminants and chemical and physical agents including,

1. Cotton textile fibers.
2. Lead and lead compounds.
3. Mercury and mercury compounds.
4. Silica.
5. Ultra violet radiation.

Each criteria document will include among other items an evaluation of available information relative to the nine areas listed below.

Any person having information or data which is not readily available in "open scientific literature" in any of the nine areas listed, or in other areas which the person considers relevant to the establishment of a safe and healthful occupational environment involving the chemical and physical agents set forth above, is invited to submit such information, with accompanying documentation, to the Assistant Director, National Institute for Occupational Safety and Health, Office of Research and Standards Development, Room 10–28, 5600 Fishers Lane, Rockville, Md. 20852, within 30 days after publication of this notice.

1. Establishment of safe occupational environment levels for such agents including levels for acute and chronic exposure to airborne concentrations of the chemical agents as well as safe practices concerning direct contact with such agents.

2. Establishment of biologic standards, i.e., the levels of such agents, metabolites, or other effects of exposure which may be present within man without his suffering ill effects taking into consideration (a) the correlation of airborne concentrations of, and extent of exposure to such substances with effects on specific biological systems of man such as the circulatory, respiratory, urinary, and nervous system, and (b) the analytical methods for determining the amount of the substance which may be present within man.

3. Engineering controls, including ventilation, environmental temperature, humidity, and housekeeping and sanitation procedures, with attention to the technological feasibility of such controls.

4. Specifications for the conditions under which personal protective devices should be required.

5. Methodology, including instrumentation, for air sampling and sample analysis of chemical agents and methodology for measuring levels of exposure to physical agents.

6. The need for medical examinations for workers exposed to such agents, the frequency of such examinations, and the specific diagnostic tests which should be used and the rationale for their selection.

7. Work practices or procedures which may be instituted for control of the workplace environment in normal operations and those which may be instituted when environmental levels are temporarily exceeded or where peak concentrations of chemical agents in man are reached.

8. The types of records concerning occupational exposure to such agents that employers should be required to maintain.

9. Warning devices and labels which should be required for the prevention of occupational diseases and hazards caused by such agents.

All information received concerning any agent will be available for public

inspection after the development of the respective criteria document.

Dated: April 17, 1972.

MARCUS M. KEY,
Director, National Institute for Occupational Safety and Health.

[FR Doc.72-6210 Filed 4-21-72;8:50 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-358]

CINCINNATI GAS AND ELECTRIC CO. ET AL.

Establishment of Atomic Safety and Licensing Board

On March 7, 1972, the Commission published in the FEDERAL REGISTER (37 F.R. 4925) a notice of hearing concerning the application for a construction permit for a boiling water nuclear reactor (William H. Zimmer Nuclear Power Station) filed by the Cincinnati Gas and Electric Co., Columbus and Southern Ohio Electric Co., and Dayton Power and Light Co. That notice indicated the Safety and Licensing Board for this proceeding would be designated at a later date, and the notice of its membership would be published in the FEDERAL REGISTER.

Pusuant to the Atomic Energy Act of 1954, as amended, the regulations in Title 10, Code of Federal Regulations, Part 2 (rules of practice) and the notice of hearing referred to above, notice is hereby given that the Safety and Licensing Board in this proceeding will consist of Dr. Eugene Greuling, Dr. Hugh C. Paxton, and Mr. John B. Farmakides, Chairman. Dr. Forrest J. Remick has been designated as a technically qualified alternate and Mr. Michael Glaser has been designated as an alternate qualified in the conduct of administrative proceedings.

The date and place of a prehearing conference and of a hearing will be set by the Board. Notice as to the dates and places of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

Dated at Washington, D.C., this 18th day of April 1972.

JAMES R. YORE,
Executive Secretary, Atomic Safety and Licensing Board Panel.

[FR Doc.72-6218 Filed 4-21-72;8:51 am]

[Docket No. 50-268]

GENERAL ELECTRIC CO.

Supplementary Notice of Availability of Applicant's Environmental Report and AEC Draft Detailed Statement on Environmental Considerations for Midwest Fuel Recovery Plant

On March 13, 1972, the Atomic Energy Commission issued a "Notice of Availability of Applicant's Environmental Report and AEC Draft Detailed Statement on Environmental Considerations for Midwest Fuel Recovery Plant" (37 F.R. 5674, March 17, 1972). The notice indicated the availability for public inspection of General Electric Co.'s report discussing environmental considerations related to its Midwest Fuel Recovery Plant, in Grundy County, Ill. The notice also indicated the availability of the Commission's Draft Detailed Statement on environmental considerations related to the Midwest Fuel Recovery Plant.

The notice indicated that interested persons may, within thirty (30) days from the date of publication of the notice in the FEDERAL REGISTER, submit comments on the proposed issuance of an operating license for the facility, the report, and the Draft Detailed Statement for the Commission's consideration.

In accordance with the Commission's regulations, 10 CFR Part 50, Appendix D, notice is hereby given of additional time for submittal of comments on the report and the Draft Detailed Statement, on the proposed issuance of an operating license to the applicant authorizing operation of the Midwest Fuel Recovery Plant, and on whether the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

Such comments may be submitted within forty-five (45) days from the date of publication of this supplemental notice in the FEDERAL REGISTER.

Dated at Bethesda, Md., this 18th day of April 1972.

For the Atomic Energy Commission.

C. T. EDWARDS,
Assistant to the Director, Division of Materials Licensing.

[FR Doc.72-6219 Filed 4-21-72;8:51 am]

[Docket No. 50-234]

GULF OIL CORP.

Notice of Issuance of Amendment to Facility License

The Atomic Energy Commission ("the Commission") has issued, effective as of the date of issuance, Amendment No. 8 to Facility License No. CX-23 dated March 25, 1965. The license presently authorizes Gulf Oil Corp. to possess, use and operate the Experimental Critical Facility located at its Torrey Pines Mesa site near San Diego, Calif., at power levels up to 100 watts (thermal). The amendment extends the expiration date to May 25, 1974.

The Commission has found that the application for the amendment complies with the requirements of the Atomic Energy Act of 1954, as amended ("the Act"), and the Commission's regulations published in 10 CFR Chapter I. The Commission has made the findings required by the Act and the Commission's regulations which are set forth in the amendment, and has concluded that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public. The Commission has also found that prior public notice of this amendment is not required since the amendment does not present significant hazards considerations different from those previously evaluated.

Within fifteen (15) days from the date of publication of the notice in the FEDERAL REGISTER, the applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) the licensee's application for license amendment dated March 23, 1972, and (2) the amendment to facility license, which are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, DC. A copy of the amendment may be obtained upon request sent to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 11th day of April 1972.

For the Atomic Energy Commission.

DUDLEY THOMPSON,
Acting Assistant Director for Reactor Operations, Division of Reactor Licensing.

[FR Doc.72-6220 Filed 4-21-72;8:51 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23810; Order 72-4-98]

AIR TRAFFIC CONFERENCE OF AMERICA

Order Regarding Sales Agency Reporting Procedures in Pittsburgh Settlement Bank Area

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of April 1972.

By Order 71-9-38, the Board made tentative findings, deferred action and requested comments from interested parties on an amendment to the "Standard Agents' Ticket and Area Settlement Plan" (the Plan) resolution of the Air Traffic Conference of America (ATC) incorporated in Agreement CAB 16874-A27. The amendment, if approved by the Board pursuant to section 412(a) of the Federal Aviation Act of 1958, would permit the ATC to implement, on a trial basis, a system of automated sales reporting for travel agents in the Pittsburgh bank area.[1]

The proposed trial of automated sales reporting for agents in the Pittsburgh bank area (Pittsburgh Test) is a result

of discussions between the members of the ATC and various travel agency organizations, as was stated in Order 71–9–38. The original proposal to test the Pittsburgh Plan was first presented by the ATC to the travel agents on April 30, 1968, pursuant to requests by travel agents to further simplify procedures then in effect in the Pittsburgh bank area which allowed the travel agents to report to the bank without the necessity of preparing and submitting the sales report form required of other agents throughout the United States. The test is designed to decrease the amount of travel agent paperwork by increasing the use of modern data processing techniques available to area banks. According to the ATC, the specific purposes of the test are to simplify travel agent paperwork, obtain useful output data from the area bank, utilize the area bank's computer system and establish the basis for future ticket automation.

The ATC maintained that in order to accomplish the benefits anticipated for travel agents, the bank would require that agents report to the area bank once each week rather on the current 10-day cycle. Furthermore, the agents would be required to authorize the Area Settlement Bank to draw on the agent's account an amount not to exceed the total shown on the adding machine tape of the tickets being remitted by the travel agent. These two requirements, coupled with the uncertainty about the degree of benefit the agents would realize from the test, generated considerable controversy and concern among some travel agents as is evidenced by the voluminous correspondence currently on file at the Board.

In Order 71–9–38, the Board raised certain questions concerning the test. In addition, some of the travel agents raised questions and objections to the implementation of the test focusing primarily on the weekly reporting requirement and the proposal to authorize the Bank to draw upon the agent's account to collect moneys due the carriers. In an effort to answer these questions and to analyze the objections raised, the carriers and travel agents agreed to sponsor a series of meetings in Cleveland, Pittsburgh, Philadelphia, and Newark on February 1 through 4 to which all travel agents in the Pittsburgh bank area would be invited. Authorization was obtained from the Board for free transportation to agents wishing to attend these meetings. The meetings were very well attended with more than 800 agents participating. From those attending these meetings over 300 individual agent comments were received, about 60 percent of which favored the test.

Proponents believe that computer processing can provide savings in time and money; furnish a report which can be a useful sales analysis marketing guide; and, at the very least, deserves a comprehensive test. Conversely, opponents contend that the proposal will require extensive alteration of their accounting system and increase their workload, and provides no advantage over the present system. The most strenuous objection is against the authorization the agents will be required to give the Mellon Bank to draw against their own bank account. The only feature of the program generally considered acceptable by opponents is the weekly rather than the present daily reporting of credit card sales.

Consolidated comments generally supporting approval of the agreement have been received from the American Society of Travel Agents, Inc. (ASTA), the Association of Bank Travel Bureaus, Inc. (ABTB), the Association of Retail Travel Agents (ARTA), and the American Automobile Association (AAA), collectively the "travel agent organizations." These comments, in addition to relating the history of efforts to improve and simplify the operations of agents in the Pittsburgh area and confirming the fact as noted previously that there is still considerable opposition on the proposal, contain seven conditions or confirmations of understandings between the agents and the air carriers/ATC. These are paraphrased as follows:

1. Test is limited to 1 year and to the Pittsburgh bank area.

2. No change in duration of test period, its geographical scope, or its terms and conditions without concurrence of travel agency organizations and CAB approval.

3. Results are to be evaluated during and at conclusion of test by the ATC-Travel Agent Dialogue Committee. No extension or wider implementation of test without substantial concurrence of travel agency organizations.

4. Any travel agent seriously affected by the proposal has the right to immediate hearing to include dialogue committee agency representatives. Proof of such adverse effect would entitle the agent to relief from the test.

5. Agents will authorize a check to be drawn at the Mellon Bank on the third day following final date of the reporting period in an amount not to exceed the total shown on the adding machine tape less an appropriate deduction for commissions.

6. ATC to exercise reasonable flexibility in the initiation of any disciplinary proceedings.

7. The travel agent organizations have also indicated to the agents attending the four seminars that (a) the plan would not involve a reduction to 7 days in the amount of time allowed for postal delivery of the sales report, (b) the Secretary of the airlines' Accounting and Finance Conference [2] would accept a certified mail receipt as proof that a duplicate report was satisfactorily filed in the event of loss of the original mailing, (c) ATC would exercise special care to insure that no agent's check is dishonored due to problems in implementing the test, and (d) in the event Tuesday or Wednesday is a holiday, the agent is given additional time to file the report.

ATC believes that the test will benefit both the travel agents and the air carriers and that it should be approved. Additionally, on March 8, 1972, ATC submitted a letter clarifying the air carriers' position as to item No. 4 of the seven conditions and understandings described in the travel agents' comments above. ATC states that the air carriers have not agreed to give ad hoc relief to individual travel agents who experience difficulties under the new reporting system. ATC points out that if a substantial number of agents (or carriers) experience major difficulties with the system during the test, consideration will be given to its modification or termination. In addition, any difficulties which individual travel agents experience during the test will be considered by the joint travel agent/airline working group in evaluating the results of the test and formulating recommendations concerning the function of the mechanized reporting system.

In our previous order we tentatively found that the experimental reporting procedures would simplify the agents' reporting procedures; reduce the possibility of error in processing the tickets; and reduce the period of time required to process a ticket for collection. The comments subsequently filed confirm those findings. There can be little doubt that the format of the required report will be a significant improvement over the lengthy and frequent coupon tabulations which agents must undertake by hand at present. To be sure, this reduction in the sheer effort of preparing the report will be felt less by the very agents who will comprise the test—those in the Pittsburgh Settlement Area—since agents in this area already utilize the "adding machine tape method" of preparing the report. But for this very reason, inter alia, these agents were chosen for the experiment for it was felt that even they would benefit from the reduction in credit sales reporting frequency and the other refinements of the proposed plan.[3]

Moreover, most agents stand to benefit from the receipt of the detailed sales information in the report which the Bank provides to them. Most of the commenting agents appear to recognize that such information will sharpen their abilities to direct their sales efforts toward the most rewarding lines, thus comporting with their assigned principal role to promote the sale of air transportation. And nobody disputes that the air carriers will benefit from receiving more accurate re-

[1] This area includes western New York State and the States of New Jersey, Pennsylvania, and Ohio.

[2] The Accounting and Finance Conference, like the Air Traffic Conference, is an affiliate of the domestic air carriers' trade association, the Air Transport Association.

[3] Thus, it was felt, if these agents would benefit from the experiment there would be a basis for extending the program to reporting areas employing the by-hand reporting method.

ports and more speedily processed tickets and remittances.[4]

The two most significant concerns expressed by the agents who have commented in opposition to the test have dealt with (1) the effect of the experiment on their cash flow situation, and (2) the objectionableness of allowing the bank's computer to automatically debit the agent's account for the determined remittance due. We understand the reluctance to turn over control of one's checking account to the bank, and if that were the consequences of the instant proposal we would view such with great concern. But in fact the feared consequences do not seem to follow. The agent, in signing the authorization form, sets the dollar amount to be deducted and the date on which such deduction is to be made from his account (that date, of course, within the parameters of the required reporting time). In effect, then, the agent is tendering a postdated check, and should be able to account for it in his records.

The cash flow problem is less easily resolved. There is no dispute that once the system becomes regularized agents will be submitting their reports once a week instead of three times each calendar month. All of the persons submitting formal comments take the view that there will either be no adverse impact on the agent's cash flow or that there will be some positive effect. Analyses were made by ARTA and ASTA which caused them to conclude that the agent's cash flow would be improved, the extent to which would depend upon the days of the week in which sales were made. The Association of Bank Travel Bureaus conducted its own in-house studies of how weekly reporting, as proposed, would affect cash flow, and concluded that there would be a slight improvement for agents over the present 10-day cycle. Recognizing that there may be some cash flow problem for some agents, if the above-mentioned studies are correct the vast majority of agents will not be adversely affected. With this in mind, and considering the benefits projected to be derived from the experiment, we are not persuaded to terminate it even before it begins.

[4] Several other benefits to the carriers are expected to be realized. As an example, the leveling out of paper flow from area banks to carriers will permit more orderly planning and processing by revenue accounting departments. Including credit transactions on a weekly cycle will reduce greatly the normal special handling attending such items on the present daily cycle, and all carriers will realize this benefit. Another advantage, particularly important for those carriers having less sophisticated computer systems, will be the availability of much statistical data which the area bank can very routinely provide. This, as one example, will obviate the need in some cases for individual carriers to keypunch this information for their own computer use. By smoothing out work and paper flow within the area bank, we are informed that part-time, inexperienced help, necessary today to cover peak periods, will be replaced by full-time employees. This should be of an indirect benefit to all air line participants in the plan.

Rather, we think that the projections should be tested as ATC and the travel agent spokesmen propose, and subject to the "ground rules," as clarified by ATC, stated on page 3, supra. Since this Board cannot act as arbiter in cases affecting individual agents, the Board expects that the test will be conducted with due allowance for those rare but recognized "computer errors" and other "bugs" and misunderstandings which arise from novel man-machine joint ventures.

Therefore, acting pursuant to section 412(b) of the Act, the Board finds that Agreement CAB 16874–A27 is not adverse to the public interest nor in violation of the Act.

Accordingly, it is ordered, That:

1. Agreement CAB 16874–A27 be and it hereby is approved for a period of 12 months from the date of commencement thereof; and

2. Requests for extension of the 12-month period shall be filed at least 70 days prior to termination thereof.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-6228 Filed 4-21-72;8:52 am]

[Docket No. 23333; Order 72-4-61]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Reduced Fares for Cargo Agents

Issued under delegated authority April 13, 1972.

By Order 72–3–85, dated March 27, 1972, action was deferred, with a view toward eventual approval, on an agreement adopted by the Traffic Conferences of the International Air Transport Association (IATA). The agreement would have the effect of continuing through August 31, 1972, the past basis upon which the number of reduced-fare tickets are allocated to cargo agents, i.e., two tickets at a 75-percent discount per agency location per year.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period, and the tentative conclusions in Order 72–3–85 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 22968 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-6229 Filed 4-21-72;8:52 am]

[Docket No. 21582, etc.; Order 72-4-91]

PAN AMERICAN WORLD AIRWAYS, INC., ET AL.

Order Instituting an Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of April 1972.

Applications of Pan American World Airways, Inc., Dockets 21582, Continental Air Lines, Inc., 21642, Northwest Airlines, Inc., 21683, Air Micronesia, Inc., 23871, for amendment of certificates of public convenience and necessity.

Applications of Pan American World Airways, Inc., Dockets 21646, Continental Air Lines, Inc., 21659, for exemptions pursuant to section 416(b) of the Federal Aviation Act.

Service to Saipan Case Docket 24421.

Four carriers which hold certificates of public convenience and necessity authorizing them to engage in foreign air transportation in various areas in the Western Pacific have filed applications for amendments to their certificates to permit, inter alia, the offering of service between Saipan, Mariana Islands—a point within the Trust Territory of the Pacific Islands—and Japan. Although the authority requested differs from carrier to carrier, depending on the nature of the existing authority of each, the focus of the applications (with the possible exception of Northwest) is on the Saipan-Japan market.

Pan American World Airways, Inc., currently provides service between Guam—a point not within the Trust Territory—and Japan over segment 1 of its approved service plan for route 130. The carrier desires to include Saipan as an intermediate point on the Guam-Japan service.[1] Continental Air Lines, Inc., and Air Micronesia, Inc. (hereinafter "Continental"), are certificated to provide service, inter alia, to points throughout the Trust Territory and between the Trust Territory, on the one hand, and Guam, Okinawa, and American Samoa, on the other hand. Both carriers seek authority to extend their services from American Samoa, Guam, and the Trust Territory to points in Japan.[2] Northwest Airlines, Inc. serves Japan, Okinawa, and other points in the Western Pacific but has no authority to serve Guam, points in the Trust Territory, or points in American Samoa. It has applied for authority to permit it to engage in transportation between the latter three areas, on the one hand, and points in Japan, on the other hand.[3]

On November 28, 1969, Continental filed a motion for expedited hearing on its certificate application.[4] On September 21, 1971, Pan American also filed

[1] Docket 21582.
[2] Dockets 21642, 23871.
[3] Docket 21683.
[4] Alternatively, the carrier sought an exemption which would permit the operation of Saipan-Japan service pendente lite. The exemption application is discussed in the text, infra.

a motion for expedited hearing on its application. Continental has filed an answer in support of that motion.[5] In support of their motions for expedited hearing the carriers note the fact that Japan Air Lines currently holds authority which would permit the operation of Saipan-Japan service and they argue that an expedited hearing should be held so as to enable the U.S. carrier selected, if any, to have equivalent authority. In the words of Pan American, "the United States should do all possible to have a U.S. carrier be the first to serve Japan-Saipan."

Upon consideration of the foregoing pleadings and the relevant facts, we have decided to institute an investigation to be set down for hearing at an early date for the primary purpose of considering the need for U.S.-flag service between points in Japan, on the one hand, and Saipan, on the other hand.[6] Although we do not intend to embark on a reexamination of matters considered in the recently concluded "Transpacific Route Investigation," Docket 16242, and the "Pacific Islands Local Service Investigation," Docket 17353, it appears that there may be a need to consider herein the award of authority between Saipan and points in the Western Pacific (other than Japan) which are already on the system of a carrier which might be selected. Authorization of such beyond operations would permit the carrier selected to propose a pattern of service to Saipan integrated with its system operations. Specifically, we will consider Pan American's request for authority to operate beyond Saipan to Guam, and in considering that authorization we will also consider whether the public convenience and necessity require the award of either local traffic rights in the Guam-Saipan market or stopover rights at Saipan for Guam-Japan traffic.[7] In order to maintain the proceeding's focus on the Japan-Saipan market, Pan American's application will be subject to a pretrial restriction requiring every flight serving Saipan to serve a point in Japan.

Specifically, we will consider herein:

(1) Whether Pan American's certificate for route 130 should be amended so as to include Saipan as an intermediate point on segment 1(b) between Guam and Japan;

(2) Whether Continental's certificate for route 171 and/or Air Micronesia's certificate for route 170 should be amended by the addition of a new segment reading as follows:

Between the terminal point Saipan, Mariana Islands, Trust Territory of the Pacific Islands, and intermediate points and a terminal point in Japan;

(3) Whether Northwest's certificate for route 129 should be amended by the addition of a segment reading as follows:

Between the terminal point Saipan, Mariana Islands, Trust Territory of the Pacific Islands, and intermediate points and a terminal point in Japan;.

To the extent that the applications filed by Pan American, Continental, Air Micronesia, and Northwest conform to the scope of the proceeding here instituted, they will be consolidated for hearing herein.

In addition to their applications for certificate amendments, both Pan American and Continental have filed applications for exemptions which would permit the operation of Saipan-Japan service pending the completion of certificate proceedings. In support of these applications, both carriers urge that grant of the exemption authority will be of substantial benefit to the economy of the Trust Territory; will provide valuable service for the traveling public; and will benefit the U.S. economy by providing U.S.-flag competition to the service of Japan Air Lines. Finally, each carrier argues that it alone is the logical choice for selection.

Both Continental and Pan American have filed answers in opposition to the exemption application of the other, directed in each case primarily to the comparative merits of one another's case for selection as the Saipan-Japan carrier. Northwest has filed an answer to both carriers in which it urges the Board to deny the exemption applications and to institute a proceeding to consider the certification of a U.S. carrier in the Japan-Saipan market. Trans World Airlines, Inc., has filed an answer in opposition to Continental's exemption application. Its arguments are largely directed to support of its position that Continental should not receive Saipan-Japan authority in any event, whether by exemption or certificate. TWA takes no position on Pan American's application. Finally, both Continental and Pan American have filed replies to the answers.

In our view, the arguments advanced by Pan American and Continental in support of their applications for exemption fall short of establishing that an exemption should be granted, particularly in circumstances where there are competing applicants for the same authority. Even if all of the assertions of either carrier are accepted as true, they amount to no more than strong support for the grant of the carriers' respective certificate applications; they do not persuade us of the desirability for the grant of an exemption to either carrier pending disposition of those applications. In the circumstances, we are unable to find that enforcement of the Act would not be in the public interest.

Accordingly, it is ordered, That:

1. A proceeding to be known as the "Service to Saipan Case," be and it hereby is instituted in Docket 24421, and shall be set down for hearing before an examiner of the Board at a time and place hereafter designated.

2. The proceeding instituted by paragraph "1" above shall be limited to consideration of:

(a) Whether the public convenience and necessity require the authorization of a U.S. carrier or carriers to engage in foreign air transportation between Saipan, Mariana Islands, the Trust Territory of the Pacific Islands, on the one hand, and points in Japan, on the other hand;

(b) Whether Pan American's certificate for route 130 should be amended so as to include Saipan as an intermediate point on segment 1(b) between Guam and Japan: *Provided,* That every flight serving Saipan shall also serve a point in Japan;

(c) Whether Continental's certificate for route 171 should be amended by the addition of a new segment reading as follows: "Between the terminal point Saipan, Mariana Islands, Trust Territory of the Pacific Islands, and intermediate points and a terminal point in Japan";

(d) Whether Air Micronesia's certificate for route 170 should be amended by the addition of a new segment reading as follows: "Between the terminal point Saipan, Mariana Islands, Trust Territory of the Pacific Islands, and intermediate points and a terminal point in Japan";

(e) Whether Northwest's certificate for route 129 should be amended by the addition of a segment reading as follows: "Between the terminal point Saipan, Mariana Islands, Trust Territory of the Pacific Islands, and intermediate points and a terminal point in Japan";

3. Insofar as they conform to the scope of the proceeding set forth in paragraph "2" above, the applications of Pan American World Airways, Inc., Docket 21582, Continental Air Lines, Inc., Docket 21642, Air Micronesia, Inc., Docket 23871, and Northwest Airlines, Inc., Docket 21683, be and they hereby are consolidated with the proceeding instituted by paragraph "1" above; to the extent not consolidated herein, the foregoing applications be and they hereby are dismissed without prejudice;

4. The applications for exemption of Pan American World Airways, Inc., Docket 21646, and Continental Air Lines, Inc., Docket 21659, be and they hereby are denied;

5. The joint motion of Continental Air Lines, Inc. and Air Micronesia, Inc., to withhold from public disclosure the contents of their Supplemental Answer to Motion of Pan American World Airways,

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[5] Continental also filed a supplemental answer together with a motion to withhold the contents thereof from public disclosure. The motion is based on the carrier's allegation that the supplemental answer "involves current foreign relations of the United States" and includes information which, if disclosed, might "have serious impact on sensitive areas of governmental concern * * *." Examination of Continental's supplemental answer, however, persuades us that the carrier's concerns are groundless. Accordingly, the motion will be denied.

