federal register

SATURDAY, MAY 6, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 89
Pages 9193–9303

PART I

(Part II begins on page 9277)

HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Contents

(Continued on next page)

List of CFR Parts Affected

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

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

3 CFR

PROCLAMATION:

4130 9199

7 CFR

47 9201
722 9202
907 9204
910 9204
917 9205
1890t 9206

PROPOSED RULES:

760 9224

10 CFR

30 9207
150 9207

PROPOSED RULES:

140 9227

12 CFR

PROPOSED RULES:

207 9243
220 9243
221 9243

14 CFR

39 9209
71 9210
97 9209

PROPOSED RULES:

61 9225
67 9225
71 9226
121 9225
127 9225
183 9225

16 CFR

423 9210

19 CFR

1 9210

21 CFR

121 9211
135e (2 documents) 9211

23 CFR

204 9212

PROPOSED RULES:

204 9227

26 CFR

PROPOSED RULES:

1 (5 documents) 9278–9295
20 9295
25 9295

28 CFR

0 9214

29 CFR

525 9214
1601 9214
1602 9214

37 CFR

PROPOSED RULES:

1 9225

40 CFR

PROPOSED RULES:

180 (2 documents) 9228, 9229

47 CFR

73 9220

PROPOSED RULES:

21 9229
25 9229

49 CFR

173 9221
571 9222

50 CFR

16 9223

Presidential Documents

Title 3—The President

PROCLAMATION 4130

Small Business Week, 1972

By the President of the United States of America

A Proclamation

It is no curious accident that from earliest times, the expansion of America's frontiers was closely paralleled by the robust growth of our Nation's free enterprise system. In the footprints of Boone and Carson came a different but no less courageous breed of pioneer: the tradesman and peddler, miller and merchant. As their cabins and trading posts have become towns and cities, their wilderness commerce has become the foundation for the most extraordinary economic force in the history of mankind.

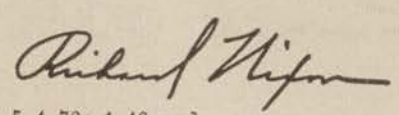
It is a force that leaves no idea unexplored, no promise unpursued, no citizen of this land unenriched. Today, we call it small business.

There are now more than 8 million small businesses in this country. An unprecedented 287,000 new companies were incorporated just last year. Nineteen out of every twenty firms are considered small business, and they provide more than 35 million jobs, and contribute more than $370 billion to the gross national product.

Small business is the corridor of progress and change for Americans of every nationality and color. It is an arena where the sheer power of individual initiative and self-determination can exact the rewards of participation, achievement, and success. Small, free, independent enterprise is the heritage of our past and the lifeblood of our future, providing each of our citizens with life's most prized gift: opportunity.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week beginning May 14, 1972, as Small Business Week. I ask all Americans to share with me during this week a great feeling of pride in the accomplishments of these small businessmen and women, and in their continued commitment to success.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of May, 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.



[FR Doc.72-7049 Filed 5-4-72; 4:46 pm]

Rules and Regulations

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspection, Marketing Practices), Department of Agriculture

PART 47—RULES OF PRACTICE UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT

Post-Hearing Procedure Before Examiner

On April 5, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 6854) regarding a proposed amendment to the rules of practice (7 CFR Part 47) issued pursuant to authority contained in the Perishable Agricultural Commodities Act, 1930 (46 Stat. 531 et seq., as amended; 7 U.S.C. 499a et seq.).

Interested persons were given until April 20, 1972, in which to submit written data, views or comments regarding the proposed amendment to the rules of practice which would provide that the Secretary shall order any commission merchant, dealer, or broker who is the losing party to pay the prevailing party, as reparation or additional reparation, reasonable fees and expenses incurred in connection with any oral reparation hearing.

Seven comments were submitted concerning the proposed amendment to the rules of practice, only one of which was adverse. The objection was to the effect that fees and expenses should not be awarded against a losing party who did not request an oral hearing. The Secretary is without authority to deny an award of reasonable fees and expenses to the prevailing party following an oral hearing, without regard to which party requested the hearing.

One comment suggested substitute language for three of the provisions of the proposed rule. Two of the three suggestions can be adequately dealt with under the original language. The third suggestion, that the presiding officer at the hearing make a final determination as to which are necessary witnesses, must be rejected. It is the function of the presiding officer to recommend and for the judicial officer to make the final decision.

Effective date. These amendments shall be effective upon publication in the FEDERAL REGISTER (5–6–72). Since these amendments will not require any special preparation on the part of interested persons, and hearings in pending cases are being delayed because of the absence of rules with respect to the procedure to be followed in claiming fees and expenses, it is hereby found that good cause exists for not postponing the effective date of these amendments.