[6] Although we will not grant the motions for expedited hearing as such, we expect the case to proceed as rapidly as possible with due regard for the development of a complete record.

[7] However, we do not intend to consider the award of new authority between Japan and any point other than Saipan.

Inc. for expedited hearing, be and it hereby is denied;

6. To the extent not specifically granted herein all motions be and they hereby are denied; and

7. Applications, motions to consolidate, and petitions for reconsideration of this order shall be filed no later than 20 days after the date of service of this order, and answers to such pleadings shall be filed no later than 10 days thereafter.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-6230 Filed 4-21-72;8:52 am]

[Docket No. 18610]

SOUTHERN AIRWAYS, INC.

Notice of Oral Argument Regarding Route Realignment Investigation (New Route Authority Phase)

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be held before the Board on May 10, 1972, at 10 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

Dated at Washington, D.C., April 17, 1972.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.72-6231 Filed 4-21-72;8:52 am]

[Docket No. 24259]

SUPERIOR AIRWAYS, LTD.

Notice of Postponement of Hearing

The application filed in this proceeding involves an area in Canada to and from which U.S. air carrier operations are restricted by order of the Canadian Transport Commission.[1] On April 27, 1971, the Board issued an order to show cause (Order 71-4-170) proposing to amend the foreign air carrier permits of five Canadian operators so as to restrict the operations of these carriers in a manner similar to that of the U.S. carriers. In addition, there are several U.S. carriers that have applications pending before the Canadian Transport Commission requesting elimination of the foregoing service restriction.

Bureau Counsel has recommended that all procedural steps subsequent to the prehearing conference be deferred pending further action by the Board and the Canadian authorities on this matter.

Under these circumstances the hearing in this matter is postponed until further notice. (See previous notice 37 F.R. 5675, March 17, 1972.)

Dated at Washington, D.C., April 18, 1972.

[SEAL] JOSEPH L. FITZMAURICE,
Hearing Examiner.

[FR Doc.72-6232 Filed 4-21-72;8:52 am]

[1] The operational limitation applies within the area of Northwestern Ontario west of a line drawn due north from Blind River, Ontario (46°11' latitude, 82°58' W. longitude) and extending to the border between Ontario and Manitoba. The operations of U.S. carriers to resort and lake areas in Northwestern Ontario are effectively prohibited since they are limited to two stops on each flight, one being a Customs Port of Entry, the other being a licensed base of a Canadian charter commercial air carrier.

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability

Environmental impact statements received by the Council on Environmental Quality, April 10–April 14, 1972.

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250, 202—388-7803

FOREST SERVICE

Draft, April 13

Aerial Tramway, Port of Cascade Locks, Oreg. Proposed construction of a tramway to a point of land above the Columbia River with a view of the "Great Gorge of the Columbia." Topping and removal of trees will be necessary; the introduction of visitors by a mechanical means to a point of land now seldom visited will affect the ecosystem of the area. (ELR Order No. 4140, 53 pages) (NTIS Order No. PB-207 419-D)

RURAL ELECTRIFICATION ADMINISTRATION

Draft, April 6

New Madrid Station Unit 2, New Madrid County, Mo. Proposed loan of $72,180,000 to Associated Electric Cooperative, Inc., in order to help finance a 600,000 kw. coal-fired steam-electric generating unit. Thermal discharge to the Mississippi River will be 2620×10^6 B.t.u./hr. at full load. (ELR Order No. 4166, 273 pages) (NTIS Order No. PB-208 179-D)

SOIL CONSERVATION SERVICE

Draft, March 30

Oliver Bottoms Resource Conservation and Development Project, Sebastian County, Ark. Proposed installation of 1.4 miles of channel improvement and appurtenant pipe overfall structures for grade stabilization and erosion control on a 521-acre watershed. (ELR Order No. 4154, 8 pages) (NTIS Order No. PB-208 044-D)

Draft, April 7

Eagle-Tumbleweed Draw Watershed Project, Chaves and Eddy Counties, N. Mex. Proposed watershed and flood control structures, including a floodwater retarding structure, two diversions and an outlet channel. Approximately 1,229 acres of rangeland would be committed to the project. (ELR Order No. 4177, 17 pages) (NTIS Order No. PB-208 176-D)

ATOMIC ENERGY COMMISSION

Contact: For nonregulatory matters: Joseph J. DiNunno, Director, Office of Environmental Affairs, Washington, D.C. 29545, 202—973-5391. For regulatory matters: Christopher L. Henderson, Assistant Director of Regulation for Administration, Washington, D.C. 20545, 202—973-7531.

Draft, March 23.

Surry Power Station Units 1 and 2, Surry County, Va. Proposed issuance of an operating permit to the Virginia Electric & Power Co. for the operation of Surry Units 1 and 2. Each unit has a pressurized-water reactor with a power output of 2,441 MWT which will produce 822.5 MWE. Gross capacities, however, are expected to be 2,546 MWT and 855 MWE each. Waste heat of 12 billion B.t.u./hr. will be dissipated by pumping cooling water from the James River through the station's steam condensers and back into the river. Water from the James will be heated 14° F./gal.; the discharge will be made 5.7 miles upstream from intake in order to minimize thermal effects upon nearby oyster seed beds; fish and plankton will be lost at intake; minor quantities of chemical waste will be discharged to the James; negligible quantities of radioactive gaseous and liquid effluents will be released. (ELR Order No. 4141, 209 pages) NTIS Order No. PB-208 049-D)

DEPARTMENT OF COMMERCE

Contact: Dr. Sydney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Washington, D.C. 20230, 202—967-4335.

Draft, April 1

Expo 74, Spokane County, Wash. The project is a proposed international exposition, the theme of which is "How Man Can Live, Work and Play in Harmony With His Environment." The effects of the Expo's structures on noise, air, and water quality and waste disposal are discussed. (ELR Order No. 4131, 126 pages) (NTIS Order No. PB-208 048-D)

DEPARTMENT OF DEFENSE

DEPARTMENT OF AIR FORCE

Contact: Col. Cliff M. Whitehead, Room 5E 425, The Pentagon, Washington, D.C. 20330, 202 OX 5-2889.

Draft, March 28

Eglin Air Force Base, Fla. Proposed outleasing of land to the Gulf Power Co. in order to install new 230,000 volt power transmission lines which would back up the existing power net. Approximately 812 acres of land would be required; certain weather conditions would introduce ozone into the atmosphere; some vegetation will be lost. (ELR Order No. 4111, 20 pages) (NTIS Order No. PB-207 922-D)

Draft, April 5

Keesler Air Force Base, Miss. Proposed extension of the runway from 5,000 feet to 6,000 feet, in order to accommodate flights by C-9 aircraft. (ELR Order No. 4184, 15 pages) (NTIS Order No. PB-208 193-D)

DEPARTMENT OF ARMY

Contact: George A. Cunney, Jr., Acting Chief, Environmental Office, Directorate of Installations, Office of the Deputy Chief of Staff for Logistics, Washington, D.C. 20310, 202 OX 4-4269.

Final, March 27

Western Medical Institute of Research, Presidio of San Francisco, Calif. Proposed construction of research facilities for Phase II of the Institute's three-phase construction project. Comments made by EPA, HUD, DOI, and local agencies.

(ELR Order No. 4054, 30 pages) (NTIS Order No. PB–199 312–F)

DEPARTMENT OF ARMY

Corps of Engineers

Contact: Col. William L. Barnes, Executive Director, Attention: DAEN–CWZ–C, Office of Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, DC 20314, 202—693–7163.

Draft, March 29

Wicomico River, Salibsury, Md. Proposed filling of South Prong of the river with dredge spoil from the North Prong. Hydraulic ecosystems would be disturbed by the dredge and fill operation. (ELR Order No. 4133, 8 pages) (NTIS Order No. PB–207 905–D)

Draft, April 3

Ediz Hook Beach Erosion Control, Clallam County, Wash. Proposed rock revetment and beach nourishment of 10,000 feet of the seaward shore of Ediz Hook. Material from the revetment would come from existing quarries; beach material from a source near Port Angeles. The purpose of the project is to provide protection for Port Angeles Harbor. (ELR Order No. 4155, 56 pages) (NTIS Order No. PB–208 046–D)

Draft, April 7

Yazoo Basin, Delta Area, Miss. Proposed construction of a pilot study program of bank stabilization works. Types of stabilization works to be considered include vegetation, Gobi-block matting, transverse stone dikes, stone dike tool protection, articulated concrete mats, and other appropriate works. The estimated costs of the project is $9,500,000. Temporary disturbance and damage to streambanks and vegetation will occur. (ELR Order No. 4174, 59 pages) (NTIS Order No. PB–208 189–D)

Draft, April 6

Oil and gas exploration, Louisiana. Determination of permissibility for a permit to explore for oil or gas or develop production of such resources or other mineral resources in navigable waterways of the Gulf of Mexico. State-owned water bottoms on the Gulf and directly connected thereto are included; inland waterways and those not directly connected to the Gulf are not included; land areas, nonnavigable waterways, and privately owned waterways are not included. Granting of such permits would create obstructions to navigation and fishing; temporary turbidity; altered salinity and circulation of marsh areas; possible significant damage to ecosystems as a result of exploration, dredging and disposal, spillage and leakage of petroleum and gas, and burning of wastes and gases. (ELR Order No. 4175, 81 pages) (NTIS Order No. PB–208 188–D)

Draft, April 7

Lytle and Warm Creeks, San Bernardino County, Calif. Proposed construction of concrete channel structures, levees, a bypass weir, etc., on Lytle and Warm Creeks in the Santa Ana River. Loss of natural stream-bed areas would result. (ELR Order No. 4181, 57 pages) (NTIS Order No. PB–208 194–D)

Draft, April 11

Russian River Basin, Sonoma and Mendocino Counties, Calif. Proposed construction of riprap, flexible fence, and jacklines at seven sites on the Russian River. The purposes of the action are channel improvement and bank stabilization. Riparian habitat, and Indian and Russian fur trader archeological sites will be lost; the river's potential inclusion in the National Wild and Scenic Rivers System will be affected. (ELR Order No. 4183, 35 pages) (NTIS Order No. PB–208 177–D)

DEPARTMENT OF THE NAVY

Contact: Joseph A. Grimes, Jr., Special Civilian Assistant to the Secretary of Navy, Washington, D.C. 20350, 202—697–0892.

Draft, April 4

Naval Ammunition Depot, Oahu, Hawaii. Proposed acquisition of fee title to approximately 1,177 acres of land adjacent to the West Lock Branch of the Naval Ammunition Depot. The purpose of the action is to prevent development of land now within the explosive safety zone. (ELR Order No. 4132, 53 pages) (NTIS Order No. PB–207 911–D)

Draft, April 10

Naval Submarine Base, New London, Conn. Proposed dredging in order to deepen and widen 7.5 miles of existing navigation channel on the Thames River and Long Island Sound. Temporary turbidity will affect marine ecosystems at the site of dredging and that of disposal. (ELR Order No. 4176, 13 pages) (NTIS Order No. PB–208 175–D)

FEDERAL POWER COMMISSION

Contact: Frederick H. Warren, Advisor on Environmental Quality, 441 G Street NW., Washington, DC 20426, 202—386–6084.

Draft, April 3

Project No. 2545, Spokane, Stevens, and Lincoln Counties, Wash. Proposed approval of a relicensing application by the Washington Water Power Co. for its Spokane River Project No. 2545. The project consists of four developments with a combined generating capacity of 99,200 kw. It is also proposed that one of the developments, the Monroe Street Plant, be reconstructed. (ELR Order No. 4118, 13 pages) (NTIS Order No. PB–207 913–D)

Draft, April 4

Brainerd Hydroelectric Project, Crow Wing County, Minn. Proposed approval of an application for a permit by the Northwest Paper Co. to continue operation of the hydroelectric plant and dam. (ELR Order No. 4126, 26 pages) (NTIS Order No. PB–207 897–D)

Draft, March 31

Lacassine Project, Cameron Parish, La. Proposed construction of 22.1 miles of 30-inch pipeline by Michigan Wisconsin Pipeline Co., from Block 71 to its compressor station near Lake Arthur. (ELR Order No. 4130, 24 pages) (NTIS Order No. PB–207 926–D)

Final, April 6

Project No. 2030, Portland, Oreg. Proposed approval of an amendment to the license held by the Portland General Electric Co. for Project No. 2030, to enable the company to construct, maintain, and operate a fish hatchery at its Round Butte Powerhouse. The hatchery would return 1,800 steelhead trout and 1,200 chinook salmon to the area annually. (ELR Order No. 4164, 19 pages) (NTIS Order No. PB–199 877–F)

Final, March 9

Liquified Natural Gas (LNG), Everett, Mass., and Staten Island, N.Y. Proposed construction by Distrigas Corp. of docking areas and terminal facilities for imported LNG. Dredging operations at the two sites will affect marine ecosystems. Comments made by USDA, Army COE, EPA, DOI, State and local agencies. (ELR Order No. 4180, 62 pages) (NTIS Order No. PB–208 178–F)

GENERAL SERVICES ADMINISTRATION

Contact: Rod Kreger, Acting Administrator, GSA–AD, Washington, D.C. 20405, 202—343–6077.

Alternate contact: Aaron Woloshin Director, Office of Environmental Affairs, GSA–AD, Washington, D.C. 20405, 202—343–4161.

Draft, April 6

Parcel A–2, Sewage Disposal Area, Pleasantown, Calif. Proposed use of the area by the Valley Community Services District for holding treated effluent from its sewage treatment plant. Vehicular traffic will increase at the site; breeding of mosquitoes may result. (ELR Order No. 4168, 12 pages) (NTIS Order No. PB–208 184–D)

Final, April 10

Army Tank Automotive Plans, Cleveland, Ohio. Proposed disposal of the 60.17-acre plant for use by the city of Cleveland as a buffer zone adjacent to the Hopkins International Airport. Comments made by DOD, EPA, DOT. (ELR Order No. 4170, 14 pages) (NTIS Order No. PB–204 562–F)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Richard H. Broun, Director, Environmental and Land Use Planning Division, Washington, D.C. 20410, 202—755–6186.

Final, March 29

Water Treatment Facilities, Custer County, Okla. Proposed construction of 5 m.g.d. pretreatment and 3 m.g.d. demineralization water treatment facilities at Foss Reservoir, near Clinton. Cost of the facilities is estimated at $2,200,000. Waste water and dissolved solids from the plant would be discharged to the Washita River. Comments made by USDA, Army, DOC, EPA, FPC, DOI, State and local agencies. (ELR Order No. 4139, 76 pages) (NTIS Order No. PB–204 460–F)

DEPARTMENT OF INTERIOR

Contact: Office of Communications, Room 7214, Washington, D.C. 20240, 202—343–6416.

BUREAU OF LAND MANAGEMENT

Draft, March 31

Proposed 1972 Outer Continental Shelf Oil and Gas General Lease Sale Offshore Eastern Louisiana. Proposed sale of 78 tracts (366,440 acres) of OSC lands in late summer, 1972. All tracts offered pose some degree of pollution risk to the marine environment and/or adjacent shoreline. (ELR Order No. 4078, 266 pages) (NTIS Order No. PB–207 792–D)

BUREAU OF MINES

Draft, March 30

Strip Mined Area Reclamation and Recreation Center Development, Lackawanna County, Pa. Proposed reclamation of 125 acres of strip mined area by filling with spoils, grading and planting. The project is to be coordinated with one being conducted by the county to provide a recreation area/mining museum. (ELR Order No. 4077, 52 pages) (NTIS Order No. PB–207 777–D)

PACIFIC NORTHWEST RIVER BASINS COMMISSION

Contact: Mr. Rob Vining, Post Office Box 908, Vancouver, WA 68660, 206—695-3606.

Draft, March 21

Willamette River Basin Comprehensive Water and Related Land Resource Study, Oregon. Proposed comprehensive development plan based upon estimated basin needs for a future 50-year period. Structural developments would include 52 reservoirs, several major and minor channel works for flood control and irrigation works, etc. (ELR Order No. 4084, 27 pages) (NTIS Order No. PB-207 920-D)

DEPARTMENT OF TRANSPORTATION

Contact: Martin Convisser, Director, Office of Program Co-ordination, 400 Seventh Street SW., Washington, DC 20590, 202—462-4357.

FEDERAL AVIATION AGENCY

Draft, March 31

Polk County, Minn. Request for Federal financial assistance to construct a new runway (75 feet by 3,500 feet), taxiway, install lighting, etc. (ELR Order No. 4116, 25 pages) (NTIS Order No. PB-207 909-D)

Litchfield Municipal Airport, Montgomery County, Ill. Proposed extension of runway, taxiway, and apron, installation of lighting, etc. (ELR Order No. 4127, 24 pages) (NTIS Order No. PB-207 916-D)

Draft, April 7

Aitkin Airport, Aitkin County, Minn. Proposed surfacing of runway (3,500 feet by 75 feet), construction of a taxiway and terminal, and installation of lighting and navigational aids. The crossing of Sissabagamah Creek would be necessary; 16 acres of public land would be taken by the project. (ELR Order No. 4157, 41 pages) (NTIS Order No. PB-208 054-D)

Town of Paris, Edgar County, Ill. Proposed acquisition of land and construction of an E/W runway (75 feet by 3,900 feet), taxiway, apron, access road, terminal, etc. An unspecified amount of land would be taken by the project; local air, noise and water pollution would increase accordingly. (ERL Order No. 4160, 44 pages) (NTIS Order No. PB-208 042-D)

Warroad Municipal Airport, Roseau County, Minn. Proposed surfacing of a 75 feet by 3,500 feet NW/SE runway, construction of a taxiway, apron, etc. (ELR Order No. 4167, 11 pages) (NTIS Order No. PB-208 185-D)

Winnsboro Airport, Fairfield County, S.C. Proposed construction of a basic utility airport adequate for propeller driven aircraft of less than 12,500 lbs. Nineteen acres would be lost to the action. (ELR Order No. 4169, 33 pages) (NTIS Order No. PB-208 190-D)

Cleveland Airport, Cuyahoga County, Ohio. Proposed acquisition of 44.532 acres at the northeast corner of the airport; construction of a Crash/Fire/Rescue and Maintenance Building, taxiway, and electrical vault and clearance of 40.2 wooded acres. Nineteen families would be displaced by the action. (ELR Order No. 4171, 12 pages) (NTIS Order No. PB-208 191-D)

Draft, April 10

Jackson Municipal Airport, Jackson, Miss. Proposed extension of a runway from 6,600 feet to 8,500 feet. (ELR Order No. 4173, 19 pages) (NTIS Order No. PB-208 192-D)

Final, April 3

Pocatello Airport, Power County, Idaho. Proposed extension of runway from 8,248 feet by 150 feet to 9,037 feet by 150 feet, construction of taxiways, installation of lighting, etc. Comments made by USDA, EPA, HUD, DOI, and State agencies. (ELR Order No. 4136, 38 pages) (NTIS Order No. PB-204 958-F)

Stapleton International Airport, Denver, Colo. Proposed construction of a new N/S runway (200 feet by 12,000 feet) with connecting taxiways. The relocation of 64th Avenue and the Rocky Mountain Arsenal railroad spur would be necessary; air and noise pollution would increase. Comments made by USDA, Army COE, EPA, HUD, DOI, State and local agencies. (ELR Order No. 4137, 96 pages) (NTIS Order No. PB-204 557-F)

I-94, Morton County, N. Dak. Proposed construction of an interchange on I-94 at the site of the Collins Avenue Separation in the city of Mandan. Three residences and one business would be displaced by the action. (ELR Order No. 4113, 19 pages) (NTIS Order No. PB-207 923-D)

Draft, March 29

Project EBU-183, U.S. 45, Cook County, Ill. Reconstruction of 4.5 miles of U.S. 45. Three residences and six businesses would be displaced by the action. (ELR Order No. 4115, 51 pages) (NTIS Order No. PB-207 910-D)

Draft, April 3

Project I-55-6(80), Will County, Ill. Proposed construction of a combined Safety Rest Area—District State Police Headquarters on I-55. A 4(f) statement is required as land would be taken from Des Plaines Conservation Area. (ELR Order No. 4120, 51 pages) (NTIS Order No. PB-207 931-D)

Project F-10-7( ), Washtenaw and Wayne Counties, Mich. Proposed construction of 12.3 miles of new Interstate quality highway along routes M-14 and I-96. Approximately 195 parcels of land, including wetlands and agricultural areas, would be lost to the action; an unspecified number of homes would be lost; a portion of the Middle Rouge River would be channeled; a 4(f) statement will be required as parkland would be taken. (ELR Order No. 4121, 52 pages) (NTIS Order No. PB-207 930-D)

Project I-275-7(1)21, Wayne County, Mich. Proposed construction of 6.5 miles of I-275, a six-lane controlled access highway. An unspecified number of residences and amount of land would be lost to the action; a 4(f) statement is required as parkland would be taken. A high local water table makes the disruption of groundwater systems probable. (ELR Order No. 4122, 37 pages) (NTIS Order No. PB-207 929-D)

Draft, April 4

U.S. 221, Ashe County, N.C. Proposed reconstruction of 7.7 miles of U.S. 221, and addition of a curb and gutter. Thirty-three families and one business would be displaced; the possibility of siltation of the New River will exist. (ELR Order No. 4123, 36 pages) (NTIS Order No. PB-207 928-D)

Final, April 10

Park Falls Municipal Airport, Price County, Wis. Proposed land acquisition and construction of a 75 feet by 3,200 feet N/S runway, a connecting taxiway, an apron; low intensity lighting, marking, etc. Air and water quality standards will be affected. Comments made by USDA, Army COE, EPA, HEW, DOI, DOT, State and local agencies. (ELR Order No. 4187, 38 pages) (NTIS Order No. PB-204 025-F)

FEDERAL HIGHWAY ADMINISTRATION

Draft, March 23

Project SU-7240(100)C, Tulsa County, Okla. Proposed reconstruction of 3.5 miles of Avery Drive from two to four lanes. A 4(f) statement will be required as right-of-way would be taken from Chandler Park. (ELR Order No. 4082, 30 pages) (NTIS Order No. PB-207 773-D)

Draft, March 28

Project US-1169(3), Cuyahoga County, Ohio. Proposed reconstruction of 2.86 miles of S.R. 252. Six residences would be displaced by the action. (ELR Order No. 4085, 13 pages) (NTIS Order No. PB-207 899-D)

Draft, March 31

S-1078(10), Tehana County, Calif. Proposed construction of a replacement bridge over the Sacramento River, on F.A.S. 1078. Total project length is 0.45 mile, including approaches. A 4(f) statement would be required as land from adjacent county and State parks would be taken. (ELR Order No. 4086, 23 pages) (NTIS Order No. PB-207 918-D)

Project 9.8122812, Catawba County, N.C. Proposed construction of 2.1 miles of new highway between the N.C. 10-16—S.R. 1880 intersection and S.R. 1739. Fourteen residences and 35 acres would be taken by the right-of-way. The possibility of siltation in nearby streams will occur. (ELR Order No. 4089, 20 pages) (NTIS Order No. PB-207 906-D)

Draft, April 3

Projects F-673( ) and F-297-( ), Hardin County, Ohio. Proposed construction of a four-lane, 8.16 mile-long bypass which would remove routes U.S. 30S, U.S. 68, and S.R. 31 from the city of Kenton. Loss of an unspecified amount of farm land will result. (ELR Order No. 4128, 24 pages) (NTIS Order No. PB-207 917-D)

Project S-1262(6), Miami County, Ohio. Proposed widening of County Road 25A from two to four lanes, and construction of several bridges. An unspecified amount of land would be lost to the project. (ELR Order No. 4129, 20 pages) (NTIS Order No. PB-207 927-D)

Project ER-1642(1), Cuyahoga County, Ohio. Proposed replacement of a major bridge over the Cuyahoga River. Total project length, including approaches is 0.8 mile. An unspecified amount of industrial land would be taken by the project. (ELR Order No. 4134, 11 pages) (NTIS Order No. PB-207 904-D)

Draft, April 4

Project F-024-3( ), Putnam County, Tenn. Proposed construction of 5 miles of S.R. 42. Two streams will be crossed by the project; from 10 to 41 residences will be displaced depending upon which of several alternate routes is chosen. (ELR Order No. 4142, 17 pages) (NTIS Order No. PB-208 051-D)

Project I-280-2(2), Wood County, Ohio. Proposed reconstruction of 6.6 miles of four-lane I-280 to the latest interstate standards. Four families, four businesses, and an unspecified amount of land will be lost to the project. (ELR Order No. 4143, 17 pages) (NTIS Order No. PB-208 050-D)

Draft, April 5

Project No. S-120, Washington County, Iowa. Proposed reconstruction of F.A.S. Routes 595 and 2967 for a total length of

6 miles. A 4(f) statement would be required as some of the land needed is owned by the Iowa State Conservation Commission. (ELR Order No. 4144, 7 pages) (NTIS Order No. PB-208 047-D)

Draft, April 11

Loop 499, Cameron County, Tex. Proposed construction of highway Loop 499, which would total 6.8 miles in length. Thirteen families and four businesses would be displaced by the action. (ELR Order No. 4182, 21 pages) (NTIS Order No. PB-208 187-D)

Final, April 4

Park Road 100, Cameron County, Tex. Proposed construction of 11.7 miles of two-lane highway on a 200-foot right-of-way. The highway would introduce people and vehicles to a totally undeveloped seashore area, and to Padre Island. Damage to existing protective sand dunes would occur; rapid development of the area is expected to result from the project. Comments made by Army COE, EPA, and State agencies. (ELR Order No. 4119, 19 pages) (NTIS Order No. PB-203 480-F)

Project I-65—3(54), Limestone County, Ala. Proposed construction of a rest area on I-65. The project would include parking, water, picnic, sanitary, and tourist information facilities. Comments made by USDA, AEC, Army COE, HUD, DOI, TVA, DOT, State and local agencies. (ELR Order No. 4124, 43 pages) (NTIS Order No. PB-207 900-F)

Trunk Highways 12, 23, and 71, Kandiyohi County, Minn. Proposed rerouting of the three highways to a southwesterly bypass of the city of Willman. The total project length is 10 miles. One farmstead, one residence, one church, and an unspecified amount of land will be lost to the project. Comments made by EPA, Army COE, HEW, HUD, DOI, OEO, and DOT. (ELR Order No. 4125, 38 pages) (NTIS Order No. PB-204 029-F)

Project I-80-2(41), Cheyenne County, Nebr. Proposed construction of 3 miles of I-80 and 5.4 miles of N-19. One business and an unspecified amount of land would be lost to the action. Comments made by USDA, Army COE, EPA, HUD, and DOI. (ELR Order No. 4132, 29 pages) (NTIS Order No. PB-201 237-F)

Final, March 31

F.A.S. Route 414, Kenai Peninsula Borough, Alaska. Proposed construction of 9.8 miles of F.A.S. Route 414. An unspecified number of residences and amount of land will be lost to the project. Comments made by USDA, HUD, DOI, DOT, State and local agencies, and concerned citizens. (ELR Order No. 4145, 44 pages) (NTIS Order No. PB-208 040-F)

Project SP-0056-1(4) Winston County, Miss. Proposed construction of 5.5 miles of Mississippi Highway 25, a two-lane highway with right-of-way for ultimate construction of a four-lane facility. An unspecified amount of land will be lost to the project. Comments made by USDA, Army COE, DOC, and State agencies. (ELR Order No. 4146, 13 pages) (NTIS Order No. PB-199 627-F)

Project F-024-2( ), S.R. 80, Palm Beach County, Fla. Proposed construction of S.R. 80 along a corridor between S.R. 15 and S.R. 700. An unspecified amount of land would be lost to the project. Comments made by USDA, Army COE, USCG, DOC, EPA, DOI, DOT, State and local agencies. (ELR Order No. 4147, 44 pages) (NTIS Order No. PB-202 644-F)

Project F-039-1( ), McMinn County, *Tenn.* Proposed construction of 7 miles of S.R. 30. Six residences would be displaced by the project; several small streams would be crossed. Comments made by USDA, FAA, TVA, State and local agencies. (ELR Order No. 4148, 44 pages) (NTIS Order No. PB-208 053-F)

Project S-6690(1), St. Louis County, Minn. Proposed reconstruction of two-lane County-State Aid Highway 13, for a total length of 4.2 miles. One residence, several garages, and 20 acres will be lost to the project. Comments made by USDA, EPA, HUD, and DOI. (ELR Order No. 4149, 26 pages) (NTIS Order No. PB-204 966-F)

U.S. 65, Polk County, Iowa. Proposed reconstruction of 3 miles of U.S. 65. Approximately 1,200 feet of creek channel change will be required. Comments made by USDA, EPA, DOI, State and local agencies. (ELR Order No. 4150, 19 pages) (NTIS Order No. PB-203 611-F)

I-95, Philadelphia County, Pa. Proposed construction of five sections of I-95, totaling 2.15 miles in length. It is a fully controlled limited access highway, varying in width from six to 10 lanes. An unspecified number of individuals and buildings would be displaced by the action. Comments made by USDA, EPA, HUD, and State agencies. (ELR Order No. 4151, 76 pages) (NTIS Order No. PB-208 052-F)

Project F-918-1(13), Worcester County, Md. Proposed construction of 1.6 miles of new highway and 0.8 mile of existing highway on U.S. 113. Five residences would be displaced by the action. Comments made by USDA, EPA, HUD, State and local agencies. (ELR Order No. 4152, 41 pages) (NTIS Order No. PB-201 502-F)

U.S. COAST GUARD

Contact: D. B. Charter, Jr., Commander, U.S. Coast Guard, Chief, Environmental Coordination Branch, 400 Seventh Street SW., Washington, DC 20591, 202—426-9573.

Draft, April 7

Baltimore Harbor Outer Crossing, Baltimore County, Md. Proposed approval of plans for a high level fixed bridge across the Patapsco River from Hawkins Point, Baltimore City to Sollers Point, Baltimore County. Approximately 80,000 cu. yd. of material would be dredged from the river and disposed in upland containment area. Land would be taken from two public parks—Fort Armistead and Baltimore County Park. (ELR Order No. 4156, 67 pages) (NTIS Order No. PB-208 039-D)

BRIAN P. JENNY,
Acting General Counsel.

[FR Doc.72-6160 Filed 4-21-72;8:46 am]

ENVIRONMENTAL PROTECTION AGENCY

UNION CARBIDE CORP.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 2F1253) has been filed by Union Carbide Corp., Tarrytown, N.Y. 10591, proposing establishment of an exemption from the requirement of a tolerance (40 CFR Part 180) for residues of α-hydro-*omega*-hydroxypoly(oxyethylene) with a molecular weight of 100,000 or more when used as an inert carrier in pesticide formulations applied to growing crops.

The analytical method proposed in the petition for determining residues of the inert carrier is a turbidimetric procedure with spectrophotometric measurement at 430 nanometers.

Dated: April 18, 1972.

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

[FR Doc.72-6162 Filed 4-21-72;8:47 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 592]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

APRIL 17, 1972.

Pursuant to §§ 1.227(b)(3) and 21.30(b) of the Commission's Rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

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

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

7123-C2-P-(2)-72—Miami Valley Radiotelephone (New), for a new two-way station to be located at 5031 Mosiman Road, near Middletown, Ohio, to operate on 454.075 and 454.275 MHz.

7124-C2-MP-72—American Mobile Radio, Inc. (KSV979), replace transmitter operating on 152.24 MHz, located at 2339 Raymond Avenue, Lot No. 15, Signal Hill Tract, Long Beach, CA.

7125-C2-P-(2)-72—Radio Paging, Inc. (KLF613), for additional facilities to operate on 454.075 and 454.175 MHz, located at 1010 Travis Street, The Tennessee Building, Houston, TX.

7126-C2-P-72—Airsignal International, Inc. (KIF653), replace transmitter and relocate facilities operating on 35.220 MHz to the First National Bank Building, 165 Madison, Memphis, TN.

7139-C2-P-72—Page Two, Inc. (New), for a new two-way station to be located at 236 South Academy, Galesburg, IL, to operate on 152.18 MHz and (20) dispatch station pursuant to section 21.519(a) of the rules.

7165-C2-P-72—The Allied Cos., Inc. (KAL873), for additional facilities to operate on 454.225, 454.250, and 454.350 MHz at a new site described as location No. 2: 4137 Lower Silver Lake Road, Topeka, KS.

7166-C2-P-72—Morrison Radio Relay Corp. (KKJ460), relocate facilities operating on 35.22 MHz at location No. 3 to: 600 East Lamar Street, Arlington, TX.

7167-C2-P-(2)-72—R & L Radio (KFL910), replace the repeater transmitter operating on 459.200 MHz at location No. 1: On Highway No. 13, 4.25 miles south of Clinton, Mo., and the control transmitter operating on 454.20 MHz at location No. 2: 137 South Washington Street, Clinton, MO.

7243-C2-P-72—Southwestern Bell Telephone Co. (KAA819), replace auxiliary test transmitter operating on 157.77, 157.80, 157.89, 158.01, and 158.04 MHz, located at 6213 Holmes Street, Kansas City, MO.

7244-C2-P-72—Ratel Communications Co. (KQZ789), for additional facilities to operate on 158.70 MHz, located at 813 Eighth Street, Wichita Falls, TX.

7245-C2-P-72—Southern Bell Telephone & Telegraph Co. (New), for a new two-way station to be located at 1525 Southwest Avenue E, Belle Glade, FL, to operate on 152.75 MHz.

7247-C2-P-(6)-72—Uintah Basin Telephone Association, Inc. (New), for a new two-way station to operate on 152.66 and 152.81 MHz base and 72.12 and 72.04 MHz repeater at location No. 1: 13 miles north-northwest of Altamont, Utah, at location No. 2: 1 mile east of Neola on Highway No. 121, Neola, Utah, to operate on 75.900 and 75.960 MHz for control facilities.

7248-C2-P-72—Myrtle Beach Communications (KRM944), replace transmitter operating on 152.24 MHz, located at 0.75 mile west of intersection of U.S. Highway No. 17 and 29th Avenue, (29th Avenue Extension), Myrtle Beach, SC.

7249-C2-P-72—Massachusetts-Connecticut Mobile Telephone Co. (New), for a new two-way station to be located at Horse Mountain, Northampton, Mass., to operate on 454.05 MHz.

7250-C2-P-(2)-72—Massachusetts-Connecticut Mobile Telephone Co. (KCC479), for additional facilities to operate on 454.275 and 454.325 MHz located at West Rock Ridge, 3.75 miles northwest of New Haven, Conn.

7251-C2-P-(3)-72—Radio Electronics Products Corp. (KMD687), for additional facilities to operate on 75.92 MHz control at location No. 2: 310 Lake Boulevard, Redding, CA, add 152.03 MHz base and 72.420 MHz repeater at location No. 3: Sugarloaf Lookout, 2.3 miles southwest of Delta, Calif.

5119-C2-R-72—A-Ble Answering Service (KFL907), renewal of license expiring April 1, 1972. Term: April 1, 1972 to April 1, 1974.

POINT-TO-POINT MICROWAVE RADIO SERVICE

7128-C1-AP/AL-(8)-72—Microwave Service Co. Consent to assignment of Frank K. Spain doing business as Microwave Service Co., assignor to Microwave Service Co. of Florida, Inc., assignee. Station: KIU45 Newberg, Ala., WAD22 Olive Branch, Miss.; KUV90 Ashland, Miss.; KLN74 Keownville, Miss.; KLH80 Tupelo, Miss.; KLV62 Okolona, Miss.; KUV91 West Point, Miss., and WAD21 Memphis, Tenn.

POINT-TO-POINT MIRCOWAVE RADIO SYSTEM—continued

7129-C1-P-72—Range Telephone Cooperative, Inc. (New), 16 miles east of Ashland, Mont. Latitude 45°36'16" N., longitude 105°56'13" W. C.P. for 11,245.00V MHz toward Ashland, Mont., via passive reflector on azimuth 265°12'. From passive reflector to Ashland, Mont., on azimuth 25°40'.

7130-C1-P-72—Range Telephone Cooperative, Inc. (New), 225 feet from the intersection of Custer Street and Highway 212, Ashland, Mont. Latitude 45°35'23" N., longitude 106°15'52" W. C.P. for a new station on frequency 10,715.0V MHz toward Ashland, Mont., on azimuth 205°40'. From Ashland passive reflector to Home Creek Butte, Mont., on azimuth 84°58'.

7131-C1-P-72—The Pacific Telephone & Telegraph Co. (KYS42), Berryessa Peak, 5.6 miles south-southwest of Brooks, Calif. Latitude 38°39'51" N., longitude 122°11'16" W. C.P. to add 4090H and change frequencies from V to H on 4010H, 3930H, 3850H, and 3770H MHz toward Clearlake Oaks, Calif.

7132-C1-P-72—The Pacific Telephone & Telegraph Co. (KYS43), 14.7 miles northeast of Clearlake Oaks, Calif. Latitude 39°09'48" N., longitude 122°28'53" W. C.P. to add 4050H MHz and change polarization from V to H on frequencies 3970H, 3890H, 3810H, and 3730H MHz toward Berryessa Peak, Calif., and add 4050H and change polarization on frequencies from V to H to 3970H, 3890H, 3810H, and 3730H MHz toward Elk Creek, Calif.

7133-C1-P-72—The Pacific Telephone & Telegraph Co. (KYS44), 6.5 miles south-southwest of Elk Creek, Calif. Latitude 39°30'57" N., longitude 122°33'42" W. C.P. to add 4090H MHz and change polarization on frequencies from V to H on 4010H, 3930H, 3850H, and 3770H MHz toward Clearlake Oaks, Calif., and add 4090V MHz toward Paskenta, Calif.

7134-C1-P-72—The Pacific Telephone & Telegraph Co. (KYS45), 11 miles north of Paskenta, Calif. Latitude 40°02'45" N., longitude 122°34'13" W. C.P. to add 4050V MHz toward Elk Creek and Cottonwood, Calif.

7135-C1-P-72—The Pacific Telephone & Telegraph Co. (KYS46), 7.5 miles East of Cottonwood, Calif. Latitude 40°22'19" N., longitude 122°08'29" W. C.P. to add 4090V MHz toward Paskenta and Bear Spring, Calif.

7136-C1-P-72—The Pacific Telephone & Telegraph Co. (KYS51), Bear Spring, 6.6 miles northeast of Montgomery Creek, Calif. Latitude 40°54'23" N., longitude 121°49'39" W. C.P. to add 4050V MHz toward Cottonwood and Pondosa, Calif.

7137-C1-P-72—The Pacific Telephone & Telegraph Co. (KYS52), 4 miles south-southwest of Pondosa, Calif. Latitude 41°08'30" N., longitude 121°42'30" W. C.P. to add 4090V MHz toward Bear Spring and Timber Mountain, Calif.

7138-C1-P-72—The Pacific Telephone & Telegraph Co. (KYS53), 4 miles southwest of Perez, Calif. Latitude 41°37'47" N., longitude 121°17'53" W. C.P. to add 4050V MHz toward Pondosa and Brady Butte, Calif.

7141-C1-ML-72—American Telephone & Telegraph Co. (KYJ90), 0.5 mile southwest of Faulkner, Md. Modification of license to change polarization on frequencies from V to H on 3930V and 4010V MHz toward Woodman, W. Va.

7142-C1-P-72—The Pacific Telephone & Telegraph Co. (KMB70), 140 New Montgomery Street, San Francisco, CA. Latitude 37°47'12" N., longitude 122°23'55" W. C.P. to add 11,485H MHz toward KCSM-TV, San Mateo, Calif.

7143-C1-P-72—The Pacific Telephone & Telegraph Co. (KMC67), East Bay Hills, 3750 Grizzly Peak Boulevard, Oakland, CA. Latitude 37°52'25" N., longitude 122°13'08" W. C.P. to add 4190V MHz toward KTEH-TV, San Jose, Calif.

(INFORMATIVE: Applicant, MCI Indiana-Ohio, Inc., is modifying its original proposal for Specialized Common Carrier Radio Service between Cleveland, Ohio, and South Bend, Ind., and points in between, by filing the 11 new applications below. Of these new filings, eight will be replacing eight previously filed applications.

7154-C1-P-72—MCI Indiana-Ohio, Inc. (New), Site 19, Pyrmont, Ohio. C.P. for a new station, 1.6 miles south of Pyrmont, Ohio, at latitude 39°47'16" N., longitude 84°27'41" W. Frequencies 5974.8H MHz on azimuth 128°56' toward Waynesville, Ohio, 5974.8V MHz on azimuth 306°44' toward Lynn, Ind.

7155-C1-P-72—MCI Indiana-Ohio, Inc. (New), Site 20, Lynn, Ind. C.P. for a new station 3 miles northwest of Lynn, Ind., at latitude 40°02'00" N., longitude 84°53'27" W. Frequencies 6226.9V MHz on azimuth 126°27' toward Pyrmont, Ohio, 6197.2V MHz on azimuth 265°49' toward Mount Summit, Ind.

POINT-TO-POINT MIRCOWAVE RADIO SYSTEM—continued

7156–C1–P–72—MCI Indiana-Ohio, Inc. (New), Site 21, Mount Summit, Ind. C.P. for a new station, 0.5 mile east of Mount Summit, Ind., at latitude 40°00'17'' N., longitude 85°22'53'' W. Frequencies 5945.2V MHz on azimuth 85°30' toward Lynn, Ind., 5974.8H MHz on azimuth 257°05' toward Pendleton, Ind., 3850.0H MHz on azimuth 358°42' toward Muncie, Ind., 3770.0V MHz on azimuth 294°11' toward Anderson, Ind., 5945.2H MHz on azimuth 323°14' toward Summitville, Ind.

7157–C1–P–72—MCI Indiana-Ohio, Inc. (New), Site 22, Pendleton, Ind. C.P. for a new station, 5 miles southeast of Pendleton, Ohio, at latitude 39°57'11'' N., longitude 85°-40'20'' W. Frequencies 6226.9H MHz on azimuth 76°54' toward Mount Summit, Ind., 6197.2H MHz on azimuth 252°48' toward McCordsville, Ind.

7158–C1–P–72—MCI Indiana-Ohio, Inc. (New), Site 23, McCordsville, Ind. C.P. for a new station, 1 mile west-southwest of McCordsville, Ind., at latitude 39°53'21'' N., longitude 85°56'20'' W. Frequencies 5945.2H MHz on azimuth 72°38' toward Pendleton, Ind., 11,385.0V and 11,305.0V MHz on azimuth 234°38' toward Indianapolis, Ind.

7159–C1–P–72—MCI Indiana-Ohio, Inc. (New), Site 27, Summitville, Ind. C.P. for a new station, 4.7 miles north-northwest of Summitville, Ind., at latitude 40°21'36'' N., longitude 85°43'44'' W. Frequencies 6197.2H MHz on azimuth 143°01' toward Mount Summit, Ind., 3770.0V MHz on azimuth 18°46' toward Marion, Ind., 3850.0H MHz on azimuth 292°27' toward Kokomo, Ind., 6226.9H MHz on azimuth 342°32' toward Rich Valley, Ind.

7160–C1–P–72—MCI Indiana-Ohio, Inc. (New), Site 30, Rich Valley, Ind. C.P. for a new station, 3.1 miles north of Rich Valley, Ind., at latitude 40°49'50'' N., longitude 85°-55'26'' W. Frequencies 5945.2V MHz on azimuth 162°24' toward Summitville, Ind., 3730.0V MHz on azimuth 66°58' toward Roanoke, Ind., 5974.8V MHz on azimuth 349°26' toward Mentone, Ind.

7161–C1–P–72—MCI Indiana-Ohio, Inc. (New), Site 31, Roanoke, Ind. C.P. for a new station, 2.8 miles northwest of Roanoke, Ind., at latitude 40°59'37'' N., longitude 85°24'52'' W. Frequencies 3770.0V MHz on azimuth 247°18' toward Rich Valley, Ind., 3850.0H MHz on azimuth 67°23' toward Fort Wayne, Ind.

7162–C1–P–72—MCI Indiana-Ohio, Inc. (New), Site 33, Mentone, Ind. C.P. for a new station, 2.8 miles northwest of Roanoke, Ind., at latitude 40°59'37'' N., longitude 85°24'52'' W. Frequencies 6226.9V MHz on azimuth 169°23' toward Rich Valley, Ind., 6197.2V MHz on azimuth 345°24' toward Wyatt, Ind.

7163–C1–P–72—MCI Indiana-Ohio, Inc. (New), Site 34, Wyatt, Ind. C.P. for a new station, 2.6 miles northeast of Wyatt, Ind., at latitude 41°33'12'' N., longitude 86°08'12'' W. Frequencies 5945.2V MHz on azimuth 165°19' toward Mentone, Ind., 10,735.0H and 11,135.0H MHz on azimuth 325°17' toward South Bend, Ind.

7164–C1–P–72—MCI Indiana-Ohio, Inc. (New), Site 36, Massillon, Ohio. C.P. for a new station, 3.5 miles west of Massillon, Ohio, at latitude 40°47'32'' N., longitude 81°35'10'' W. Frequencies 5974.8V MHz on azimuth 326°04' toward Medina, Ohio, 10,775.0V and 11,175.0V MHz on azimuth 88°08' toward Canton, Ohio.

7264–C1–P–72—American Telephone & Telegraph Co. (KCM82), 1.6 miles south of Littleton, Mass. Latitude 42°31'29'' N., longitude 71°27'49'' W. C.P. to add 3890V MHz toward West Andover, Maine.

7265–C1–P–72—American Telephone & Telegraph Co. (KSW25), 2.8 miles west of West Andover, Mass. Latitude 42°39'16'' N., longitude 71°13'12'' W. C.P. to add 3930V MHz toward Littleton, Maine.

7266–C1–P–72—American Telephone & Telegraph Co. (New), corner of Canal and Hampshire Streets, Lawrence, Mass. Latitude 42°42'18'' N., longitude 71°09'52'' W. C.P. for a new station on frequencies 3770H, 3850H, and 3930H MHz toward Lawrence, Maine, and 3730H, 3810H, and 3890H MHz toward West Andover, Maine.

7267–C1–P–72—American Telephone & Telegraph Co. (New), 1.2 miles south-southwest of North Pelham, N.H. Latitude 42°45'33'' N., longitude 71°21'58'' W. C.P. for a new station on frequencies 3770V and 3850V MHz toward Lawrence, Maine, and 3770H and 3850H MHz toward Ashburnham, Maine.

7268–C1–P–72—American Telephone & Telegraph Co. (KCD65), 3.5 miles northeast of Ashburnham, Mass. Latitude 42°40'27'' N., longitude 71°52'06'' W. C.P. to add 3730H and 3810H MHz toward North Pelham, N.H.

7269–C1–P–72—The Mountain States Telephone & Telegraph Co. (KPB52), 70 South State Street, Salt Lake City, UT. C.P. to add 3750V MHz toward Camp Williams, Utah.

POINT-TO-POINT MIRCOWAVE RADIO SYSTEM—continued

7270–C1–P–72—The Mountain States Telephone & Telegraph Co. (KPB53), 5 miles northwest of Lehi, Utah. Latitude 40°25'38'' N., longitude 111°56'12'' W. C.P. to add 3710V MHz toward Provo, Utah.

7271–C1–P–72—The Mountain States Telephone & Telegraph Co. (KPB54), 1210 West Center Street, Provo, UT. Latitude 40°14'03'' N., longitude 111°40'41'' W. C.P. to add 10,735V MHz toward Station KBYU Brigham Young University Campus, Utah.

7272–C1–TC–72—Madison Valley Telephone Co. (WJK79), Big Sky, 30.5 miles southwest of Bozeman, Mont. Application for consent to transfer of control Universal Telephone, Inc., transferor to Continental Telephone Corp., transferee.

7273–C1–ML–72—American Telephone & Telegraph Co. (KTQ69), 2 miles east of Hope, N.J. Latitude 40°54'15'' N., longitude 74°55'55'' W. Modification of license to change polarization on frequencies from H to V for 6197.2V, 6375.2V, and 6424.5V and on frequencies from V to H are 6177.5H, 6226.9H, 6286.2H, 6345.5H, and 6404.8H MHz toward Cherryville, N.J.

7274–C1–ML–72—American Telephone & Telegraph Co. (KEA77), 0.8 mile north of Cherryville, N.J. Latitude 40°34'18'' N., longitude 74°54'22'' W. Modification of license to change polarization from H to V on frequencies 5925.5V, 5974.8V, 6034.2V, 6093.5V, and 6152.8V and from V to H on frequencies 5945.2H, 6123.1H, and 6172.5H MHz toward Hope, N.J.

The following applicant proposes to establish omnidirectional facilities for the provision of common carrier "Subscriber-Programed" television service.

7242–C1–P–72—Golden Peso (New), 15 West Sixth Street, Tulsa, OK. Latitude 36°09'01'' N., longitude 95°59'25'' W. C.P. for a new station on frequencies 2152.325 (visual) and 2150.20 (aural) toward various receiving points of system and 2158.50 (visual) and 2154.00 (aural) toward various receiving points of system.

INFORMATIVE: It appears that the following applications may be mutually exclusive subject to the Commission's rules regarding ex parte presentations, reasons of potential electrical interference.

Oklahoma—Tulsa

Golden Peso (New), file No. 7242–C1–P–72.
United Video, Inc. (New), file No. 5064–C1–P–72.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)

Major Amendments

INFORMATIVE: Applicant, MCI Indiana-Ohio, Inc., is amending 16 of its previously filed applications for authority to construct a new specialized common carrier service in a two-State area from Cleveland, Ohio, to South Bend, Ind., and serving a number of other major cities in Ohio and Indiana. The applications now being amended were originally filed on June 26, 1970, and December 21, 1971. They appeared in public notice, July 6, 1970, FCC Report No. 499 and January 17, 1972, FCC Report No. 579, respectively. Each application that is now amended is referenced to the date filed. In addition, 11 new sites are now proposed. The amendments and new applications are necessitated to insure compliance with the new engineering standards set forth in the Commission's first report and order in Docket No. 18920, effective July 15, 1971, and Informative Guidelines published regarding frequency coordination in Report No. 562, FCC Common Carrier Services Information released September 20, 1971.