Pursuant to the authority contained in section 15, 46 Stat. 537, as amended; 7 U.S.C. 499o, the rules of practice (7 CFR Part 47) under the Perishable Agricultural Commodities Act, 1930, are hereby amended as follows:

1. Amend 7 CFR 47.19 by changing the number of paragraph (d) to paragraph (e).

2. Amend 7 CFR 47.19 by adding the following new paragraph (d) and amending paragraph (e) to read as follows:

§ 47.19 Post-hearing procedure before the examiner.

* * * * *

(d) *Claim for award of fees and expenses*—(1) *Filing.* Prior to the close of the hearing, or within 20 days thereafter, each party may file with the examiner a claim for the award of the fees and expenses which he incurred in connection with the oral hearing. No award of fees and expenses to the prevailing party and against the losing party shall be made unless a claim therefor has been filed, and failure to file a claim within the time allowed shall constitute a waiver thereof.

(2) *Fees and expenses which may be awarded to prevailing party.* The term "fees and expenses," as used in section 7(a) of the act, includes: (i) Reasonable fees of an attorney or authorized representative for appearance at the hearing and for the taking of depositions necessary for introduction at the hearing; (ii) fees and mileage for necessary witnesses at the rates provided for witnesses in the courts of the United States; (iii) fees for the notarizing of a deposition and its reduction to writing; (iv) fees for serving subpenas; and (v) other fees and expenses necessarily incurred in connection with the oral hearing. Fees and expenses which are not considered to be reasonable or necessarily incurred in connection with the oral hearing will not be awarded.

(3) *Form of claim.* A claim for fees and expenses shall be in the form of a written itemized statement of the fees and expenses claimed, which shall include an explanation of how each item was computed, to which there shall be attached an affidavit, made by the party or his authorized attorney or agent having knowledge of the facts, that each such item is correct and has been necessarily incurred in connection with the oral hearing in the proceeding and that the services for which fees are claimed were actually and necessarily performed.

(4) *Service of claim.* A copy of each such claim filed shall be served by the examiner on the other party or parties to the proceeding.

(5) *Objections to claim.* Within 10 days after being served with a copy of a claim for fees and expenses, the party so served may file with the examiner written objections to the allowance of any or all of the items claimed. If evidence is offered in support of an objection it must be in affidavit form. A copy of any such objections shall be served by the examiner on the other party or parties.

(6) *Reply to objections to claim.* A claimant who is served with a copy of objections to his claim may, within 10 days after such service, file with the examiner a reply to such objections. If evidence is offered in support of a reply it must be in affidavit form. A copy of any such reply shall be served by the examiner on the other party or parties.

(7) *Further inquiry by examiner.* Whenever it is deemed desirable or necessary for the proper disposition of a claim, the examiner may request statements as to specific matters from either or both parties. Any statements so furnished shall be served by the examiner on the other party.

(8) *Number of copies.* All documents or papers authorized by this paragraph to be filed with the examiner shall be filed in triplicate: *Provided,* That, where there are more than two parties to the proceeding an additional copy shall be filed for each additional party.

(e) *The examiner's report.* The examiner, with the assistance and collaboration of such employees of the Department as may be assigned for the purpose, and within a reasonable time after the filing of the transcript with the hearing clerk, as provided in paragraph (a) of this section, or within a reasonable time after the termination of the period allowed for the filing of the submissions of the parties allowed by this section, shall prepare, upon the basis of the evidence received at the hearing and with due consideration of submissions of the parties filed pursuant to paragraph (d) of this section, his report. Such report shall be filed with the hearing clerk and shall be prepared in the form of a final order for the signature of the Secretary, but shall not be served upon the parties, unless and until it shall have been signed by the Secretary, as hereinafter provided.

(Sec. 15, 46 Stat. 537, as amended; 7 U.S.C. 499o)

Done at Washington, D.C., this 2d day of May 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72-6938 Filed 5-5-72;8:49 am]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 7]

PART 722—COTTON

Acreage Allotments for 1966 and Succeeding Crops of Extra Long Staple Cotton

This amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.). The purpose of this amendment is to establish certain new procedures applicable beginning with the 1972 crop of extra long staple cotton. In general, these new procedures are technical in nature and conform the extra long staple cotton program to certain procedures in effect for other programs. In addition, cotton program changes based on requests from State commitees and based on experience gained in administering the 1971 extra long staple cotton program have been made. Specific changes in procedures are as follows:

1. To add Santa Cruz County, Ariz., to the list of ELS cotton counties designated for the production of ELS cotton.

2. To provide that a State reserve for new farms and a State reserve for corrections, missed farms, etc., be combined into a single State reserve which may be used for both purposes.

3. Uniform closing dates for release and for requests for reapportioned acreage as established by the State committees are incorporated. The standards and guidelines for reapportionment are revised by changing the 33 acres or 75 percent of cropland to the cropland.

4. To change the term "application" to "record" in every place applicable throughout § 722.528 and to provide that the owner or operator's signature on Form ASCS–375 be witnessed by an employee of the county committee in both the transferring and receiving counties. To provide a change in the final date for accepting records of transfers from March 1 to coincide with the final release date.