4124–C1–P–72—MCI Indiana-Ohio, Inc. (New), Site 3, station located 3 miles south-southeast of Medina, Ohio. Add frequency 6226.9V MHz on azimuth 145°54' toward Massillon, Ohio.

4129–C1–P–72—MCI Indiana-Ohio, Inc. (New), Site 11, station located 0.7 mile north-northeast of Vienna, Ohio. Add frequency 6256.5V MHz on azimuth 265°13' toward Springfield, Ohio.

8876–C1–P–70—MCI Indiana-Ohio, Inc. (New), Site 13, station located 2.7 miles north-northwest of Waynesville, Ohio. Change direction of transmission of frequency 6226.9H MHz toward Mason, Ohio, to azimuth 212°03'. Add frequency 6226.9H MHz on azimuth 309°09' toward Pyrmont, Ohio.

8871–C1–P–70—MCI Indiana-Ohio, Inc. (New), Site 15, change proposed station location to 2.8 miles south of Mason, Ohio, at latitude 39°18'59", longitude 84°19'10". Change direction of transmission of frequency 5945.2V MHz toward Cincinnati, Ohio, to azimuth 214°55'. Change direction of transmission of frequency 5974.8H MHz toward Waynesville, Ind., to azimuth 31°55'. Add frequencies 5974.8H MHz on azimuth 293°53' toward Hamilton, Ohio, 5945.2H MHz on azimuth 243°01' toward Middletown, Ohio.

8874–C1–P–70—MCI Indiana-Ohio, Inc. (New), Site 16, station located at Fifth and Vine Streets, Cincinnati Center, Cincinnati, Ohio. Change direction of transmission of frequency 6197.2V MHz toward Mason, Ohio, to azimuth 34°48'.

8873–C1–P–70—MCI Indiana-Ohio, Inc. (New), Site 17, station located at Rentschler Building, Second and High Streets, Hamilton, Ohio. Delete frequencies 10,775V and 10,995V MHz. Add frequency 6226.9H MHz on azimuth 131°44' toward Mason, Ohio. Delete Gano, Ohio, as a point of communication.

8872–C1–P–70—MCI Indiana-Ohio, Inc. (New), Site 18, station located at 1201 Central Avenue, Middletown, OH. Delete frequencies 6197.2V and 6315.9V MHz. Add frequency 6197.2H MHz on azimuth 161°58' toward Mason, Ohio. Delete Gano, Ohio, as a point of communication.

8868–C1–P–70—MCI Indiana-Ohio, Inc. (New), Site 24, station located at Indiana National Bank Building, 1 Indiana Square, Indianapolis, IN. Delete frequencies 11,175V and 10,935V MHz. Add frequencies 10,975.0V and 11,055.0V MHz on azimuth 54°30' toward McCordsville, Ind. Delete Pleasant View, Ind., as a point of communication.

8865–C1–P–70—MCI Indiana-Ohio, Inc. (New), Site 25, station located at Hotel Madison, 912 Meridian Street, Anderson, IN. Delete frequencies 10,835V and 11,035V MHz. Add frequency 3710.0H MHz on azimuth 114°00' toward Mount Summit, Ind. Delete Muncie, Ind., as a point of communication.

8864–C1–P–70—MCI Indiana-Ohio, Inc. (New), Site 26, station located at Wysler Building, corner of Main and Walnut Streets, Muncie, Ind. Delete frequencies 6034.2V, 6152.8V MHz, 5974.8V 6093.5V MHz, 11,325V, and 11,565V MHz. Delete Marion, Ind., Spiceland, Ind., and Anderson, Ind., as points of communication. Add frequency 3810.0H MHz on azimuth 178°42' toward Mount Summit, Ind., as a new point of communication.

8862–C1–P–70—MCI Indiana-Ohio, Inc. (New), Site 28, station located at 2200–2300 Home Avenue Building, Building No. 3, Marion, IN. Delete frequencies 6197.2V, 6315.9V MHz, 5974.8V, 6093.5V MHz, 6226.9V and 6345.5V MHz. Delete Rockford, Ind., Muncie, Ind., and Kokomo, Ind., as points of communication. Add frequency 3730.0V MHz on azimuth 198°49' toward Summitville, Ind., as a new point of communication.

8863–C1–P–70—MCI Indiana-Ohio, Inc. (New), Site 29, station located at Armstrong Lanon Building, Sycamore and Main Street, Kokomo, Ind. Delete frequencies 5974.8V and 693.5V MHz. Delete Marion, Ind., as a point of communication. Add frequency 3810.0H MHz on azimuth 112°11' toward Summitville, Ind., as a new point of communication.

8860–C1–P–70—MCI Indiana-Ohio, Inc. (New), Site 32, station located at Fort Wayne Bank Building, Corner of Berry and Calhoun Streets, Fort Wayne, Ind. Delete frequencies 10,895V and 11,135V MHz. Delete Collins, Indiana as a point of communication. Add frequency 3810.0H MHz on azimuth 247°34' toward Roanoke, Ind., as a point of communication.

8857–C1–P–70—MCI Indiana-Ohio, Inc. (New), Site 35, station located at St. Joseph Bank Building, 202 South Michigan Street, South Bend, IN. Delete frequencies 6256.5V and 6375.2V MHz. Delete Millersburg, Ind., as a point of communication. Add frequencies 11,225.0H and 11,625.0H MHz on azimuth 145°13' toward Wyatt, Ind., as a new point of communication.

8884–C1–P–70—MCI Indiana-Ohio, Inc. (New), Site 37, station located at McKinley and Fourth Streets, Canton, Ohio. Delete frequencies 6004.5H and 6123.1H MHz. Delete Apple Creek, Ohio, as a point of communication. Add frequencies 11,665.0V and 11,265.0V MHz on azimuth 268°16' towards Massillon, Ohio, as a new point of communication.

8877–C1–P–70—MCI Indiana-Ohio, Inc. (New), Site 38, station located at 34 West High Street, Springfield, OH. Delete frequencies 10,755V and 10,995V MHz. Delete Cortsville, Ohio, as a point of communication. Add frequency 5945.2V MHz on azimuth 85°06' toward Vienna, Ohio, as a new point of communication.

92–C1–P–72—The Western Union Telegraph Co. (KQG32), change polarization of frequencies 3830 and 4150 MHz on path toward Columbus, Ohio, to Vertical.

93–C1–P–72—The Western Union Telegraph Co. (KQG31), change polarization of frequencies 3710 and 4030 MHz on path toward South Vienna, Ohio, to Vertical.

2162–C1–P–71—MCI Pacific-Mountain States, Inc. (New), C.P. for a new station 8 miles northeast of Sage, Wyo. Delete frequency 5974.8H MHz and add frequency 6226.9H MHz on azimuth 257°03' toward Providence, Utah. All other particulars are the same as reported in public notice on March 20, 1972, FCC Report No. 588.

4015–C1–P–72—American Microwave & Communications, Inc. (KYO47), change frequency 6086.0H MHz to 6123.1H MHz toward Perrinton and East Lansing, Mich. Station location: 3.5 miles north of Williamston, Mich.

3325–C1–P–68—Frank K. Spain, doing business as Microwave Service Co. (New), add frequencies 5974H, 6034H, 6094H, 6153H and 10,715H MHz on azimuth 338°30' toward a new point of communication, 1.5 miles south of Porterville, Calif. Station location: 1.5 miles southwest of Woody, Calif. All other particulars remain as reported on public notice dated October 14, 1968, and as amended in other public notices.

684–C1–P–72—Frank K. Spain, doing business as Microwave Service Co. (New), major amendment: Add frequency 10,875H MHz on azimuth 274°45'. This amendment filed simultaneously with applications for new stations which will provide service to Jackson, Miss. Location: 5.7 miles south-southeast of Meridian, Miss., at latitude 32°19'40" N., longitude 88°41'28" W. All other particulars same as reported in public notices dated August 16, 1971, and January 10, 1972.

Corrections

3357–C1–P–72—CPI Microwave, Inc. (New), San Antonio, Tex. Correct to read: Change frequency 6271.4H MHz toward Floresville, Tex., to 6301.0H MHz. See Reports Nos. 590 dated April 3, 1972, and 574, dated December 13, 1971.

6235–C1–P–72—MCI Kentucky Central, Inc. (New), correct longitude to read 86°01'23" W. All other particulars same as reported in public notice No. 589, dated March 27, 1972.

6217–C1–P–72—The Bell Telephone Co. of Pennsylvania (New), Lewistown, Pa. Correct latitude of location to read: Latitude 40°35'51" N. All other particulars same as indicated in Report No. 588 dated March 20, 1972.

6710–C1–P–72—Cincinnati Bell, Inc. (New), Gibsonburg, Ohio. Correct frequencies toward Fremont, Ohio, to read 10,915V and 10,755V MHz. All other particulars same as indicated in Report No. 590 dated April 3, 1972.

6265–C1–P–72—South Central Bell Telephone Co. (New), Eden, Ky. Correct longitude of location to read: Longitude 85°08'22" W. All other particulars same as indicated in Report No. 589, dated March 27, 1972.

[FR Doc.72–6116 Filed 4–21–72;8:45 am]

FEDERAL POWER COMMISSION

NATIONAL GAS SURVEY COORDINATING COMMITTEE

Order Designating Representative

APRIL 14, 1972.

The Federal Power Commission by order issued May 10, 1971, established the Coordinating Committee.

1. *FPC representative.* The FPC representative to the Coordinating Committee, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Frederick H. Warren, The Advisor on Environmental Quality, Office of the Advisor on Environmental Quality, Federal Power Commission.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[Doc. 72–6168 Filed 4–21–72;8:47 am]

NATIONAL GAS SURVEY SUPPLY-TECHNICAL ADVISORY TASK FORCE-NATURAL GAS TECHNOLOGY

Order Designating Representative

APRIL 14, 1972.

The Federal Power Commission by order issued December 21, 1971, estab-

lished the Technical Advisory and Coordinating Committee Task Forces of the National Gas Survey.

1. *FPC representatives.* The FPC Representatives to the Supply-Technical Advisory Task Force-Natural Gas Technology, as selected by the Chairman of the Commission with the approval of the Commission, are as follows:

Dr. Jack M. Heinemann, Chief, Environmental Biologist, Office of the Advisor on Environmental Quality, Federal Power Commission.

Clement F. Linder, General Engineer, National Gas Survey, Federal Power Commission.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-6163 Filed 4-21-72;8:47 am]

NATIONAL GAS SURVEY SUPPLY-TECHNICAL ADVISORY TASK FORCE-REFORMER GAS

Order Designating Representative

APRIL 14, 1972.

The Federal Power Commission by order issued December 21, 1971, established the Technical Advisory and Coordinating Committee Task Forces of the National Gas Survey.

1. *FPC representative.* The FPS representative to the Supply-Technical Advisory Task Force-Reformer Gas, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

James R. Spor, Industry Economist, National Gas Survey, Federal Power Commission.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-6165 Filed 4-21-72;8:47 am]

NATIONAL GAS SURVEY SUPPLY-TECHNICAL ADVISORY TASK FORCE-NATURAL GAS TECHNOLOGY

Order Designating an Additional Member

APRIL 14, 1972.

The Federal Power Commission by order issued December 21, 1971, established the Technical Advisory and Coordinating Committee Task Forces of the National Gas Survey.

1. *Membership.* A present member of the Supply-Technical Advisory Task Force-Natural Gas Technology, as selected by the Chairman of the Commission with the approval of the Commission is assigned additional responsibilities as Task Force Deputy Director, as follows:

Charles H. Atkinson, Project Leader, Petroleum Engineering, Bureau of Mines, Bartlesville Energy Research Center, Department of the Interior.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-6166 Filed 4-21-72;8:47 am]

NATIONAL GAS SURVEY TRANSMISSION-TECHNICAL ADVISORY TASK FORCE-OPERATIONS

Order Designating Representative

APRIL 14, 1972.

The Federal Power Commission by order issued December 21, 1971, established the Technical Advisory and Coordinating Committee Task Forces of the National Gas Survey.

1. *FPC representative.* The FPC Representative to the Transmission-Technical Advisory Task Force-Operations, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Dr. Richard F. Hill, Assistant Advisor on Siting Program, Office of the Advisor on Environmental Quality, Federal Power Commission.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-6164 Filed 4-21-72;8:47 am]

NATIONAL GAS SURVEY TECHNICAL ADVISORY COMMITTEE-SUPPLY

Order Designating Representative

APRIL 14, 1972.

The Federal Power Commission by order issued April 6, 1971, established the Technical Advisory Committee of the National Gas Survey.

1. *FPC representative.* The FPC Representative to the Technical Advisory Committee-Supply, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Robert M. Jimeson, Assistant Advisor on Environmental Quality, Office of the Advisor on Environmental Quality, Federal Power Commission.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-6169 Filed 4-21-72;8:47 am]

NATIONAL GAS SURVEY TRANSMISSION—TECHNICAL ADVISORY TASK FORCE—OPERATIONS

Order Designating Representative

APRIL 14, 1972.

The Federal Power Commission by order issued December 21, 1971, established the Technical Advisory and Coordinating Committee Task Forces of the National Gas Survey.

1. *FPC representative.* The FPC Representative to the Transmission—Technical Advisory Task Force—Operations, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Allen F. Crabtree, Environmental Assistant to the Advisor on Environmental Quality, Office of the Advisor on Environmental Quality, Federal Power Commission.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-6167 Filed 4-21-72;8:47 am]

[Docket No. RP72-114]

ALGONQUIN GAS TRANSMISSION CO.

Proposed Changes in Rates and Charges

APRIL 12, 1972.

Take notice that Algonquin Gas Transmission Co. (Algonquin) on April 3, 1972, tendered for filing proposed changes in its FPC Gas Tariff, Original Volumes Nos. 1 and 2.[1] The proposed changes would increase Algonquin's revenues from jurisdictional sales and service by $136,703 based on sales volumes for the 12-month period ending February 29, 1972. The proposed rate change is described in the company's transmittal letter as follows:

The rate increase reflected in the foregoing revised tariff sheets is filed to compensate only for an increase in purchased gas cost. Such increase in the cost of purchased gas results from the rate increase filed by Algonquin's sole supplier, Texas Eastern Transmission Corp. (Texas Eastern) on or about March 31, 1972, and proposed to become effective on May 1, 1972. The Texas Eastern rate increase reflects an increase in cost of purchased gas to Texas Eastern from its producer suppliers, and is in accordance with the provisions of Article III of the Stipulation and Agreement dated January 21, 1971, approved by Commission order issued March 24, 1971, in Texas Eastern Docket No. RP70-29, et al.

It is proposed that the foregoing revised tariff sheets be permitted to become effective on May 1, 1972, or such other date as the underlying increased rates proposed by Texas Eastern become effective.

It is to be noted that the Texas Eastern increase which occasions this filing is also a tracking increase. To permit Texas Eastern's increase to become effective without correspondingly permitting Algonquin's increase to become effective would not only be inconsistent as between the two regulated companies, but would also result in a loss of revenue to Algonquin which could well be irrecoverable.

Reference is made to the rate increase filing made by Algonquin on March 1, 1972, in Docket No. RP72-110, and particularly to Algonquin's cost of service contained therein. There has been no material change in Algonquin's facilities, sales volumes and cost of service other than cost of gas since the above referred to rate increase filing was made.

[1] Volume No. 1: Fourth Substitute 27th Revised Sheet No. 5, Fourth Substitute 27th Revised Sheet No. 10, Fourth Substitute 28th Revised Sheet No. 11-A, Fourth Substitute 28th Revised Sheet No. 12, Fourth Substitute 28th Revised Sheet No. 14 and Second Substitute 23d Revised Sheet No. 15-J. Volume No. 2: Fourth Substitute 28th Revised Sheet No. 4 and Fourth Substitute 25th Revised Sheet No. 57.

Inasmuch as the rate increase proposed herein by Algonquin is a tracking increase being filed to compensate only for an increase in cost of gas, the Commission is respectfully requested herewith to grant whatever special permission or waivers of compliance with any parts of its rules and regulations as are necessary to effectuate this proposal.

The above-mentioned tariff sheets are being posted in accordance with § 154.16 of the Federal Power Commission's regulations under the Natural Gas Act by mailing a copy of this filing to each of Algonquin's authorized purchasers and interested State commissions as shown on the attached list and by making it available for public inspection during normal working hours at Algonquin's general office in Boston, Mass.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 24, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-6151 Filed 4-21-72;8:46 am]

[Docket No. E-7724]

IOWA PUBLIC SERVICE CO.

Notice of Application

APRIL 14, 1972.

Take notice that on April 5, 1972, Iowa Public Service Co. (Applicant) filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of $17 million principal amount of first mortgage bonds and 130,000 shares of cumulative preferred stock (par value $100 per share).

Applicant is incorporated under the laws of the State of Iowa, with its principal business office in Sioux City, Iowa, and is engaged in the electric utility business in northwestern, north central and east central Iowa and a few small communities in South Dakota.

Applicant proposes to sell the new bonds and the new preferred stock at competitive bidding, with the interest rate on the new bonds, the dividend rate on the new preferred stock, the price to be paid for the new bonds, and the price to be paid for the new preferred stock to be determined by the successful bidders. The new bonds and the new preferred stock will be issued on or about June 15, 1972. The new bonds are to mature June 1, 2002, and are to be issued pursuant to the mortgage and deed of trust, dated as of June 1, 1946, under which Chemical Bank is trustee, as supplemented and as proposed to be supplemented by a 12th supplemental indenture thereto. Applicant proposes to use the proceeds from the issuance of the securities to pay off short-term loans and to provide a portion of the funds required for the construction or acquisition of permanent improvements, extensions, and additions to its property. The construction program for 1972 is estimated to total $27,042,100.

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Any person desiring to be heard or to make any protest with reference to said application should, on or before May 4, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-6174 Filed 4-21-72;8:47 am]

[Docket No. CP72-233]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

APRIL 12, 1972.

Take notice that on March 29, 1972, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, IL 60603, filed in Docket No. CP72-233 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate certain facilities for the receipt into its pipeline system of supplies of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into an agreement providing for the purchase of natural gas from Texaco Inc. produced from portions of blocks 71, 72, 87 and 88 in the block 88 field, High Island Area, offshore Texas, and the delivery of said gas on the producer's platform in block 71. In order to receive the gas into its system, Applicant proposes to construct approximately 6 miles of 16-inch pipeline onshore and 21 miles of 16-inch pipeline offshore, a side tap connection on its existing Louisiana extension transmission pipeline, measurement facilities and miscellaneous appurtenant facilities. Applicant states that the 16-inch offshore pipeline would extend in a southerly direction from its existing Louisiana extension transmission pipeline. Applicant estimates that the proven reserves dedicated under the block 88 field contract total approximately 96 million Mcf, with a corresponding availability of 58,000 Mcf per day. Further, Applicant states that the estimated proven and probable reserves total approximately 104 million Mcf.

Applicant indicates that pursuant to a concurrent liquids transportation agreement, it will transport liquid hydrocarbons (exclusive of crude oil) through the proposed facilities for Texaco Inc. at a rate of 20 cents per barrel.

Applicant states that the estimated cost of the facilities to be constructed is $5,948,000 which it plans to finance in an, as yet, undetermined manner.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 2, 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 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.72-6152 Filed 4-21-72;8:46 am]

[Docket Nos. RP72-23, 72-24]

TRUNKLINE GAS CO.

Order Approving Rate Settlement of Pipeline Rates

APRIL 11, 1972.

Trunkline Gas Co. (Trunkline), on February 8, 1972, tendered for approval a stipulation and agreement in the above captioned proceedings, which it proposes as the basis for settlement. The proposed

settlement was reached after a series of conferences among the parties. Trunkline requests that the Commission approve the stipulation and agreement in settlement and disposition of all issues involved in these proceedings. The Company requests waiver of the Commission's rules and regulations, including but not limited to § 154, to the extent necessary to effectuate all of the provisions of the stipulation and agreement.

The proceedings in Docket No. RP72–23 involve a general rate increase filed by Trunkline on August 17, 1971, and a petition concurrently filed, docketed as RP72–24, requesting authorization to use liberalized depreciation with normalization for accounting and rate purposes on all eligible pre-1970 properties effective at the same time its proposed increased rates become effective in Docket No. RP72–23. The proposed increase of $36.2 million in jurisdictional revenues was suspended until February 17, 1972, by Commission order on September 16, 1971. The proposed settlement provides for an increase of $25.8 million and contains certain provisions which will permit additional rate adjustments reflecting changes in certain specified costs.

The principal provisions of the settlement proposal may be summarized as follows:

(1) Trunkline shall file revised tariff sheets, reflecting the rates shown in Appendix A hereto, to be effective as of February 17, 1972, and to refund with interest of 7 percent annually all amounts collected in excess of the rates set forth in Appendix A.

(2) A purchase gas cost adjustment clause is to be included in Trunkline's tariff which would operate when the aggregate cost change is at least 1 mill per Mcf of jurisdictional sales. After the first such adjustment, any further adjustment may be effected no sooner than 6 months after the most recent adjustment.

(3) A new advance payments adjustment provision is to be added providing for adjustments of Trunkline's rates reflecting increases or decreases in the level of advance payments reflected in the rates proposed in Appendix A. "Advance payments" shall be as defined by current Commission Regulation or any amendment thereof.

(4) Trunkline will adopt normalization for accounting and ratemaking purposes as to liberalized depreciation applicable to its pre-1970 property, effective February 17, 1972. Trunkline has further requested the appropriate permission to use deferred tax accounting for normalization of guideline lives tax depreciation and utilize Account 282—Accumulated deferred income taxes—Liberalized depreciation to reflect normalization of the difference between straight-line depreciation rates and tax straight-line depreciation rates in accordance with the provisions of the Uniform System of Accounts. If Trunkline uses guideline lives tax depreciation applicable to any period of time preceding January 1, 1972, it shall normalize therefor on its books of account for such period.

(5) Trunkline shall reduce its rates to the extent that any net additional revenues from transportation services exceed the related costs of such services.

(6) The rates as shown in Appendix A reflect an 8.5 percent overall rate of return based on the capitalization shown below.

	Amount	Ratio	Cost	Return component
			Percent	*Percent*
Debt	$242,256,000	59.69	7.11	4.24
Preferred	40,600,000	10.00	7.10	0.71
Accumulated deferred Federal income taxes—accelerated amortization	4,296,641	1.06	0.00	0.00
Common equity	118,711,118	29.25	12.14	3.55
Total	$405,863,759	100.00		8.50

We note that the issue of normalization of liberalized depreciation is pending review in the U.S. Court of Appeals for the District of Columbia in Cases Nos. 24,517 and 24,632 (Appeal of the Texas Gas Transmission Corp. Opinion Nos. 578 and 578–A), and Case No. 71–1830 (Appeal of the Transwestern Pipeline Company Opinion Nos. 597 and 597–A). Our approval of this settlement is therefore conditioned on the outcome of such final court review.

The proposed stipulation and agreement was placed into the record of this proceeding and certified to the Commission by the Presiding Examiner on February 9, 1972. Opportunity was given all parties to comment or make such objections as they may have desired as part of the record in this proceeding. No objection or protest to the settlement agreement has been received.

Based upon our review of Trunkline's filing, data distributed and made available to the parties by Staff, and the terms and provisions of the stipulation and agreement, we conclude that the proposed settlement provides a reasonable and appropriate disposition of the issues herein.

The Commission finds: The settlement of these proceedings on the basis of the stipulation and agreement submitted by Trunkline on February 8, 1972, is reasonable and proper and in the public interest in carrying out the provisions of the Natural Gas Act, and should be approved and made effective.

The Commission orders:

(A) The stipulation and agreement submitted by Trunkline on February 8, 1972, and incorporated herein by reference, is approved.

(B) Trunkline shall fully comply with each of the provisions of the stipulation and agreement and of this order.

(C) Section 154.38(d)(3) of the Commission's general rules and regulations is waived to permit the inclusion in Trunkline's tariff of the purchase gas adjustment clause as conditioned herein.

(D) Trunkline's purchase gas adjustment clause, shall be subject to, and modified to conform with, § 154.38(d)(4)(vi) of the Commission's rules and regulations, or any substitution therefore, if adopted by the Commission in rulemaking Docket R–406.

(E) Trunkline shall be permitted to use deferred tax accounting for normalization of liberalized tax depreciation subject to final court review of the lawfulness of such normalization in the cases hereinabove described.

(F) Trunkline shall adjust its rates and refund to its customers with interest at 7 percent amounts collected as a result of normalization practices found unlawful by final nonappealable court order in the cases hereinabove described.

(G) Trunkline shall be permitted to use deferred tax accounting for normalization of guideline lives tax depreciation as requested.

(H) This order is without prejudice to any findings or orders which have been made or may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, Trunkline, or any other party or person affected by this order, in any proceeding now pending or hereafter instituted by or against Trunkline or any other person or party.

(I) The settlement rates provided herein shall be effective March 25, 1972, in accordance with the regulations of the Price Commission issued on February 10, 1972 (37 F.R. 3094), and March 8, 1972 (37 F.R. 5104).

Certification of Rate Increase

In compliance with the requirements of the revised regulations of the Price Commission issued January 13, 1972, and effective January 17, 1972, relating to Public Utilities and Public Benefit Corporations 6 CFR 300.16(e), the Federal Power Commission certifies the following with respect to the price increase by Trunkline Gas Co. authorized in this proceeding:

(1) The former price, before the increase granted herein, the new price as granted, and the percentage increase in price are as follows:

Rate schedule	Average former price	Average new price	Percent increase
(a)	(b)	(c)	(d)
	Cents	*Cents*	*Percent*
G–1, P–1	36.15	40.90	13.14
R–1	35.20	39.65	12.64
SG–1	39.30	44.80	13.99
G–2, P–2	39.16	45.01	13.63
R–2	34.50	38.75	12.32
SG–2	43.50	49.76	14.39
Total weighted average	37.79	42.85	13.39

(2) The rate increase is expected to provide increased annual revenues of $25,851,999.

(3) The increase in the utility's profits stated in terms of percentage of its total sales will be from 5.65 to 7.35, 1.70 percentage points or 30.09 percent. A portion of this increase in the ratio of profits to sales can be associated with a 4 percent increase in the ratio of common stock to total capital since the company's last rate filing. Expressed as a

percentage return on common equity, the rate allowed in this settlement agreement is 12.14 percent, which is 4.9 percent less than the 5-year average (1966–70) of 12.77 percent earned by the company and 1.8 percent more than the 3-year average (1968–70) of 11.93 percent. A return sufficient to attract and hold resources in a capital intensive industry such as the pipeline industry is of primary importance as a regulatory standard. The allowed return on common stock equity in this settlement consistent with this requirement, and as noted, the settlement earnings are in line with the recent earnings of the company.

(4) The increase in the utility's overall rate of return on capital (rate base) will be from 7.47 percent to 8.5 percent, 1.03 percentage points or 13.79 percent. The increase in overall rate of return reflects the high costs of the company's financing during the period since the last rate increase. For example, the company issued $40 million in new debentures at a cost of 9.42 percent and 200,000 shares of preferred stock at a cost of 9.31 percent and sinking fund requirements forced the retirement of $35 million of existing debt with an average cost of 5.05 percent. The company's cost of preferred stock and debt together account for a weighted debt cost of 4.95 percent. As an additional indication of the company's rising debt cost and revenue requirements, Standard and Poor's reduced the company's debentures from an A rating to a BBB rating in 1970. The higher overall rate of return allowed by this rate settlement is necessary to protect the company's ability to raise new capital.

(5) Sufficient evidence was taken during the course of this proceeding to determine whether or not the criteria set forth in paragraphs (d) (1) through (4) of § 300.16 of the rules and regulations of the Price Commission have been met.

(6) The rate increase granted in this proceeding meets the criteria set out in paragraphs (d) (1) through (4) of § 300.16 of the rules and regulations of the Price Commission.

[SEAL] KENNETH F. PLUMB,

By the Commission.

Secretary.

APPENDIX A

TRUNKLINE GAS COMPANY

Settlement Rates

Rate schedule		Settlement rates
G-1, P-1	Demand charge	$2.35
	Demand adjustment	.0773
	Commodity charge	.3192
R-1	Straight line rate:	
	Winter	.3965
	Summer	.3578
SG-1	Straight line rate:	.4480
G-2, P-2	Demand charge	2.87
	Demand adjustment	.0944
	Commodity charge	.3403
R-2	Straight line rate:	
	Winter	.4347
	Summer	.3875
SG-2	Straight line rate	.4976

[FR Doc.72-6153 Filed 4-21-72;8:46 am]

[Docket No. CI72-658]

JAMES M. FORGOTSON, SR.

Notice of Application

APRIL 20, 1972.

Take notice that on April 14, 1972, James M. Forgotson, Sr. (applicant), 409 Beck Building, Shreveport, La. 71101, filed in Docket No. CI72-658 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipeline Co. (United) from the Roanoke Field, Jefferson Davis Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that he commenced the sale of natural gas to United on April 7, 1972, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and that he proposes to continue said sale for 1 year commencing at the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell up to 5,000 Mcf of gas per day at 35 cents per Mcf at 15.025 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before May 1, 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). 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.72-6305 Filed 4-21-72;8:54 am]

[Docket No. G-2639, etc.]

J. D. BURKE ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

APRIL 10, 1972.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 4, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

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 all applications in which no petition to intervene is filed within the time required herein if the Commisson on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where 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 applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-2639 E 3-20-72	J. D. Burke (successor to Phillips Petroleum Co.), Post Office Box 1336, Corpus Christi, TX 78403.	United Gas Pipe Line Co., Marshall Field, Goliad County, Tex.	19.0	14.65
G-2798 D 3-23-72	Forest Oil Corp., 1300 National Bank of Commerce Bldg., San Antonio, Tex. 78205 (partial abandonment).	Columbia Gas Transmission Corp., North Bourg Field, Terrebonne and Lafourche Parishes, La.	(1)	
G-3072 D 3-10-72	Humble Oil & Refining Co., Post Office Box 2180, Houston, TX 77001.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., acreage in District 4 Area, Tex.	Assigned	
G-7648 D 3-9-72	Mobil Oil Corp., Post Office Box 1774, Houston, TX 77001.	United Gas Pipe Line Co., White Point, Saxet et al., Fields, San Patricio and Nueces Counties, Tex.	Assigned	
G-9922 E 8-20-70	LaVerne M. Wilson (successor to Norton F. Wilson), 1027 Rutherford St., Shreveport, LA 71104.	United Gas Pipe Line Co., Greenwood-Waskom Field, Caddo Parish, La.	13.25	15.025
G-11995 D 3-22-72 [2]	Mobil Oil Corp., Post Office Box 1774, Houston, TX 77001.	United Gas Pipe Line Co., Cameron Meadows et al., Field, Cameron Parish, La.	Assigned	
CI60-128 E 3-20-72	Clinton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, KS 67202.	Southern Natural Gas Co., Hub Field, Marion County, Miss.	20.0	15.025
CI60-691 D 3-22-72	Continental Oil Co. (Operator) et al., Post Office Box 2197, Houston, TX 77001.	Panhandle Eastern Pipe Line Co., Northeast Valley Center Field, Joy Unit, Dewey County, Okla.	Uneconomical	
CI61-164 E 3-22-72	Clinton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, KS 67202.	Michigan Wisconsin Pipeline Co., Holly Ridge Field, Tensas Parish, La.	[3] 21.014	15.025
CI61-636 D 3-24-72 [2]	Continental Oil Co. (Operator) et al., Post Office Box 2197, Houston, TX 77001 (partial abandonment).	Transwestern Pipeline Co., Bell Lake Field, Lea County, N. Mex.	(4)	
CI61-1327 D 3-6-72	Mobil Oil Corp., Post Office Box 1774, Houston, TX 77001.	Cities Service Gas Co., Guymon-Hugoton (Deep) Field, Texas County, Okla.	Assigned	
CI61-1354 D 3-22-72	Continental Oil Co., Post Office Box 2197, Houston, TX 77001 (partial abandonment).	Cities Service Gas Co., E. P. Wilkinson Unit Leases, South Sterling Area, Comanche County, Okla.	Assigned	
CI62-46 E 3-20-72	Clinton Oil Co. (successor to Amoco Production Co.) 217 North Water St., Wichita, KS 67202.	Southern Natural Gas Co., Grange Field, Lawrence and Jefferson Davis Counties, Miss.	26.175	15.025
CI63-1445 E 3-22-72	do	Florida Gas Transmission Co., Palacios Field, Matagorda County Tex.	[5] 18.58094	14.65
CI65-321 E 3-22-72	do	Texas Eastern Transmission Corp., Cottonwood Creek Field, DeWitt County, Tex.	13.0	14.65
CI65-384 E 3-27-72	do	Tennessee Gas Pipeline Co., a division of Tenneco Inc., East Timbalier Bay Field, Lafourche Parish, La.	21.625	15.025
CI65-561 C 3-6-72 [6]	Cities Service Oil Co., (Operator) et al., Post Office Box 300, Tulsa, OK 74102.	Natural Gas Pipeline Co. of America, Bluitt Gasoline Plant, Roosevelt County, N. Mex.	[7] 27.0	14.65
CI65-594 3-7-72 [8]	Suburban Propane Gas Corp., 2210 Mercantile Bank Bldg., Dallas, TX 75201.	Northern Natural Gas Co., Ozona (Canyon Sand) Field, Crockett County, Tex.	17.06376	14.65
CI66-107 E 3-27-72	Clinton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, KS 67202.	Natural Gas Pipeline Co. of America, Camrick Field, Beaver County, Okla.	18.7775	14.65
CI67-1051 E 8-13-71	Wrightsman Investment Co. (successor to Charles B. Wrightsman), 1805 First City National Bank Bldg., Houston, Tex. 77002.	Lone Star Gas Co., West Katie 3d Deese Sand Unit, Garvin County, Okla.	10.0	14.65

Filing code:
A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI68-87 3-7-72 [9]	Suburban Propane Gas Corp., 2210 Mercantile Bank Bldg., Dallas, Tex. 75201.	Northern Natural Gas Co., Ozona (Canyon Sand) Field, Crockett County, Tex.	16.06	14.65
CI68-686 D 3-22-72	Mobil Oil Corp. (Operator) et al., Post Office Box 1774, Houston, Tex. 77001 (partial abandonment).	Texas Eastern Transmission Corp., Shiloh Field, Union Parish, La.	Depleted	
CI69-1061 D 3-13-72	Getty Oil Co., Post Office Box 1404, Houston, TX 77001 (partial abandonment).	Tennessee Gas Pipeline Co., a division of Tenneco Inc., West Delta Block Nos. 95 and 96, and Grand Isle Blocks 33 and 34, Plaquemines and Jefferson Parishes, La.	(10)	
CI70-917 C 3-17-72 [2]	Phillips Petroleum Co., Bartlesville, Okla. 74004.	Panhandle Eastern Pipe Line Co., Powder River Basin Area, Converse and Campbell Counties, Wyo.	22.75	15.025
CI70-1115 3-7-72 [11]	Suburban Propane Gas Corp., 2210 Mercantile Bank Bldg., Dallas, Tex. 75201.	Northern Natural Gas Co., Ozona (Canyon Sand) Field, Crockett County, Tex.	16.06	14.65
CI71-536 D 3-15-72	Continental Oil Co., Post Office Box 2197, Houston TX 77001 (partial abandonment).	Cities Service Gas Co., East Niles Field, Canadian County, Okla.	Depleted	
CI72-565 (G-16007) F 3-8-72	T. P. McAdams, Jr. (successor to Eason Oil Co.), Post Office Drawer 960, Bristow, OK 74010.	Cities Service Gas Co., SE¼ sec. 30 and NE¼ sec. 31, 28 N. 5 W. Grant County, Okla.	15.0	14.65
CI72-566 A 3-10-72	Champlin Petroleum Co., Post Office Box 9365, Fort Worth TX 76107.	Mountain Fuel Supply Co., Church Buttes Unit, Sweetwater and Uinta Counties, Wyo.	23.75	15.025
CI72-567 A 3-10-72	do	Mountain Fuel Supply Co., Jackknife Springs Area, Sweetwater County, Wyo.	23.75	15.025
CI72-571 (CI69-1213) F 3-8-72	Natural Resources Corp., (successor to King Resources Co.), 500 Denver Club Bldg., Denver Colo. 80202.	Michigan Wisconsin Pipe Line Co., Chester (West) Field, Woodward County, Okla.	[12] 18.72	14.65
CI72-572 (G-8523) F 3-9-72	Burk Gas Corp. et al. (successor to Burk Royalty Co.), 800 Oil and Gas Bldg., Wichita Falls, Tex. 76301.	Lone Star Gas Co., Red Springs Field, Smith County, Tex.	15.0557	14.65
CI72-573 B 3-13-72	Getty Oil Co., Post Office Box 1404, Houston, TX 77001.	Atlantic Richfield Co., acreage in East Texas, Gregg County, Tex.	(13)	
CI72-574 B 3-13-72	Hassie Hunt Trust (Operator) et al., 1401 Elm St., Dallas, TX 75202.	Natural Gas Pipeline Co. of America, Alta Loma Field, Galveston County, Tex.	Depleted	
CI72-575 A 3-13-72	Southwest Gas Producing Co., Inc., 370 Lexington Ave., New York, NY 10017.	Transcontinental Gas Pipeline Corp., Leleux Field, Vermilion Parish, La.	26.0	15.025
CI72-580 A 3-14-72	J. M. Huber Corp., 2000 West Loop South, Houston, TX 77027.	Cities Service Gas Co., acreage in Roberts County, Tex.	[14] 28.0	14.65
CI72-581 B 3-15-72	Continental Oil Co., Post Office Box 2197, Houston, TX 77001.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., North Government Wells, Duval County, Tex.	(15)	
CI72-582 B 3-15-72	do	Cities Service Gas Co., Laverne Field, Harper County, Okla.	Depleted	
CI72-583 A 3-16-72	Highland Resources, Inc., 1201 San Jacinto Bldg., Houston, Tex. 77002.	Michigan Wisconsin Pipe Line Co., Eugene Island Area, Offshore Louisiana.	32.0	15.025
CI72-584 B 3-13-72	John E. Huff, 1010 San Jacinto Bldg., Houston, Tex. 77002.	Texas Eastern Transmission Corp., Adams Ranch Field, Jasper County, Tex.	Depleted	
CI72-585 3-13-72 [16]	American Petrofina Co. of Texas, Post Office Box 2159, Dallas, TX 75221.	Tennessee Gas Transmission Co., North Rincon Field, Starr County, Tex.	17.24347	14.65
CI72-586 A 3-17-72	Tenneco Oil Co., Post Office Box 2511, Houston, TX 77001.	Arkansas Louisiana Gas Co., Haynesville Field, Claiborne Parish, La.	24.0	15.025
CI72-587 A 3-17-72	Atlantic Richfield Co. (Operator) et al., Post Office Box 2819, Dallas, TX 75221.	Transwestern Pipeline Co., Rock Tank Field, Eddy County, N. Mex.	[17] 30.0	14.65

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI72-588 3-20-72 [13]	Cities Service Oil Co., Post Office Box 300, Tulsa, OK 74102.	United Gas Pipe Line Co., Logansport Field, De Soto Parish, La.	[29] 19.6	15.025
CI72-589 A 3-20-72	HNG Oil Co., Post Office Box 767, Midland, TX 79701.	Kansas-Nebraska Natural Gas Co., Inc., Reydon Field, West Area, Roger Mills County, Okla.	30.0	14.65
CI72-599 B 3-20-72	Sun Oil Co., Post Office Box 2880, Dallas, TX 75221.	Northern Natural Gas Co., North Harper Ranch Field, Clark County, Kans.	Depleted	----
CI72-600 A 3-21-72	Cities Service Oil Co., Post Office Box 300, Tulsa, OK 74102.	Arkansas Louisiana Gas Co., Smackover C Sand Units, A and C, Haynesville Field, Claiborne Parish, La.	[30] 24.0	15.025
CI72-601 A 3-21-72	Tenneco Oil Co., Post Office Box 2511, Houston, TX 77001.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Vermilion Block 218 Field, Offshore La.	[31] 26.0	15.025
CI72-602 (G-11762) F 3-15-72	T. P. McAdams, Jr. (successor to Sun Oil Co.), Post Office Drawer 960, Bristow, OK 74010.	Northern Natural Gas Co., Sec. 21 Tsp. 34 S., Range 21 W., Clark County, Kans.	18.0	14.65
CI72-603 (G-12309) F 3-15-72	T. P. McAdams, Jr. (successor to Ashland Oil, Inc.), Post Office Drawer 960, Bristow, OK 74010.	do	18.0	14.65
CI72-605 A 3-17-72	Coastal Production Co., a subsidiary of Florida Gas Co., 1750 Bank of New Orleans Bldg., New Orleans, La. 70112.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., Aqua Dulce Field, Nueces County, Tex.	24.25	14.65
CI72-606 3-20-72 [32]	Michel T. Halbouty, 800 Bank of the Southwest Bldg., Houston, Tex. 77002.	Texas Gas Transmission Corp., Bayou Boeuf Field, Lafourche Parish, La.	22.25	15.025
CI72-608 (G-19409) F 3-20-72	Ladd Petroleum Corp. (successor to Sun Oil Co., 830 Denver Club Bldg., Denver Colo. 80202.	Panhandle Eastern Pipe Line Co., Wil Field, Edwards County, Kans.	17.0	14.65
CI72-609 (G-19409) F 3-20-72	Oklahoma Fracturing Services, Inc. (successor to Sun Oil Co.), 630 United Founders Life Tower, Oklahoma City, Okla. 73112.	Panhandle Eastern Pipe Line Co., Wil Pool, Edwards County, Kans.	[33] 17.0	14.65
CI72-610 (G-10474) F 3-20-72	Marion Lynn Russell (successor to Petroleum, Inc.), Box 439, Garden City, Kans. 67846.	Northern Natural Gas Co., Sec. 12-23-32, Hugoton Field, Finney County, Kans.	12.5	14.65
CI72-611 B 3-20-72	McAlester Fuel Co., Post Office Box 10, Magnolia, AR 71753.	Texas Eastern Transmission Corp., Fort Lynn Field, Miller County, Ark.	Depleted	----
CI72-612 B 3-22-72	Texaco, Inc., Post Office Box 430, Bellaire, TX 77401.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Magnolia City Field, Jim Wells County, Tex.	Depleted	----
CI72-613 B 3-22-72	Edwin L. Cox, 3800 First National Bank Bldg., Dallas, Tex. 75202.	Lone Star Gas Co., Sho-Vel-Tum Field, Stephens County, Okla.	Depleted	----
CI72-614 B 3-22-72	Skelly Oil Co., Post Office Box 1650, Tulsa, OK 74102.	Texas Eastern Transmission Corp., Tatum Field, Rusk and Panola Counties, Tex.	Depleted	----
CI72-615 A 3-22-72	Lone Star Producing Co., 301 South Harwood St., Dallas, TX 75201.	Florida Gas Transmission Co., Flour Bluff Area, Nueces County, Tex.	[7] 24.0	14.65
CI72-616 B 3-22-72	Manco Corp., Post Office Box 637, Corpus Christi, TX 78401.	Valley Gas Transmission, Inc., C. A. Winn Field, Live Oak County, Tex.	(1)	----
CI72-617 A 3-24-72	Texaco, Inc., Post Office Box 2100, Denver, CO 80201.	Tejas Gas Corp., Book Cliffs Unit, Grand County, Utah.	15.0	15.025
CI72-618 B 3-24-72	Pioneer Production Corp. (Operator), et al., Post Office Box 2542, Amarillo, TX 79105.	Cities Service Gas Co., Laverne (Morrow) Field, Woods County, Okla.	Depleted	----
CI72-619 B 3-24-72	Pioneer Production Corp. (Operator), Post Office Box 2542, Amarillo, TX 79105.	Michigan Wisconsin Pipe Line Co., Gageby Creek Field, Wheeler County, Tex.	Depleted	----
CI72-620 A 3-27-72	The California Co., a division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, LA 70112.	Natural Gas Pipeline Co. of America, Block 181 Field, West Cameron Area, Offshore Louisiana.	[34] 26.0	15.025
CI72-621 A 3-27-72	George Mitchell & Associates, Inc., 3900 One Shell Plaza, Houston, TX 77002.	Trunkline Gas Co., Lake Creek, North Field, Montgomery County, Tex.	24.0	14.65

[1] Acreage is nonproductive.
[2] Amendment to pending application.
[3] Minus 1.236 cents per Mcf downward B.t.u. adjustment.
[4] Expiration of lease.
[5] Pursuant to Opinion No. 595.
[6] Applicant proposes to sell gas from additional acreage and provide for increased price for new gas.
[7] Subject to upward and downward B.t.u. adjustment.
[8] Applicant proposes to continue the sale of its own gas authorized in Docket No. CI65-594 to be made pursuant to Delta Drilling Co. (Operator) et al., FPC Gas Rate Schedule No. 33.
[9] Applicant proposes to continue the sale of its own gs authorized in Docket No. CI68-87 to be made pursuant to Delta Drilling Co. (Operator) et al., FPC Gas Rate Schedule No. 36.
[10] Acreage is nonproductive and leases have been terminated.
[11] Applicant proposes to continue the sale of its own gas authorized in Docket No. CI70-1115 to be made pursuant to Delta Drilling Co. (Operator) et al., FPC Gas Rate Schedule No. 39.
[12] Applicant is filing for area rate of 18.72 cents per Mcf; however, the contract price is 19.72 cents per Mcf, subject to upward and downward B.t.u. adjustment.
[13] Contract terminated.
[14] Gas-well gas. Plus 3.052 cents per Mcf upward B.t.u. adjustment.
[15] Lease sold to W. H. Doran.
[16] Applicant proposes to continue the sale of natural gas heretofore authorized in Docket No. G-19881 to be made pursuant to V. F. Neuhaus (Operator) et al., FPC Gas Rate Schedule No. 4.
[17] Plus 0.48 cent per Mcf upward B.t.u. adjustment.
[18] Applicant proposes to continue the sale of natural gas heretofore authorized in Docket No. G-3239 to be made pursuant to Hunter Oil Co., Inc.
[19] Includes 1 cent per Mcf downward adjustment for wellhead delivery per Opinion No. 607.
[20] Includes 1 cent per Mcf downward adjustment from Area Rate for wellhead delivery. Buyer may make treating charge if necessary. If it is necessary for Buyer to compress gas, the contract calls for a charge of 0.75 cent per Mcf for one-stage compression or 1.5 cents per Mcf for two-stage compression.
[21] Applicant is filing for initial price of 26 cents per Mcf; however, the contract price is 32 cents per Mcf, subject to upward and downward B.t.u. adjustment.
[22] Applicant proposes to continue the sale of natural gas heretofore authorized in Docket No. CI69-986 to be made pursuant to David C. Bintliff (Operator) et al., FPC Gas Rate Schedule No. 8.
[23] Gathering contract with Edwards County Gas Co. for gathering and compression at a cost of 7.5 cents per Mcf.
[24] Applicant is willing to accept a certificate conditioned to an initial rate of 26 cents per Mcf; however, the contract price is 32 cents per Mcf.

[FR Doc.72-6006 Filed 4-21-72;8:45 am]

FEDERAL RESERVE SYSTEM

AMERICAN FLETCHER CORP.

Proposed Acquisition of Local Finance Corp.

American Fletcher Corp., Indianapolis, Ind., has applied, pursuant to section 4 (c) (8) of the Bank Holding Company Act (12 U.S.C. 1843(c) (8)) and § 225.4(b) (2) of the Board's Regulation Y, for permission to acquire voting shares of Local Finance Corp., Marion, Ind. Notice of the application was published on January 21, 22, 24, 25, 26, 27, 29, 31, February 2, or 3, 1972 in newspapers of general circulation in each of the 60 communities in Indiana and Michigan in which Local Finance Corp. and its subsidiaries maintain offices.

Applicant states that Local Finance Corp. and its subsidiaries engage in the activities of making instalment personal loans; purchasing instalment sales finance contracts; selling to its direct borrowers coverage under group credit life and credit disability policies; selling, in Indiana only, to its direct borrowers, casualty insurance on collateral securing such loans; providing various forms of casualty, liability, and fidelity insurance to itself and its subsidiaries; and selling, in Indiana only, "a small amount of auto insurance and homeowners insurance" to its staff members and customers, as a convenience. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 19, 1972.

Board of Governors of the Federal Reserve System, April 18, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-6221 Filed 4-21-72;8:51 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

COGAR CORP.

Order Suspending Trading

APRIL 17, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.60 par value, of Cogar Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 11:10 a.m., e.s.t. April 17, 1972, through April 26, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-6154 Filed 4-21-72;8:46 am]

[812-3101]

DREYFUS THIRD CENTURY FUND, INC., AND ROBERT F. GOHEEN

Notice of Application

APRIL 18, 1972.

Notice is hereby given that the Dreyfus Third Century Fund, Inc., 767 Fifth Avenue, New York, NY 10022 (the "Fund"), an open-end, diversified management investment company registered under the Investment Company Act of 1940 (the "Act"), and Dr. Robert F. Goheen, Princeton University, Princeton, N.J. 08540 (Goheen) (together hereinafter called "Applicants"), have filed an application for an order pursuant to section 6(c) of the Act declaring that Goheen shall not be deemed an "interested person" of the Fund or of the principal underwriter for the continuous offering of Fund shares, the Dreyfus Sales Corp. (Dreyfus Sales), within the meaning of section 2(a)(19) of the Act solely by reason of his status as a director of the Equitable Life Assurance Society of the United States (Equitable). 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.

The Fund was incorporated under the laws of Delaware on May 6, 1971. Its registration statement under the Securities Act of 1933 was made effective by the Commission on March 22, 1972. The application, as amended, states that Goheen and David W. Burke, a vice president of the Fund and of the Dreyfus Corp. (Adviser), the manager of the Fund, resigned from the Fund's Board of Directors on March 17, 1972. Subsequent to such resignations, the Board approved underwriting agreements between the Fund and Bache & Co., Inc., Reynolds Securities, Inc., and Kidder, Peabody & Co., Inc., underwriters for the Fund's initial offering. Because the composition of the Board prior to their resignations did not conform to that required by section 10(b)(2) of the Act as amended, such agreements could not have been approved for the Fund. The application states, however that because Goheen's background will assist the Fund in accomplishing its special objectives, it is intended that if Goheen is deemed not to be an interested person of the Fund or its principal underwriter, he will be nominated for election to the Board.

Goheen is a director of Equitable, a mutual insurance company incorporated in New York in the business of selling life insurance and annuities. Equitable sells individual variable annuities funded by separate accounts registered under the Investment Company Act of 1940, and sells HR-10 plans registered under the Securities Act of 1933 and funded by separate accounts. Equitable is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers (NASD). In December 1971, Equitable organized a wholly owned brokerage subsidiary, Equico Securities, Inc. (Equico), which is a member of the Philadelphia - Baltimore - Washington Stock Exchange. Equico is neither registered under the Securities Exchange Act of 1934 nor a member of the NASD. The Applicants are informed that Equico deals only in listed securities and acts as a broker solely for Equitable. Neither Equitable nor Equico has ever engaged in securities transactions on behalf of the Fund. Furthermore, the Fund has undertaken not to purchase or sell, knowingly, any securities to or through Equitable or Equico.

Goheen's principal occupation is the presidency of Princeton University. It is expected that in June 1972, he will leave that post and assume the chairmanship of the Council on Foundations. Goheen has been on Equitable's 36-member Board since January 1961. Applicants state that Equitable considers Goheen as an outside director. He is a member of the Agency and Insurance Operations Committee of the Board. In his capacities Goheen shares in the general responsibility for supervision of Equitable expected from a director. The application represents, however, that Goheen does not participate in the day-to-day operation of Equitable or Equico. Goheen is not a director or officer of Equico.

Because Goheen is a director of Equitable, under section 2(a)(3) of the Act, he is an affiliated person of a broker-dealer. Therefore, under section 2(a)(19) of the Act, Goheen would be an interested person of the Fund and of the Fund's principal underwriter. The application requests an order declaring that Goheen not be deemed an interested person of Dreyfus Sales, the principal underwriter for the continuous offering of the Fund's securities, in order that, pursuant to section 10(b)(2) of the Act, a majority of the Fund's Board of Directors will not consist of interested persons of such principal underwriter of the Fund.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person from any provisions of the Act if 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.

Applicants assert that Goheen's affiliation with Equitable does not affect and will not impair his independence to act on behalf of the Fund and its shareholders and that 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 May 8, 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 should 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 Applicants 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 thereon 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.72-6179 Filed 4-21-72;8:49 am]

[811-1804]

ISI VENTURE FUND, INC.

Notice of Filing of Application Declaring Company has Ceased To Be An Investment Company

APRIL 17, 1972.

Notice is hereby given that ISI Venture Fund, Inc. (Applicant), 100 California Street, San Francisco, Calif. 94111, a California corporation registered as a

diversified open-end management company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant registered under the Act on February 3, 1969, by filing a Notification of Registration on Form N–8A. On November 10, 1969, Applicant filed a registration statement under the Securities Act of 1933 on Form S–5, which registration statement became effective on November 27, 1970. Applicant represents that it has not made any public offering or sale of its securities. The only investors in the Applicant were the persons who provided the initial $100,000 of capital. These were ISI Corp. (Applicant's investment adviser) and 14 individuals who are closely associated with ISI Corp. or with Applicant's principal underwriter. In November 1971, all of the investors redeemed all of their shares. Applicant has distributed all of its assets and is now in the process of dissolution.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may not later than May 10, 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 should 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 (air mail 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 matter herein may be issued by the Commission upon the basis of the information stated in the application, unless an order for hearing upon said proposal 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.*

[F.R. Doc.72–6155 Filed 4–21–72;8:46 am]

[812–3132]

NARRAGANSETT CAPITAL CORP.

Notice of Filing of Application for Order

APRIL 18, 1972.

Notice is hereby given that Narragansett Capital Corp., 40 Westminster Street, Providence, Rhode Island 02903 (Narragansett), a Rhode Island corporation registered as a closed-end, nondiversified, management investment company under the Investment Company Act of 1940 (Act) and licensed as a small business investment company under the Small Business Investment Act of 1958, has filed an application pursuant to Rule 17d–1 under the Act for an order permitting under section 17(d) and Rule 17d–1, a loan by Narragansett to Bevis Industries, Inc. (Bevis). All interested persons are referred to the application on file with the Commission for a statement of Narragansett's representations which are summarized below.

Background. Narragansett, the principal and controlling stockholder of Bevis, proposes to participate in a reorganization of the financial structure of Bevis by lending it $1,500,000 on an unsecured basis, payable December 31, 1976, to bear interest, payable quarterly at an anticipated rate of 4 percent in excess of the prime rate but not in excess of 10 percent, to be determined by negotiation, subordinated to all present and future bank indebtedness. Bevis' debt to Narragansett will be evidenced by a negotiable promissory note containing the terms described above (the Bevis Note). As part of the proposed refinancing, it is contemplated that Industrial National Bank of Rhode Island (Industrial Bank) will simultaneously make a substantial term loan and will make revolving credit loans to Bevis, as more fully described below.

The Bevis Note will be senior in right of payment to an existing debt, $333,844 in principal amount, of Bevis to Royal Little (Little) an affiliated person of both Narragansett and Bevis, represented by a 5 year convertible Debenture (the Little Debenture). Little will agree to such subordination and will agree not to exercise his conversion rights under the Little Debenture until the Bevis Note is paid in full (or the expiration of its original term, if its term should be extended by Narragansett and Bevis).

The Bevis debt to Little was created in September of 1971, when Bevis borrowed $333,844 from Little in order to make a cash settlement of litigation in which Bevis was involved. Effective January 26, 1971, at the request of Bevis, Little agreed to extend the term of such debt, which was represented by a demand note secured by a pledge of 338,580 shares of Bevis common stock, by surrendering the demand note, and releasing the pledged shares, in exchange for the Little Debenture, an unsecured convertible debenture of Bevis, dated January 26, 1972, $333,844 in principal amount, payable on the fifth anniversary of the date of its issuance, convertible at any time into common stock of Bevis, par value $0.10 a share, at a conversion price of $5 a share, bearing interest payable in 20 equal quarterly installments at the rate of 6 percent (6%) per annum and subordinated to all existing and future indebtedness of Bevis to banks.

Upon the conditions referred to below, Industrial Bank has agreed to lend Bevis up to an aggregate of $4,600,000 in two separate loans. The first of such loans would take the form of an amendment to an existing loan agreement between Bevis and Industrial Bank pursuant to which Industrial Bank would make a 3-year loan of $2,200,000 in principal amount, and the second would take the form of an increase of the amounts available to Bevis under its existing revolving loan from $1,500,000 to $2,500,000. Both these loans would be secured by first mortgages on Bevis' plants located in Webster, Mass., and Baltic, Conn.

The undertaking of Industrial Bank to make the loans to Bevis described above is subject to the conditions that (a) Narragansett make the $1,500,000 loan described above, and (b) both the Commission and the Small Business Administration approve the borrowing by Bevis from Narragansett and the issuance to Narragansett of the Bevis Note.

Bevis urgently requires the proceeds of the loans from Narragansett and Industrial Bank as working capital to relieve a severe shortage of cash which it presently faces.

In order to enable Bevis to continue to pay current operating expenses and make some payments with respect to presently due or overdue trade accounts payable while the necessary approvals from the Commission and the Small Business Administration are forthcoming, it is anticipated that Industrial Bank will make interim funds available on a demand loan basis at an interest rate of 3 percent in excess of the prime rate per annum.

Narragansett now holds directly 836,952 shares, or approximately 40% of the outstanding shares of Common Stock of Bevis. Narragansett's aggregate investment at March 31, 1971, in Bevis was $1,260,016. The value of this investment on that date as determined by the Board of Directors of Narragansett was $2,042,000.

Little is Chairman of the Board and a Director of both Narragansett and Bevis. He acted as Chief Executive Officer of Bevis from March 8, 1971, to January 26, 1972. Harvey J. Sarles (Sarles) is President and a Director of Narragansett, and Vice Chairman and a Director

of Bevis. Robert S. Davis is the Secretary of both Narragansett and Bevis.

Little owns beneficially 73,010 shares, or approximately 7.9 percent of the outstanding shares of common stock of Narragansett and Sarles owns 6,775 shares, or approximately .7 percent of such shares outstanding. Little owns 60,997 shares, or approximately 7.8 percent of the outstanding shares of common stock of Bevis and Sarles owns 3,004 shares, or approximately .1 percent of such shares outstanding. As noted above, Little holds the Little Debenture.

Commission jurisdiction. As Little is the Chairman of the Board and a Director of both Narragansett and Bevis and a creditor of Bevis, the proposed loan by Narragansett to Bevis may be viewed as a transaction prohibited by section 17(d) of the Act and Rule 17d–1 thereunder. Taken together the section and rule provide, as here pertinent, that it shall be unlawful for an affiliated person of a registered investment company or any affiliated person of such person, acting as principal, to participate in, or to effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company, or a company controlled by such registered company, is a participant unless an application with respect to such arrangement has been filed with and granted by the Commission. In passing upon an application, the Commission must consider whether the participation of such registered company or controlled company in such arrangement is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Narragansett seeks an order under section 17(d) of the Act and Rule 17d–1 to the extent they may be applicable to the proposed loan by Narragansett to Bevis.

Supporting statement. Narragansett contends that the proposed transaction is consistent with the general purposes of the Act, is more advantageous to Narragansett than it is to Little, and is in the best interests of Narragansett and its shareholders.

Notice is further given, that any interested person may, no later than May 8, 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 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 Narragansett 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.72–6180 Filed 4–21–72;8:49 am]

[File 500–1]

TOPPER CORP.

Order Suspending Trading

APRIL 18, 1972.

The common stock, $1 par value, of Topper Corp. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Topper Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period April 19, 1972, through April 28, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72–6181 Filed 4–21–72;8:50 am]

[Release No. IC–7130]

SURVEY OF INVESTMENT COMPANY INCENTIVE FEE ARRANGEMENTS

In order to assist registered investment companies, their officers and directors, and others concerned with compliance with the provisions of the Federal securities laws, especially those which relate to investment company incentive fee arrangements, the Commission is publishing a Survey of Investment Company Incentive Fee Arrangements prepared by the Division of Corporate Regulation.

As indicated in Investment Company Act Release No. 7113 (April 6, 1972)[1] there were 999 active open and closed-end investment companies registered with the Commission on January 3, 1972. Of these, 103 had performance fee arrangements in effect on that date.

Publication of this survey is not intended to indicate the Commission's approval of any of the features of investment company incentive fee arrangements contained in it. As indicated in Investment Company Act Release No. 7113, a number of investment company incentive fee contracts now in use contain features which are unfair to investment companies. Publication of the survey at this time is intended to assist those persons who must consider the fairness of such contracts in meeting their fiduciary duties.

The survey is published in Release No. IC–7130, copies of which have been filed with the Office of the Federal Register and may be obtained upon request from the Securities and Exchange Commission, 500 North Capitol Street NW., Washington, DC 20549.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

APRIL 17, 1972.

[FR Doc.72–6178 Filed 4–21–72;8:49 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 7, Revision 2, Amdt. 2]

ASSISTANT ADMINISTRATOR FOR ADMINISTRATION

Rescission of Delegations Relating To Disaster Operations

To effectuate the transfer of delegation of authority relating to disaster operations to the Associate Administrator for Operations and Investment, Delegation of Authority No. 7 (36 F.R. 8713), as amended (37 F.R. 2862), is hereby further amended by rescinding Amendment 1 in its entirety without prejudice to actions taken prior to the date hereof.

Effective date: April 23, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72–6287 Filed 4–21–72;8:54 am]

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[1] See interpretative releases relating to the Investment Company Act of 1940 and the Investment Advisers Act of 1940 which was published in the FEDERAL REGISTER issue of Apr. 19, 1972, 37 F.R. 7690, on the subject "Factors to be Considered in Connection with Investment Advisory Contracts Containing Incentive Arrangements," 17 CFR Parts 271 and 276.

[Delegation of Authority No. 50 (Rev. 4)]

ASSOCIATE ADMINISTRATOR FOR OPERATIONS AND INVESTMENT

Delegation of Authority

Delegation of Authority No. 50 (Revision 3) (25 F.R. 7418), as amended, (26 F.R. 4440, 27 F.R. 1303, 31 F.R. 13563, 36 F.R. 12258, 36 F.R. 16613, 36 F.R. 22268, and 37 F.R. 2862) is hereby revised to read as follows:

I. Pursuant to authority vested in me by the Small Business Act, 72 Stat. 384, as amended; the Small Business Investment Act of 1958, 72 Stat. 689, as amended; and Title IV of the Economic Opportunity Act of 1964, 78 Stat. 526, as amended, the following authority is hereby delegated to the Associate Administrator for Operations and Investment:

A. *Investment.* 1. To take any and all actions necessary to carry out the provisions of Titles I, II, and III of the Small Business Investment Act of 1958, as amended, and of the regulations thereunder as amended from time to time, including without limitation all necessary action in connection with the servicing, administration, collection, sale and liquidation of partially or fully disbursed loans, obligations and property (real, personal or mixed, tangible or intangible) held by or assigned to SBA and arising out of activities under said Act, and, in connection therewith, to accept or reject offers of settlement or of compromise for cash, credit, or property (real, personal, or mixed, tangible or intangible), and to exercise in the name of the Administration the power conferred on the Administration by section 310 of said Act to issue subpoenas.

B. *Disaster activities.* 1. To declare a disaster area and period.

2. To extend the original disaster period resulting from a disaster declaration.

3. For purposes of class A disasters only, to contract for supplies, materials, and equipment, printing (Government sources only), transportation, communications, space, and special services for the Agency.

4. For purposes of class A disasters only, to enter into contracts for supplies and services pursuant to chapter 4 of title 41, United States Code, as amended, subject to the limitations contained in sections 257 (a) and (b) of that chapter.

II. All authority delegated herein may be exercised by any SBA employee designated as Acting Deputy Administrator for Operations and Investment.

III. All previous authority delegated by the Administrator under Delegation of Authority No. 50 (Revision 3) (25 F.R. 7418), as amended, is hereby rescinded without prejudice to actions taken under such delegation prior to the date hereof.

Effective date: April 23, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-6288 Filed 4-21-72;8:54 am]

[Declaration of Disaster Loan Area 897; Class B]

CALIFORNIA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of March 1972, because of the effects of certain disasters damage resulted to homes and business property located in the State of California;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area 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 Assistant Administrator for Administration and Operations 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 the counties of Del Norte and Humboldt, Calif., suffered damage or destruction resulting from floods occurring on March 1, 2, and 3, 1972.

OFFICE

Small Business Administration Regional Office, 450 Golden Gate Avenue, Box 36044, San Francisco, CA 94102.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to October 31, 1972.

Dated: April 7, 1972.

CLAUDE ALEXANDER,
Assistant Administrator for Administration and Operations.

[FR Doc.72-6148 Filed 4-21-72;8:45 am]

[Declaration of Disaster Loan Area 898; Class B]

ILLINOIS

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of April 1972, because of the effects of certain disasters damage resulted to homes and business property located in the State of Illinois;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area 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 Assistant Administrator for Administration and Operations 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 the counties of Ogle, Will, Livingston, and Kendall, Ill., suffered damage or destruction resulting from a tornado occurring on April 6, 1972.

OFFICE

Small Business Administration Regional Office, 219 South Dearborn Street, Chicago, IL 60604.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to October 31, 1972.

Dated: April 13, 1972.

CLAUDE ALEXANDER,
Assistant Administrator for Administration and Operations.

[FR Doc.72-6149 Filed 4-21-72;8:45 am]

[Declaration of Disaster Loan Area 896; Class B]

WASHINGTON AND OREGON

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of April 1972, because of the effects of a certain disaster, damage resulted to homes and business property located in the States of Washington and Oregon;

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 areas constitutes a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Assistant Administrator for Administration and Operations 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 Vancouver, Wash., and Portland, Oreg., suffered damage or destruction resulting from a tornado occurring on April 5, 1972.

OFFICE

Small Business Administration District Office, 700 Pittock Block, 921 Southwest Washington Street, Portland, OR 97205.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to October 31, 1972.

Dated: April 7, 1972.

CLAUDE ALEXANDER,
Assistant Administrator for Administration and Operations.

[FR Doc.72-6150 Filed 4-21-72;8:45 am]

TARIFF COMMISSION

[AA1921-85]

FISH NETS AND NETTING OF MANMADE FIBERS FROM JAPAN

Determinations

On January 18, 1972, the Tariff Commission received advice from the Treasury Department that fish nets and netting of manmade fibers from Japan are being, and are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended.[1] In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160 (a)), the Tariff Commission instituted investigation No. AA1921-85 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.

A public hearing was held on February 29 and March 1, 1972. Notice of the investigation and hearing was published in the FEDERAL REGISTER of January 27, 1972 (37 F.R. 1277).

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission has determined by a vote of 4 to 2 that an industry in the United States is being injured by reason of the importation of fish netting of manmade fibers from Japan that is being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.[2] The Commission unanimously determined that an industry in the United States is not being nor is likely to be injured, nor is prevented from being established, by reason of the importation of fish nets of manmade fibers that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

Statement of Reasons for Affirmative Determination of Chairman Bedell, Vice Chairman Parker, and Commissioner Moore [3]

The Department of the Treasury advised the Tariff Commission on January 18, 1972, that manmade-fiber fish nets and netting from Japan are being or are likely to be sold in the United States at less than fair value. Under the Antidumping Act of 1921, as amended, this determination is conclusive. Accordingly, the only issue considered herein is whether the sales at less than fair value of such articles are injuring or are likely to injure an industry in the United States, or are preventing an industry from being established.

In our opinion an industry in the United States is being injured by reason of the importation of manmade-fiber fish netting from Japan that is being sold at less than fair value (LTFV) within the meaning of the Antidumping Act. Since imports of fish nets are negligible and we have no evidence that imports are likely to increase, at this time, we believe that no U.S. industry is being, or is likely to be injured, by reason of the importation of manmade-fiber fish nets sold at LTFV.

Fish netting is made in an almost infinite number of descriptions depending principally on the combination of specifications relating to yarn size, number of plies, mesh size, and the kind of knot. Fish nets are made by cutting and piecing netting (usually of several different specifications) and then adding some combination of such items as floats, sinkers, twines, and ropes, depending on the use and type of fish to be caught. Very few nets are made by netting producers. Most nets are assembled by distributors or net shop operators; some are assembled by large fishing fleets.

The injured industry. In making our determination, we have considered the injured industry to consist of those facilities in the United States involved in the producton of manmade-fiber fish netting. Fish netting is currently being produced in the United States by approximately a dozen firms, all of which either produce or have the capabilities to produce the same specifications of fish netting as those imported from Japan, which were sold at LTFV.

Market penetration. The Treasury Department's investigation of exports from Japan during the period October 1, 1969, through September 30, 1970, showed that a high percentage of U.S. imports of Japanese manmade-fiber fish netting were sold at LTFV. We find that the price advantage afforded by such sales in the United States at LTFV enabled Japanese exporters of manmade-fiber fish netting to make severe inroads into an exceptionally stable market. During the last 7 years the U.S. market fluctuated only from 3 million to 3.2 million pounds a year. Thus, aided by the LTFV sales, the total U.S. imports of manmade-fiber fish netting from Japan increased steadily from 7.5 percent of the U.S. apparent consumption of fish netting in 1964 to 29 percent in 1971.

Total U.S. imports of manmade-fiber fish netting increased from 153,000 pounds in 1964 to 942,000 pounds in 1971. On the other hand, domestic production of manmade-fiber fish netting increased from 1,809,000 pounds in 1964 to 2,344,000 pounds in 1966 and then declined without interruption to 1,832,000 pounds in 1971.

We believe that the capture of 29 percent of the U.S. market for fish netting by Japanese imports was made possible by the practice of Japanese exporters selling manmade-fiber fish netting at LTFV in the United States.

Lost sales and price depression. The Commission's investigation shows that prices in the U.S. market of Japanese manmade-fiber fish netting are significantly lower than the corresponding prices of domestic manmade-fiber fish netting. These lower prices have resulted in loss of sales by the U.S. industry. Indeed, with respect to one popular type of netting, the imports from Japan have captured almost the entire U.S. market. To a lesser extent, there were losses of sales for other types of netting. In addition, the substantial market penetration has also resulted in marked depression or suppression of the prices of netting produced by the U.S. industry. Although the margins of dumping are a relatively small part of the margins of underselling by the Japanese, they are quite significant in the resulting displacement of the domestic product and the adverse price effects in the U.S. market.

On the basis of the foregoing, we believe that the LTFV imports have clearly contributed in substantial measure to loss of sales by the U.S. industry and a depression of its prices which occurred during a period of generally rising production costs. The extent and margin of dumping employed by Japanese exporters are significant factors in the penetration of the U.S. market, loss of sales by the U.S. industry, and the depression of domestic prices. The Japanese exporters could not but have recognized dumping as necessary to obtain sales. It is not reasonable that they would dump and accept a lower price without need.

Conclusion. In our judgment, imports of manmade-fiber fish netting from Japan which, according to the Department of the Treasury, are being sold at less than fair value have contributed to both a marked decline in prices of domestic netting in the U.S. market, and a substantial loss in sales by the U.S. industry. Accordingly, we have determined that an industry in the United States is being injured by reason of such LTFV imports.

Statements of Reasons for Negative Determination of Commissioners Leonard and Young

The Antidumping Act, 1921, as amended, requires that the Tariff Commission find two conditions satisfied before an affirmative determination can be made.

First, there must be injury, or likelihood of injury, to an industry in the United States, or an industry in the United States must be prevented from being established. The quantum or description of injury is not disclosed in the statute.

And second, such injury (or likelihood of injury or prevention of establishment) must be "by reason of" the importation into the United States of the class or kind of foreign merchandise the Secretary of

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[1] Notice of the Treasury Department's determination of sales at less than fair value, and the reasons therefor was published in the FEDERAL REGISTER of Jan. 19, 1972 (37 F.R. 815).

[2] Chairman Bedell, Vice Chairman Parker, and Commissioners Sutton and Moore determined in the affirmative.

[3] Commissioner Sutton concurs in the result.

the Treasury determined is being or is likely to be sold at less than fair value.

If either condition is not satisfied, a negative determination must be made. In the instant investigation, we find the second condition described above is not satisfied and therefore a negative determination is required.

The industries. We find that two industries are involved in this case. One consists of the facilities in the United States (which are owned by about a dozen firms) for the production of fish netting and the other consists of the facilities in the United States (which are owned by many enterprises) for the production of fish nets.

Sales at LTFV. The Commission has little guidance in this investigation respecting the extent or severity of sales at less than fair value (LTFV) of fish nets and netting of manmade fiber from Japan. The small sample of Japanese exports examined by the Treasury Department during its investigation did not include any sales of double-knot salmon gill netting, the predominant type of fish netting shipped from Japan to the United States. Information available to the Commission indicates that such netting has probably accounted for upwards of half of U.S. imports from Japan in recent years. The absence of fair value computations by Treasury with respect to such a dominant portion of the imports makes it difficult for us to determine whether there is injury to a domestic industry because of price discrimination (sales at LTFV).

It appears also that the Treasury did not investigate any sales of fish nets by Japan to the United States to determine whether they were made at less than fair value. Shipments from Japan to the United States of fish nets, however, are known to be very small.

Fish netting. In recent years U.S. imports of fish netting from Japan, nearly all netting of manmade fiber, have increased materially, and have supplied an increasing share of the U.S. market. There is, however, little evidence either that the increased imports and rising market penetration have been by reason of the importation of fish netting to the United States at less than fair value or that the fish netting sold at less than fair value has adversely affected prices and profits of a domestic industry.

With an important exception that we note later, Japanese fish netting has undersold domestic fish netting in the U.S. market. The price data available to the Commission suggest that the margin of underselling generally has been substantial, and typically has been several times the amount by which the price of netting sold for export to the United States was less than the price of netting in the Japaneses home market (the LTFV margin). For a given specification of manmade-fiber fish netting, for example, the price of the Japanese product in the U.S. market was 45 cents below the price of the domestic product, whereas the Japanese netting had been sold for export to the United States at only 6 cents per pound below the price in the Japanese home market. Under these circumstances, the increased imports and evident market penetration, even if a substantial part of imports from Japan were sold at LTFV, could scarcely be ascribed to the existence of LTFV sales.

The prices received by domestic producers for fish netting in recent years have not followed a common trend; some prices have increased, some have declined, and some have remained unchanged. On the average, however, such prices have been almost stable over the past 3 years. To the extent prices of individual specifications of fish netting can be traced, the prices of domestic netting of those specifications which the Treasury found had been sold by Japan at less than fair value have been stronger than those of other specifications of Japanese netting. For example, the prices of domestic netting of specifications found by Treasury to have been sold at LTFV were, on the average, unchanged from the beginning of 1969 to the end of 1971. However, the prices examined relating to domestic netting of specifications not included in Treasury's sample of LTFV sales declined by 4 percent during that period. We find little evidence here of price depression by reason of importation of Japanese netting sold at less than fair value.

As noted above, double-knot salmon gill netting constitutes by far the most important type of fish netting of manmade fiber imported into the United States from Japan. Such netting accounts for about half of the imports of fish netting from Japan. Double-knot salmon gill netting of 6- or 7-filament nylon yarn was initially developed by the Japanese. The Japanese for some time have supplied a large part of the U.S. market for such netting; currently imports from Japan supply four-fifths of the annual consumption of such netting used by the U.S. salmon fishery. According to information obtained in the investigation, the Japanese product is of distinctly higher quality than that produced domestically; the knots of the Japanese netting slip less and the dyeing is superior. Largely because of its superior physical characteristics, the Japanese product has dominated the U.S. market for such netting. Thus, based on the information available, the market penetration achieved by imports of double-knot salmon gill netting from Japan could not reasonably be attributed to sales of Japanese netting at less than fair value. The price of Japanese double-knot salmon gill netting, moreover, has risen appreciably in the last 3 years, while the prices of the similar domestic netting have also increased, although to a lesser degree. Beginning in 1970 (for some specifications) and continuing into 1971, such Japaneses netting was sold in the U.S. market at prices higher than those of the domestic product. Thus, even if it were assumed that double-knot salmon gill netting was being sold by Japan at less than fair value, there would be no evidence of adverse price effects on the domestic producers.

Fish nets. The Treasury Department's determination of sales at less than fair value applied to fish nets (as well as fish netting) of manmade fibers from Japan. As noted earlier, the Treasury did not examine any sales of fish nets by Japan to the United States to determine whether they were made at less than fair value, and U.S. imports of such nets from Japan have been very small.

Fish nets are produced in the United States chiefly by a large number of "net shops" located in or near the home ports of the fishermen they serve and by distributors of fish netting. Most are custom made—the size and shape of the net, specifications of netting, and types of sinkers, twines, and ropes (which are a part of fish nets) varying according to the desires of each fisherman. In large part because of the custom-made nature of many nets, there have been few imports of commercial fishing nets into the United States, and there is little likelihood that extensive trade would develop. Accordingly, we have no evidence that a domestic industry is being, or is likely to be injured by reason of LTFV imports of fish nets of manmade fibers from Japan.

Conclusion. In view of the considerations set forth above, we have concluded that no 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 fish nets and netting of manmade fibers from Japan sold in the United States at less than fair value.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-6211 Filed 4-21-72;8:51 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

APRIL 19, 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 26739 Sub 68, Crouch Bros., Inc., now assigned June 19, 1972, at Kansas City, Mo., canceled and transferred to modified procedure.

MC-F-11411, Transcon Lines—Purchase (Portion)—United Buckingham Freight

Lines, Inc., now assigned June 19, 1972, at Billings, Mont., canceled and reassigned to June 19, 1972, at Seattle, Wash., at the Edgewater Inn., Pier 67, foot of Wall Street.
MC 116101 Sub 9, Quick Air Freight, Inc., now assigned May 16, 1972, at Columbus, Ohio, canceled and application dismissed.
MC 111812 Sub 448, Midwest Coast Transport, now assigned June 27, 1972, at Washington, D.C., postponed to July 27, 1972, at the offices of the Interstate Commerce Commission, Washington, D.C.
MC 103926 Sub 20, W. T. Mayfield Sons Trucking Co., now assigned May 22, 1972, at Washington, D.C., hearing canceled and application dismissed.
MC 106497 Sub 61, Parkhill Truck Co., now being assigned hearing July 17, 1972, at San Francisco, Calif. (1 week), in a hearing room to be later designated.
MC 128527 Sub 24, May Trucking Co., now being assigned hearing July 24, 1972 (2 days), at San Francisco, Calif., in a hearing room to be later designated.
FD 26945, Colorado & Southern Railway Co.—Construction and Operation—Near Minnequa, Pueblo County, Colo., now assigned May 8, 1972, at Pueblo, Colo., hearing postponed indefinitely.
MC 113678 Sub 431, Curtis, Inc., and MC 115826 Sub 219, W. J. Digby, Inc., now being assigned continued hearing on July 10, 1972, for applicant's evidence (1 week), and on July 26, 1972, for protestant's evidence (3 days), at San Francisco, Calif., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-6245 Filed 4-21-72;8:53 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

APRIL 19, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42403—*Class and commodity rates between points in Texas.* Filed by Texas-Louisiana Freight Bureau, agent (No. 659), for interested rail carriers. Rates on fertilizer, iron and steel articles, and synthetic plastic, in carloads, as described in the application, from, to, and between points in Texas, over interstate routes through adjoining States.

Grounds for relief—Intrastate rates and maintenance of rates from and to points in other states not subject to the same competition.

Tariff—Supplement 138 to Texas-Louisiana Freight Bureau, agent, tariff ICC 998. Rates are published to become effective on May 23, 1972, except that item 15942-A will become effective on June 9, 1972.

AGGREGATE OF INTERMEDIATES

FSA No. 42404—*Class and commodity rates between points in Texas.* Filed by Texas-Louisiana Freight Bureau, agent (No. 658), for interested rail carriers. Rates on fertilizer, iron and steel articles, and synthetic plastic, in carloads, as described in the application, from, to, and between points in Texas, over interstate routes through adjoining States.

Grounds for relief—Maintenance of depressed rates published to meet intrastate competition without use of such rates as factors in constructing combination rates.

Tariff—Supplement 138 to Texas-Louisiana Freight Bureau, agent, tariff ICC 998. Rates are published to become effective on May 23, 1972, except that item 15942-A will become effective on June 9, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-6246 Filed 4-21-72;8:53 am]

[Notice 51]

MOTOR CARRIER TRANSFER PROCEEDINGS

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-73581. By order of April 17, 1972, the Motor Carrier Board approved the transfer to RPM Distributors, Inc., doing business as Central Banana Carriers, Doswell, Va., of the operating rights set forth in Certificate No. MC-117743, issued November 24, 1961, to Peter R. Jacobs, doing business as Central Banana Carriers, Richmond, Va., authorizing the transportation of: Bananas, from Norfolk, Va., to Boston, Mass., Chicago, Ill., Indianapolis, Ind., Louisville, Ky., Huntington and Wheeling W. Va., Richmond, Va., the District of Columbia, and points in Michigan, Ohio, and Pennsylvania; from Baltimore, Md. and Charleston, S.C., to Norfolk and Richmond, Va.; from Philadelphia, Pa., to Norfolk, Va.; and from New York, N.Y., to Richmond, Va. Lewis S. Pendleton, Jr., 11 South 10th Street, Richmond, VA 23219, attorney for applicants.

No. MC-FC-73639. By order of April 14, 1972, the Motor Carrier Board approved the transfer to The White Line Corp., New York, N.Y., of a portion of the operating rights in Certificate No. MC-116792 (Sub-No. 1) issued January 14, 1958 to Fletcher Brothers, Inc., Newark, N.J., authorizing the transportation of crated and uncrated furniture from New York, N.Y., to points in Bergen, Essex, Hudson, Middlesex, Passaic, and Union Counties, N.J. Stanley Nayer, 60 Shelley Lane, Great Neck, NY 11023, attorney for transferee. Martin Werner, 2 West 45th Street, New York, NY 10036, attorney for transferor.

No. MC-FC-73643. By order of April 10, 1972, the Motor Carrier Board approved the transfer to Donald D. Miller, doing business as E K Truck Line, Kansas City, Mo., of the operating rights set forth in Certificate No. MC-413, issued April 17, 1950, to R. E. Parsons, doing business as Parsons Truck Line, Fort Scott, Kans., authorizing the transportation of general commodities, with the usual exceptions, as well as other specified commodities, from, to, or between points and places in Kansas, Missouri, and Oklahoma. Floyd E. Gehrt, 400 Croix, Topeka, KS 66611, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-6247 Filed 4-21-72;8:53 am]

[Notice 51-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

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 general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. 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-73331. By order of April 6, 1972, Division 3, acting as an Appellate Division, approved the transfer to Nussberger Bros. Trucking Co., Inc., Prentice, Wis., of that portion of the operating rights in Certificate No. MC-115295 (Sub-No. 10) issued December 10, 1969, to Bob Utgard, doing business as Utgard Trucking, New Richmond, Wis., authorizing the transportation of feed, fertilizer, tankage, and farm machinery, from South St. Paul, Newport, St. Paul, and Minneapolis, Minn., to points in Marathon County, Wis., and animal and poultry feed and animal and poultry feed concentrates, in bulk, from Minneapolis and St. Paul, Minn., to points in Ashland, Iron, Price, Taylor, Vilas, Oneida, Lincoln, Marathon, Langlade, Forest, Florence, Marinette, Oconto, Menominee, Shawano, Outagimie, Brown, Kewaunee, and Door Counties, Wis. Dual operations were approved. Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-6248 Filed 4-21-72;8:53 am]

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SATURDAY, APRIL 22, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 79

PART II

DEPARTMENT OF TRANSPORTATION

Coast Guard

■

MANUFACTURER REQUIREMENTS AND SAFETY STANDARDS

Notice of Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 172]

[CGD 72-60PH]

MANUFACTURER REQUIREMENTS

Certification of Boats and Equipment

The Coast Guard is considering issuing regulations governing the certification of boats and associated equipment that comply with U.S. Coast Guard boat safety standards and regulations and the identification of boat hulls. Any interested person may submit written data, views, or arguments concerning this notice to U.S. Coast Guard (CMC/82), Room 8234, 400 Seventh Street SW., Washington, DC 20590. All communications received before May 31 1972, will be considered before action is taken on the proposed regulations. Each person submitting comments should include his name and address, identify this notice (CGD 72-60) and give reasons and supporting data for any recommendations. All comments will be available for examination in Room 8234. An informal public hearing to receive comments of interested persons on this proposal will be held on May 17, 1972, in Room 8332 at 9:30 a.m. Each person who intends to make a statement is requested to notify the U.S. Coast Guard (CMC/82), before May 17, 1972.

These rules are proposed under the authority of the Federal Boat Safety Act of 1971 (85 Stat. 213), which was delegated to the Commandant of the Coast Guard on October 5, 1971 (36 F.R. 19593).

The applicability of the Act and these regulations to a particular boat depends not only on the kind of use to which it is put but also where it is used. Most of the provisions of the Act do not apply to waters that are not subject to the jurisdiction of the United States, such as lakes within the boundaries of a State that are not connected to the navigable waters of the United States. However, the applicability of the provisions in section 12(a) of the Act are expanded, by section 4(b), to include boats moving or intended to be moved in interstate commerce. Therefore, it is expected that the proposed hull identification requirements would apply to almost all boats manufactured in the United States or imported after the effective date, and the certification requirements would apply to almost all boats under 20 feet with further exceptions stated in the standards and regulations with which boats must conform. These standards and regulations are the subject of Coast Guard Notice CGD 72-61.

Subpart B of proposed Part 172 concerns certification of compliance with Coast Guard regulations and standards. Section 12(a) of the Act requires, among other things, that:

(a) No person shall—

(1) Manufacture, construct, assemble, introduce, or deliver for introduction in interstate commerce, or import into the United States, or if engaged in the business of selling or distributing boats or associated equipment, sell or offer for sale, any boat, associated equipment, or component thereof to be sold for subsequent assembly, unless—

(A) It conforms with regulations and standards prescribed under this Act, or

(B) It is intended solely for export, and so labeled, tagged, or marked on the boat or equipment and on the outside of the container, if any, which is exported.

(2) Affix, attach, or display a seal, label, plate, insignia, or other device indicating or suggesting compliance with Federal safety standards, on, in, or with a boat or item of associated equipment, which is false or misleading;

In the Act, "boat" means any vessel—

(a) Manufactured or used primarily for noncommercial use; or

(b) Leased, rented, or chartered to another for the latter's noncommercial use;or

(c) Engaged in the carrying of six or fewer passengers.

It should be noted that, in the Act and in these proposed regulations, when the word "manufacturer" is used it means any person engaged in—

(1) The manufacture, construction, or assembly of boats or associated equipment; or

(2) The manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly; or

(3) The importation into the United States for sale of boats, associated equipment, or components thereof.

The effect of the Act is to prohibit persons who build boats, persons who import boats, and persons engaged in the business of distributing and selling boats from allowing the sale to the boating public of boats that do not conform with Coast Guard regulations and standards.

The proposed certification requirements are intended to prevent sales of boats to the boating public without a determination having been made and certified to that the boat or equipment conforms to the standards and regulations. Under section 7 of the Act, the Coast Guard may require or permit the display of seals, labels, plates, insignia, or other devices for the purpose of certifying or evidencing compliance with Federal safety regulations and standards for boats and associated equipment. Sections 172.7 and 172.23 propose the Coast Guard's labeling requirements.

Proposed § 172.9 would allow those persons who only sell or distribute boats to affix the certification label and makes the certification of compliance with Coast Guard standards in place of the actual manufacturer. This recognizes the industry practice of "private labeling" whereby companies sell under their own name products manufactured by another.

Section 12(a)(1) of the Act exempts boats or associated equipment intended for export from conforming with standards and regulations issued under the Act. Proposed § 172.11 would exempt boats and associated equipment intended for export from the labeling requirements of proposed Part 172.

Since the construction or assembly of a boat may take considerable time, the selection of the date of certification, which must appear on the label, is the subject of proposed § 172.15(c). The Act, in section 5(b)(2), provides that a regulation or standard may not compel substantial alteration of a boat or item of associated equipment the construction or manufacture of which is commenced before the effective date of the regulation, except where there is substantial risk of personal injury. Therefore, under this proposal, the date selected for certifying that a boat or item of equipment meets the applicable regulations and standards need not be later than the date its construction or assembly is commenced. However, under this proposal, a date later than the commencement of construction or assembly may be selected as long as the completed boat or equipment conforms with the regulations and standards in effect on the date selected.

The latest day that may be selected for the date of manufacture is practically limited to the date the boat or equipment leaves the control of the person who is required by the proposed regulation to affix the certification label. Because of the possibility of change in the regulations or standards after delivery by a manufacturer and the prohibition in section 12(b) of the Act against a false or misleading seal, label, plate, insignia, or other device indicating or suggesting compliance with Federal safety standards, the proposed regulation would not allow a date to be selected that is after the boat or equipment leaves the place of construction, assembly or import for the purpose of sale. This proposal would allow the manufacturer maximum flexibility in certifying that his boat or associated equipment is built to standards which were put into effect after the date on which construction or assembly began.

Under proposed Part 180, which is the subject of notice CGD 72-61, some boats may display stability warning labels to comply with certain stability requirements. Proposed § 172.15 would require that the certification label indicate that these boats do not meet the safe loading standard in proposed Part 180.

The purpose of proposed Subpart C, Identification of Hulls, is to require identification markings on all boat hulls constructed in, or imported into, the United States after September 30, 1972. These markings would identify the person or company responsible for the manufacture of a hull in compliance with the standards, provide a serial number for that hull different from the number on all other hulls, and indicate when the hull was manufactured. The identity of manufacturer of the hull is needed for the purposes of section 15 of the Federal Boat Safety Act of 1971, which requires manufacturers to notify purchasers, dealers, and distributors of defects in boats that create a substantial risk of personal injury to the public and of boats

that fail to comply with a standard or regulation prescribed under section 5 of the Act. The identity of the manufacturer of a hull is needed by the Coast Guard to notify the manufacturer, under section 15(e) of the Act, when a defect or failure to comply is reported to or discovered by the Coast Guard in the hull so that the manufacturer of the hull can comply with the notice to purchasers, dealers, and distributors, requirements in section 15(a). A serial number identifying each hull is necessary for use in identifying all the individual boats of the kind in which a defect is discovered and in finding and notifying their owners.

The date of manufacture is needed not only to assist in identifying boats that may have a defect but also to identify boats to which boat safety standards and regulations prescribed by the Coast Guard under section 5 of the Act apply. As regulations and standards are adopted to implement the Act, the date of manufacture of a hull will be needed to determine whether it was built before or after the effective date of each new regulation or standard that may apply to it. The identity of specific standards applicable to a boat is also needed by manufacturers, distributors, dealers, and others to provide safety standard information to consumers. The identification of individual hulls is also needed for use in efficient State boat registration programs and for use in recovering stolen boats.

As regulations and standards are adopted for associated equipment, similar identification marking requirements may be proposed to further implement sections 12 and 15 of the Act. However, no standards for associated equipment have been proposed as of the date of this notice, and the identification marking requirements proposed in this notice would apply only to hulls.

Proposed § 172.31 indicates the address a manufacturer may write to obtain a manufacturer identification. The Coast Guard is preparing a list of known manufacturers and assigning tentative manufacturer identifications. Assignment of the manufacturer's identification will begin shortly after publication of the final rule.

The Boating Safety Advisory Council has been consulted and its opinions and advice have been considered in the formulation of these proposed regulations. The transcript of the proceedings of the meeting of the Boating Safety Advisory Council at which these regulations were discussed is available for examination in Room 6240, U.S. Coast Guard Headquarters, Department of Transportation Headquarters Building, 400 Seventh Street SW., Washington, D.C. 20590. The minutes of the meeting are available from the Executive Director, Boating Safety Advisory Council at this address.

In consideration of the foregoing, it is proposed that a new Part 172 be added to Title 33 of the Code of Federal Regulations to read as follows:

PART 172—MANUFACTURER REQUIREMENTS

Subpart A—General

Sec.
172.1 Purpose and applicability.
172.3 Definitions.

Subpart B—Manufacturer Certification of Compliance

172.5 Purpose and applicability.
172.7 Compliance certification label required.
172.9 Affixing labels.
172.11 Exceptions to label requirement.
172.13 Removal of labels.
172.15 Contents of label.
172.17 Label numbers and letters.
172.19 Construction of labels.

Subpart C—Identification of Hulls

172.21 Purpose and applicability.
172.23 Hull identification numbers required.
172.25 Hull identification number format.
172.27 Additional characters in hull identification number.
172.29 Hull identification number display.
172.31 Manufacturer identification assigned.

AUTHORITY: The provisions of this Part 172 issued under secs. 5, 7, and 39 of the Federal Boat Safety Act of 1971, Public Law 92-75, 85 Stat. 213, 215, 216, 228 (Aug. 10, 1971); 49 CFR 1.46(o)(1).

Subpart A—General

§ 172.1 Purpose and applicability.

This part prescribes requirements for the certification of boats and associated equipment and identification of boats to which section 4 of the Federal Boat Safety Act of 1971 applies.

§ 172.3 Definitions.

As used in this part—

(a) "Manufacturer" means any person engaged in—

(1) The manufacture, construction, or assembly of boats or associated equipment; or

(2) The importation into the United States for sale of boats, associated equipment, or components thereof.

(b) "Boat" means any vessel manufactured or used primarily for noncommercial use; leased, or rented, or chartered to another for the latter's noncommercial use; or engaged in the carrying of six or fewer passengers.

(c) "Associated equipment" means—

(1) Any system, part, or component of a boat as originally manufactured or any similar part or component manufactured or sold for replacement, repair, or improvement of such system, port or component;

(2) Any accessory or equipment for, or appurtenance to, a boat; and

(3) Any marine safety article, accessory, or equipment intended for use by a person on board a boat; but

(4) Excluding radio equipment.

(d) "Date of certification" means the date on which a boat or item of associated equipment is certified to comply with all applicable U.S. Coast Guard boat safety standards in effect on that date.

(e) "Date of manufacture" means the month and year during which construction or assembly of a boat or item or associated equipment begins.

(f) "Model year" means the period beginning August 1 of any year and ending on July 31 of the following year. Each model year is designated by the year in which it ends.

Subpart B—Manufacturer Certification of Compliance

§ 172.5 Purpose and applicability.

This subpart prescribes requirements for the certification of boats and associated equipment to which section 4 of the Federal Boat Safety Act of 1971 applies and to which a boat safety standard prescribed in Part 180 of this chapter applies.

§ 172.7 Compliance certification label required.

Unless there is affixed to it a certification label that contains the information required by § 172.15—

(a) No person who manufactures, constructs, or assembles a boat or associated equipment may deliver that boat or equipment for the purpose of sale;

(b) No person may import into the United States any boat or associated equipment; and

(c) No person engaged in the business of selling or distributing boats or associated equipment may sell or offer for sale any boat or associated equipment.

§ 172.9 Affixing labels.

(a) Each manufacturer of a boat or item of associated equipment to which a standard or regulation prescribed in Part 180 of this chapter applies shall affix a certification label that contains the information required by § 172.15 to that boat or equipment before it—

(1) Leaves the place of manufacture for the purpose of sale; or

(2) Is imported.

(b) The manufacturer of a boat that is sold to a person engaged in the business of selling or distributing boats need not affix a certification label if the person engaged in the business of selling or distributing boats affixes the certification label before the boat leaves the place of manufacture.

§ 172.11 Exceptions to labeling requirement.

(a) This part does not apply to boats or associated equipment intended solely for export, and so labeled, tagged, or marked on the boat or equipment and on the outside of the container, if any, which is exported.

(b) If an item of associated equipment is so small that a certification label that meets the requirements in § 172.15 cannot be affixed to it, a certification label that contains the information required by § 172.15 may be printed on the smallest container in which the item is packed or on a slip packed with the item.

§ 172.13 Removal of labels.

No person may remove a label required by this part or remove or alter any information on a label required by this part, unless authorized by the Commandant.

§ 172.15 Contents of labels.

Each label required by § 172.7 must contain—

(a) The name and address of the manufacturer or person who determines that the boat or associated equipment complies with the standards prescribed by Part 180 of this chapter.

(b) Except as provided in paragraph (d) of this chapter, the words "This (insert "Boat" or "Equipment") Complies with U.S. Coast Guard Boat Safety Standards in effect on (insert date of certification as prescribed in paragraph (c) of this section)."

(c) Date of certification must be no earlier than the date on which construction or assembly began and no later than the date on which the boat or item of associated equipment leaves the place of manufacture or assembly or import for the purposes of sale.

(d) If a boat displays the stability warning label required by § 180.23 of this chapter, the words "Except load capacity" must be inserted after the words "Boat Safety Standards" and before "In Effect" in the statement prescribed by paragraph (b).

§ 172.17 Label numbers and letters.

Letters and numbers on each label must—

(a) Be no less than one-eighth of an inch in height; and

(b) Contrast with the basic color of the label, or for date of certification, be permanently stamped, engraved, or embossed on the label.

§ 172.19 Construction of label.

(a) Each label must be made of material that can withstand exposure to water, oil, salt spray, direct sunlight, heat, cold, and wear expected in normal use of the boat or item of associated equipment without deterioration of legibility.

(b) Each label must be made of material that shows visible traces of the alteration or removal of information on the label.

Subpart C—Identification of Hulls

§ 172.21 Purpose and applicability.

This subpart prescribes the requirements for identification of hulls of boats the construction or assembly of which is begun after September 30, 1972, and to which section 4 of the Federal Boat Safety Act of 1971 applies.

§ 172.23 Hull identification numbers required.

Except as provided in paragraph (b) of this section—

(a) Each manufacturer of a boat hull, or person engaged in the selling or distributing of boats shall identify that hull with a hull identification number that meets the requirements of this subpart.

(b) Each person who imports a boat or boat hull shall identify that hull with a hull identification number that meets the requirements of this subpart, unless the manufacturer of that hull or boat has already identified the hull with a hull identification that meets the requirement of this part.

(c) Each manufacturer of a boat hull or each person who imports a boat or boat hull shall not assign the same first eight characters of a hull identification number to more than one boat hull.

§ 172.25 Hull identification number format.

Each hull identification number required by § 172.23 must consist of 12 characters as follows—

(a) The first three characters must consist of a manufacturer identification assigned under § 172.31.

(b) Characters 4 through 8 must be assigned by the manufacturer and must be letters of the English alphabet or Arabic numerals or both, except the letters I, O, and Q.

(c) Characters 9 through 12 must indicate the date of certification. The characters must be either—

(1) Arabic numerals with characters 9 and 10 indicating the month and characters 11 and 12 indicating the last two numerals of the year; or

(2) A combination of Arabic numerals and letters of the English alphabet with character 9 indicated as "M," characters 10 and 11 the last two numerals of the model year, and character 12 the month of the model year. The first month of the model year, August, must be designated by the letter "A," the second month, September, by the letter "B," and so on until the last month of the model year, July.

§ 172.27 Additional characters in hull identification number.

A manufacturer may display additional characters after the 12 characters required by § 172.25 if they are separated from the hull identification number by a hyphen.

§ 172.29 Hull identification number display.

(a) The hull identification number must be carved, burned, stamped or embossed on the outboard side of the transom above the waterline of the boat in such a way that alteration, removal, or replacement would be obvious and evident.

(b) The characters of the hull identification number must be no less than one-fourth of an inch in height.

§ 172.31 Manufacturer identification assigned.

(a) Each person required by § 172.23 to affix a hull identification number may request a manufacturer identification from the Commandant (BBC), 400 Seventh Street SW., Washington, DC 20590. There is no charge for the assignment.

This proposal is made under the authority of sections 5, 7, and 39 of the Federal Boat Safety Act of 1971, Public Law 92–75, 85 Stat. 213, 215, 216, 228 (Aug. 10, 1971); 49 CFR 1.46(o)(1) (36 F.R. 19593).

Dated: April 17, 1972.

A. C. WAGNER,
Rear Admiral, U.S. Coast Guard, Chief, Office of Boating Safety.

[FR Doc.72–6023 Filed 4–21–72;8:45 am]

[33 CFR Part 180]

[CGD 72–61 PH]

BOAT SAFETY STANDARDS

Loading, Powering, Emergency Flotation, and Marking of Capacity

The Coast Guard is considering adopting regulations for safe loading, safe powering, emergency flotation, and marking of capacity information on certain boats. Any interested person may submit written data, views, or arguments to U.S. Coast Guard (CMC/82), Room 8234, 400 Seventh Street SW., Washington, DC 20590. All communications received before May 31, 1972, will be considered before action is taken on the proposed regulations. Each person submitting comments should include his name and address, identify this notice (CGD 72–61) and give reasons and supporting data for any recommendations. All comments will be available for examination in Room 8234. An informal public hearing to receive comments of interested persons on the proposed regulations will be held on May 17, 1972, in Room 8332 at 9:30 a.m. Each person who wishes to make a statement is requested to notify the U.S. Coast Guard (CMC/82) before May 15, 1972.

These proposed regulations do not apply to sailboats, canoes, kayaks, and inflatable boats. Regulations and standards for these boats are under consideration and may be the subject of future rule making.

These proposed regulations apply to boats manufactured, constructed, or assembled by any person, including backyard amateurs and occasional builders.

The proposed safety standards and regulations are part of a continuing effort by the Coast Guard to reduce the number of drownings associated with recreational boating. Drownings, which account for over 90 percent of all boating deaths, are most often the result of the sinking or capsizing of boats less than 20 feet long. These proposed regulations would require that these boats meet standards for loading, powering, and flotation and require the display of loading and powering information on each boat.

Proposed Subpart C, Safe Loading, is directed at the prevention of capsizings, the major cause of boating fatalities. Almost three-fourths of these capsizing fatalities involved open motorboats or rowboats less than 20 feet long. In addition, nine out of 10 deaths occurring because of overloading are on open motorboats and rowboats less than 20 feet long.

The capacity information that must be displayed on a boat contains a limit on the number of persons the boat may carry as well as the total weight of persons and gear. The limit on the number of persons is determined by a live load test, in proposed §§ 180.39 through 180.43, that requires 60 percent of the weight of persons to be distributed on one side of the boat at the outboard extremity of each passenger carrying area. This live load test is needed to account for the capability of part of the weight of the passenger load being concentrated at one side of a boat when persons move about the boat. The 60 percent factor for this part of the weight is the factor used by the American Boat and Yacht Council.

The application of these proposed standards to boats may require design changes. The regulations would allow boats not meeting these standards to continue to be built until August 1, 1973, if they are labeled with the stability warning label in § 180.23.

The Coast Guard has for many years shared with the Canadian Government and the boating industry a concern over the consequences of overpowering small boats. Jointly conducted boat powering tests over the past decade have demonstrated generally that there is a definite maximum horsepower for each boat above which its handling characteristics become erratic and often dangerous. In recognition of this, the boating industry associations of the United States and Canada have established a program for determining the maximum safe horsepower and for the voluntary display of this information on outboard boats. It is believed that the widespread acceptance of this voluntary program has been instrumental in holding the number of overpowering casualties at the present level.

The proposed standard for outboard horsepower capacity is also based on the standard of the American Boat and Yacht Council except that a "test course" method to establish maximum horsepower is not included in the proposed regulation at this time. While a performance type standard such as the test course method may be desirable, the test course method does not ensure consistent results because it depends on the skill of the driver, placement of loading, course conditions, and many other factors. Work is continuing toward the development of an objective performance standard for determining boat horsepower capacity.

The proposed flotation standard in Subpart D reflects the current industry practice for emergency flotation. In the period from 1968–70, there were 218 deaths, 51 injuries, and over $1 million in property damage resulting from sinkings of boats. A boat which will float when flooded gives its occupants a greater chance of survival because it is available to grasp until assistance arrives. For search and rescue purposes, it is far easier to find a boat than individuals in the water.

Section 5(b) of the Act requires, among other things, that a regulation specify an effective date which is not earlier than 180 days from the date of issuance, unless there exists a boating safety hazard so critical as to require an earlier effective date. The Coast Guard considers capacity requirements to be so critical as to require their adoption as soon as possible. Therefore, the Coast Guard anticipates completing this rule making action and publishing a final rule by July 1, 1972, and making the capacity marking requirements effective on October 1, 1972. The planned effective date for the flotation standard is August 1, 1973.

The Boating Safety Advisory Council has been consulted and its opinions and advice have been considered in the formulation of these proposed regulations. The transcript of the proceedings of the meeting of the Boating Safety Advisory Council at which these regulations were discussed is available for examination in Room 6240, U.S. Coast Guard Headquarters, Department of Transportation Headquarters Building, 400 Seventh Street SW., Washington, D.C. 20590. The minutes of the meeting are available from the Executive Director, Boating Safety Advisory Council at this address.

These regulations are proposed under the authority of the Federal Boat Safety Act of 1971 (Public Law 92–75, 85 Stat. 213). The authority and reponsibilities vested in the Secretary of the Department of Transportation by this Act were delegated to the Commandant of the Coast Guard on October 5, 1971 (36 F.R. 19593).

In consideration of the foregoing, the Coast Guard proposes to amend Chapter I of Title 33 of the Code of Federal Regulations by adding a new Part 180 to read as follows:

PART 180—BOATS AND ASSOCIATED EQUIPMENT

Subpart A—General

Sec.
180.1 Purpose and applicability.
180.3 Definitions.

Subpart B—Display of Capacity Information

180.21 Applicability.
180.23 Capacity marking required.
180.25 Display of markings.
180.27 Construction of markings.

Subpart C—Safe Loading

180.31 Applicability.
180.33 Maximum weight capacity: inboard and inboard-outdrive boats.
180.35 Maximum weight capacity: outboard boats.
180.37 Maximum weight capacity: boats without mechanical propulsion.
180.39 Persons capacity: inboard and inboard-outdrive boats.
180.41 Persons capacity: outboard boats.
180.43 Persons capacity: boats without mechanical propulsion.

Subpart D—Safe Powering

180.51 Applicability.
180.53 Horsepower capacity.

Subpart E—Flotation

180.61 Applicability.
180.63 Quantity of flotation required.
180.65 Kind of flotation.
180.67 Method for determining quantity of flotation.

AUTHORITY: The provisions of this Part 180 issued under secs. 5, 7, and 39 of the Federal Boat Safety Act of 1971, Public Law 92–75, 85 Stat. 213, 215, 216, 228 (Aug. 10, 1971); 49 CFR 1.46(o)(1).

Subpart A—General

§ 180.1 Purpose and applicability.

This part prescribes standards and regulations for boats and associated equipment to which section 12 of the Federal Boat Safety Act of 1971 applies and to which certification requirements in Part 172 of this chapter apply.

§ 180.3 Definitions.

(a) "Beam" means the maximum transverse distance between the outer sides of the hull excluding fenders, joiner strips, and other extensions.

(b) "Boat" means any vessel manufactured or used primarily for noncommercial use; leased, rented, or chartered to another for the latter's noncommercial use; or engaged in the carrying of six or fewer passengers.

(c) "Length" means the straight line horizontal distance between the intersection of the stem and stern profiles with the sheer excluding fenders or other extensions.

(d) "Mono-hull boat" means a boat on which the line of intersection of the water surface and the boat at any operating draft forms a single closed curve. For example, a catamaran, trimaran, or pontoon boat is not a mono-hull boat.

(e) "Sailboat" means a boat designed or intended to use sails as the primary means of propulsion.

(f) "Sheer" means the fore and aft curve in a vertical plane of the topmost line in a vessel's side.

(g) "Vessel" includes every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on the water.

Subpart B—Display of Capacity Information

§ 180.21 Applicability.

This subpart applies to mono-hull boats less than 20 feet in length, except sailboats, canoes, kayaks, and inflatable boats.

§ 180.23 Capacity marking required.

(a) Except as provided in paragraph (b) of this section, each boat must be marked in the manner prescribed in §§ 180.25 and 180.27 with the maximum weight capacity and persons capacity determined under §§ 180.33 through 180.43, and horsepower capacity determined under § 180.53.

(b) Any boat the construction or assembly of which begins before August 1, 1973, may have displayed thereon a persons capacity greater than P_2 but not greater than P_1 in §§ 180.39 through 180.43 if the boat displays at least two

stability warning labels prescribed in paragraph (c) of this section.

(c) Each of the stability warning labels required by paragraph (b) of this section must—

(1) Be waterproof;

(2) Be displayed at normal boarding positions; and

(3) Have a plan view of the boat and the words in block letters in the sizes shown in figure 180.23 in colors that contrast with the background of the label.

Figure 180.23

§ 180.25 Display of markings.

(a) Each marking required by § 180.23 (a) must be permanently displayed in a legible manner where it is clearly visible to the operator when he is getting the boat underway.

(b) The information required to be marked by § 180.23(a) must be displayed in the following manner—

(1) For outboard boats:

U.S. Coast Guard Capacity Information

Maximum horsepower xxx
Maximum number of persons xxx
Maximum weight in pounds (persons, motor, and gear) xxx

(2) For inboard boats, inboard-outdrive boats, and boats without mechanical propulsion:

U.S. Coast Guard Capacity Information

Maximum number of persons xxx
Maximum weight in pounds (persons, and gear) xxx

§ 180.27 Construction of markings.

Each marking required by § 180.23(a) must be—

(a) Capable of withstanding the combined effects of exposure to water, oil, salt spray, direct sunlight, heat, cold, and wear expected in normal operation of the boat, without loss or deterioration of legibility; and

(b) Resistant to efforts to remove or alter the information without leaving some obvious sign of such efforts.

Subpart C—Safe Loading

§ 180.31 Applicability.

This subpart applies to mono-hull boats less than 20 feet in length except sailboats, canoes, kayaks, and inflatable boats.

§ 180.33 Maximum weight capacity: inboard and inboard-outdrive boats.

(a) The maximum weight capacity marked on a boat that has one or more inboard engines or inboard-outdrive units for propulsion must not exceed W in the formula.

$$W=\frac{\text{(Maximum displacement)}}{5}-\frac{\text{Boat weight}}{5}-\frac{\text{(Machinery weight)}}{5}$$

(b) For the purposes of paragraph (a) of this section—

(1) "Maximum displacement" is the weight of the volume of water displaced by the boat at its maximum level immersion in calm water without water coming aboard. For the purpose of this paragraph, a boat is level when it is transversely level and the points where the sheer intersects the stem and the stern (or transom) are equidistant above the water surface.

(2) "Boat weight" is the combined weight of the boat hull and all its permanent appurtenances, including machinery weight.

(3) "Machinery weight" is the combined weight of installed engines or motors, full fuel system and tanks, control equipment, drive units and batteries.

§ 180.35 Maximum weight capacity: outboard boats.

(a) The maximum weight capacity marked on a boat that is designed or intended to use one or more outboard motors for propulsion must be a number that does not exceed one-fifth of the difference between its maximum displacement and boat weight.

(b) For the purposes of paragraph (a) of this section—

(1) "Maximum displacement" is the weight of the volume of water displaced by the boat at its maximum level immersion in calm water without water coming aboard except for water coming through one opening in the motor well with its greatest dimension not over 3 inches for outboard motor controls or fuel lines. For the purpose of this paragraph, a boat is level when it is transversely level and the points at which the sheer intersects the stern and transom are equidistant above the water surface.

(2) "Boat weight" is the combined weight of the boat hull and all its permanent appurtenances. For the purpose of this paragraph, outboard motors are not permanent appurtenances.

§ 180.37 Maximum weight capacity: boats without mechanical propulsion.

(a) The maximum weight capacity marked on a boat that is not designed or intended to have mechanical propulsion must not exceed one-fifth of the difference between the boat's maximum displacement and the boat weight .

(b) For the purposes of paragraph (a) of this section—

(1) "Maximum displacement" is the weight of the volume of water displaced by the boat at its maximum level immersion in calm water without water coming aboard. For the purpose of this paragraph, a boat is level when it is transversely level and the points where the sheer intersects the stem and the stern (transom) are equidistant above the water surface.

(2) "Boat weight" is the combined weight of the boat hull and all its permanent appurtenances.

§ 180.39 Persons capacity: inboard and inboard-outdrive boats.

The persons capacity marked on a boat that is designed or intended to use one or more inboard engines or inboard-outdrive units must be a whole number that does not exceed the lesser of P_1 or P_2 in the following formulas:

(a)

$$P_1=\frac{\text{(Maximum weight capacity)}}{150}$$

where "Maximum weight capacity" is that marked on the boat.

(b)

$$P_2=\frac{\text{(Live load capacity)}}{150}$$

where "Live load capacity" is determined from the following test in calm water:

(1) Float the boat, with all its permanent appurtenances, including installed engines, full fuel system and tanks, control equipment, drive units and batteries.

(2) Gradually add weights along one outboard extremity of each passenger carrying area, at the height of the seat nearest the center of that area and distributed equally forward and aft of that center in a plane parallel to the floor boards, until the boat assumes the maximum list or trim, or both, without water coming aboard.

(3) Compute the live load capacity in the following formula:

$$\text{Live load capacity} = \frac{A}{.6}$$

where A is the total of the weights added in subparagraph (2) of this paragraph.

§ 180.41 Persons capacity: outboard boats.

The persons capacity marked on a boat that is designed or intended to use one or more outboard motors for propulsion must be a whole number that does not exceed the lesser of P_1 or P_2 in the following formulas:

(a)

$$P_1 = \frac{\text{(Maximum weight capacity)}}{150}$$

where "Maximum weight capacity" is that marked on the boat.

(b)

$$P_2 = \frac{\text{(Live load capacity)}}{150}$$

where "Live load capacity" is determined from the following test in calm water:

(1) Float the boat with all its permanent appurtenances.

(2) Add, in normal operating positions, the dry motor and control weight, battery weight and portable tank weight, if any, shown in table 180.67(a) for the maximum horsepower capacity marked on the boat. For permanently installed fuel tanks, add 6 pounds of weight for each gallon of fuel capacity.

(3) Gradually add weights along one outboard extremity of each passenger carrying area, at the height of the seat nearest the center of that area and distributed equally forward and aft of that center in a plane parallel to the floor boards until the boat assumes the maximum list or trim, or both, without water coming aboard.

(4) Compute the live load capacity in the following formula:

$$\text{Live load capacity} = \frac{A}{.6}$$

where A is the total of the weights added in subparagraph (3) of this paragraph.

§ 180.43 Persons capacity: boats without mechanical propulsion.

The persons capacity marked on a boat that is not designed or intended to have mechanical propulsion must be a whole number that does not exceed the lesser of P_1 or P_2 in the following formulas:

(a)

$$P_1 = \frac{\text{(Maximum weight capacity)}}{150}$$

where "Maximum weight capacity" is that marked on the boat.

(b)

$$P_2 = \frac{\text{(Live load capacity)}}{150}$$

where "Live load" is determined from the following test in calm waters:

(1) Float the boat, with all its permanent appurtenances.

(2) Gradually add weights along one outboard extremity of each passenger carrying area, at the height of the seat nearest the center of that area and distributed equally forward and aft of that center in a plane parallel to the floor boards until the boat assumes the maximum list or trim, or both, without water coming aboard.

(3) Compute the live load capacity in the following formula:

$$\text{Live load capacity} = \frac{A}{.6}$$

where A is the total of the weights added in subparagraph (2) of this paragraph.

Subpart D—Safe Powering

§ 180.51 Applicability.

This subpart applies to mono-hull boats less than 20 feet in length, except sailboats, canoes, kayaks, and inflatable boats, that are designed or intended to use one or more outboard motors for propulsion.

§ 180.53 Horsepower capacity.

The horsepower capacity marked on a boat, must be determined as follows:

(a) Compute a factor by multiplying the boat length in feet by the maximum transom width in feet including spray rails if spray rails act as chines or part of the planing surface. If the boat does not have a full transom, the transom width is the broadest beam in the aftermost quarter length of the boat.

(b) Locate horsepower capacity corresponding to the factor in table 180.53.

(c) If the horsepower capacity in table 180.53 is not an even multiple of 5, it may be raised to the next even multiple of 5.

(d) For flat bottom hard chine boats with a factor of 52 or less, the horsepower capacity must be reduced by one horsepower capacity increment in table 180.67(a).

TABLE 180.53—OUTBOARD BOAT HORSEPOWER CAPACITY

COMPUTE: FACTOR = BOAT LENGTH × TRANSOM WIDTH

If factor (nearest whole number) is	0-35	36-39	40-42	43-45	46-52
Horsepower capacity is	3	5	7½	10	15

NOTE: For flat bottom hard chine boats reduce one capacity increment (e.g. 5 to 3).

If factor is 53 or more and the boat has—	Remote steering and at least 20" transom height	No remote steering, or less than 20" transom	
		For flat bottom hard chine boats	For other boats
Horsepower capacity is (raise to nearest multiple of 5).	(2×Factor)−90	(0.5×Factor)−15	(0.8×Factor)−25

Subpart E—Flotation

§ 180.61 Applicability.

This subpart applies to mono-hull boats less than 20 feet in length, except sailboats, canoes, kayaks, and inflatable boats.

§ 180.63 Quantity of flotation required.

Each boat must have—

(a) At least that quantity of flotation prescribed in § 180.67; or

(b) Enough permanent flotation to keep any portion of the boat above the surface of the water when the boat is filled with water and loaded with—

(1) A weight that, when submerged, equals the persons capacity marked on the boat times 20 pounds; and

(2) A weight that, when submerged, equals 25 percent of the dead weight; and

(3) For outboard motorboats, a weight that, when submerged, equals the submerged motor and control weight from table 180.67(a).

(c) For the purpose of this section "dead weight" means—

(1) For outboard boats, the maximum weight capacity marked on the boat minus the sum of—

(i) Motor and control weight, and battery weight (dry) from table 180.67(a); and

(ii) 150 pounds times the persons capacity marked on the boat; and

(2) For inboard motorboats, the maximum weight capacity marked on the boat minus 150 pounds times the persons capacity marked on the boat.

§ 180.65 Kind of flotation.

(a) Except as provided in paragraph (b) of this section, the flotation required by § 180.63 must be inherently buoyant materials that are—

(1) Capable of withstanding the combined effects of contact with oil, oil products, or other liquids or compounds with which the material may be expected to come in contact during normal use, including fuel oil, gasoline, grease, lubricating oil, common bilge solvents, and salt and fresh water;

(2) Capable of withstanding combined exposure to sunlight, vibration, shock and temperature variations which may be expected during normal use; and

(3) Installed in such a manner that it is fully effective when the boat is flooded or capsized.

(b) If the construction or assembly of a boat is begun before August 1, 1973, it may have two or more air chambers that—

(1) Are completely watertight, except that pressure equalization openings may be provided if these openings are fitted with means to prevent water from entering the air chambers;

(2) Maintain their watertight integrity when the boat is flooded or capsized;

(3) Are designed and arranged so that the flooding of one chamber will not result in sufficient loss of buoyancy to cause

the boat to sink with its maximum weight capacity in normal operating position; and

(4) Are fitted with a means of being easily drained.

§ 180.67 Method for determining quantity of flotation.

The minimum quantity of flotation material required by § 180.63 must be determined by the following method:

(a) Step 1: Determine the Submerged Weight of Boat (W_s) in the formula:

$$W_s = Wh\,K_1 + Wd\,K_2 + 0.69\,We.$$

where

W_s = Submerged weight of boat.
Wh = Dry weight of hull.
Wd = Dry weight of deck and superstructure.
We = Dry weight of permanent appurtenances except motor and control weight, battery weight, and portable tank weight.
K_1 and K_2 = Conversion factors for materials used from table 180.67 (b).

(b) Step 2: Determine Submerged Weight of Engine and Related Equipment (G) as follows:

(1) For outboard boats, G equals the sum of the submerged motor and control weight, battery weight, and full fuel tank weight from table 180.67(a) for maximum horsepower capacity marked on the boat in accordance with § 180.53.

(2) For inboard boats G equals 75 percent of the installed weight of engine, drive, and fuel system.

(c) Step 3: Determine Dry Weight of Load (C) as follows:

(1) For outboard boats, C equals the maximum weight capacity as determined in § 180.35 minus the sum of dry motor and control weight, battery weight, and full fuel tank weight from table 180.67 (a).

(2) For inboard boats, C equals the maximum weight capacity as determined in § 180.33.

(d) Step 4: Determine Flotation Required (W) in the formula:

$$W = W_s \text{ (Step 1)} + G \text{ (Step 2)} + .25\,C \text{ (Step 3)}$$

(e) Step 5: Determine the Volume of Flotation Material (F) needed in the formula:

$$F = \frac{\text{Flotation Required (W)}}{\text{Buoyancy of Flotation Material}}$$

where: "Flotation Required" is that value of W determined in Step 4; and "Buoyancy of Flotation Material" is determined by subtracting from the density of fresh water the density of the flotation material. The density of the flotation material must be determined after the material immersed in fresh water for one-half hour. Where air chambers are used the "Buoyancy of Flotation Material" is 62.4 lbs./ft.[3].

TABLE 180.67(a)

WEIGHTS OF OUTBOARD MOTOR AND RELATED EQUIPMENT FOR VARIOUS BOAT HORSEPOWER RATINGS

Boat horsepower rating	Motor and control weight		Battery weight		Full portable[2] fuel tank weight	
	Dry	Wet[1]	Dry	Wet[1]	Dry	Wet[1]
Under 4	35	20				
4.1- 5	55	34			25	−1
5.1- 10	70	55	20	11	50	−1
10.1- 30	105	80	45	25	50	−1
30.1- 50	190	138	45	25	100	−3
50.1- 75	240	163	45	25	100	−3
75.1-150	305	218	45	25	100	−3
TRANSOMS DESIGNED FOR TWIN MOTORS						
60.0-100	380	268	45	25	100	−3
100.1-150	480	328	45	25	100	−3
150.1-300	610	413	45	25	100	−3

[1] Wet in this case means submerged.
[2] If the boat has a permanent built-in fuel tank, the tank should be full for the test and the "Full Portable Fuel Tank Weight" excluded.

TABLE 180.67(b)

FACTORS FOR CONVERTING VARIOUS BOAT MATERIALS FROM DRY TO SUBMERGED WEIGHT

Material	Sp. Gr.	Factor
Steel	7.85	0.88
Aluminum	2.73	0.63
Fiberglas	1.50	0.33
A.B.S.	1.12	0.11
Oak	0.63	−0.56
Mahogany	0.56	−0.78
Ash	0.56	−0.78
Yellow Pine	0.55	−0.81
Fir Plywood	0.55	−0.81
Mahogany Plywood	0.54	−0.83
Royalex	0.50	−0.95
Cedar	0.33	−1.95
Balsa end gr	0.16	−5.24

This proposal is made under the authority of secs. 5, 7, and 39 of the Federal Boat Safety Act of 1971, Public Law 92-75, 85 Stat. 213, 215, 216, 228 (Aug. 10, 1971); 49 CFR 1.46(o)(1).

Dated April 17, 1972.

A. C. WAGNER,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Boating Safety.

[FR Doc.72-6022 Filed 4-21-72;8:45 am]

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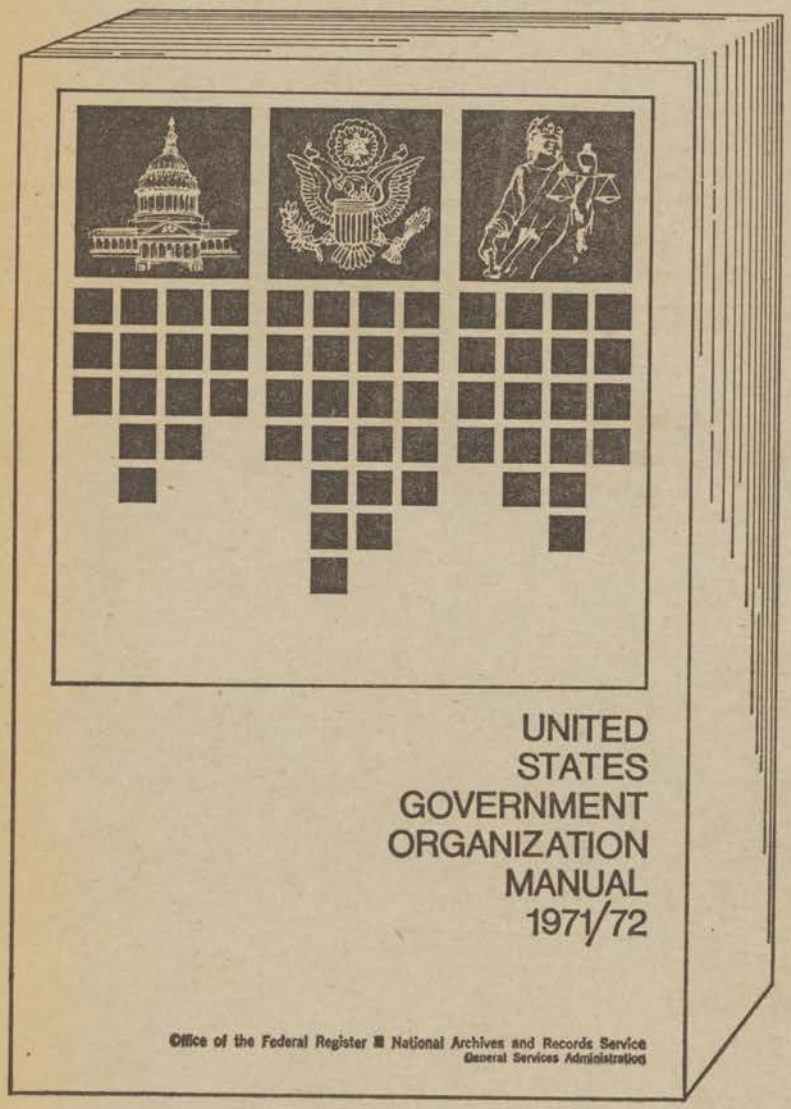

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