5. To provide that the acreage limitation on allotment after transfer be the farm cropland and to remove the 10-percent yield limitation on transfers and to provide for a new method for computing transfers.

6. To delete specific language prohibiting subleasing of cotton since subleasing is effectively prohibited in the regulatory language prohibiting transfers to and from a farm in the same year.

Since farmers are now completing their plans for the 1972 crop year, it is hereby found and determined that compliance with the notice, public procedure, and 30-day effective date requirements of 5 U.S.C. 553, is impracticable and contrary to the public interest. This amendment shall become effective upon filing of this document with the Director, Office of the Federal Register.

The Subpart—Acreage Allotments for 1966 and Succeeding Crops of Extra Long Staple Cotton, of Part 722—Subchapter B of Chapter VII, Title 7 (31 F.R. 6247, 13530, 32 F.R. 5416, 33 F.R. 8427, 16066, 16434, 34 F.R. 5, 808) is amended as follows:

§ 722.509 [Amended]

1. Paragraph (b) of § 722.509 is amended by adding Santa Cruz County, Ariz., to the list of ELS cotton counties designated for the production of ELS cotton.

2. Section 722.511 is revised to read as follows:

§ 722.511 Establishment of farm allotments.

(a) *County allotment.* The county allotment shall be the county share of the State allotment including allocations from the State reserve to the county for trends and abnormal conditions.

(b) *Initial county reserve.* The county committee may establish an initial county reserve for the uses described in paragraph (h) of this section. Such initial county reserve shall not result in an adjusted county reserve (as described in paragraph (g) of this section) greater than 5 percent of the county allotment unless the State committee authorizes a larger adjusted county reserve which may not be greater than 15 percent of the county allotment.

(c) *Adjusted county allotment.* The adjusted county allotment shall be the county allotment in paragraph (a) of this section less the initial county reserve in paragraph (b) of this section.

(d) *County allotment factor.* The county allotment factor (county factor) shall be determined by dividing the total of the preliminary allotments for the current year for all farms into the adjusted county allotment.

(e) *Factored allotments for old farms.* The factored allotment for an old farm shall be determined by multiplying the preliminary allotment by the county factor but shall not be greater than the cropland on the farm.

(f) *State reserve for adjusting factored allotments for small farms.* The acreage allocated to a county from the State reserve for small farms shall be used by the county committee to adjust factored farm allotments of 15 acres and less for old ELS cotton farms on the basis of the factors set forth in paragraph (h) of this section.

(g) *Adjusted county reserve.* The adjusted county reserve is the county allotment minus the total factored farm allotments for old farms in the county.

(h) *Use of county reserve.* The county reserve shall be used by the county committee to adjust factored farm allotments and to establish farm allotments for new ELS cotton farms. Farms covered by contracts under the conservation programs shall receive the same consideration as other comparable farms in the county. Adjustments from the reserve shall be made so as to establish allotments which are fair and reasonable in relation to the allotments established for similar farms in the community taking into consideration for the farm the acreages planted to ELS cotton in the farm base years; the land, labor, and equipment available for the production of ELS cotton; crop-rotation practices; the soil and other physical factors affecting the production of ELS cotton; and abnormal conditions of production. The county reserve shall be used by the county committee as follows:

(1) *Determination of acreage needed for new cotton farms.* If any part of the State reserve or the county reserve is to be used for establishing allotments for new ELS cotton farms, the county committee, with the assistance of the community committees, may estimate from county office records and other available sources of information the number of new ELS cotton farms in the county and an estimate may be made of the cropland on new ELS cotton farms. Such estimates may be used by the State and county committees as a basis for determining the acreage, if any, that will be allocated for establishing allotments for new ELS cotton farms. In determining the acreage, if any, from the county reserve which is to be used for establishing allotments for new ELS cotton farms, the county committee shall take into consideration the acreage, if any, to be made available from the State reserve for establishing allotments for new ELS cotton farms.

(2) *Adjustments in farm allotments to correct inequities and to prevent hardship.* The county committee shall determine the acreage required from the county reserve to supplement any acreage allocated to the county from the State reserve to correct inequities in farm allotments and to prevent hardship. Such reserves may also be used for establishing and adjusting farm allotments as provided in paragraph (c) of this section and to provide fair and reasonable allotments where the county committee had insufficient information to make proper adjustments at the time the original allotment for the farm was established. Any acreage from the county reserve and any allocation to the county from the State reserve to correct inequities and prevent hardship may be used by the county committee for making adjustments in farm allotments to correct inequities and to prevent hardship.

(3) *Adjustments in factored farm allotments of 15 acres or less.* Not less than 20 percent of the county reserve shall, to the extent required, be used by the county committee to adjust factored farm allotments of 15 acres or less.

(4) *Acreage allotments for missed farms and correction of errors.* The remainder of the acreage in the county reserve, after meeting or determining the requirements under subparagraphs (1) and (2) of this paragraph and the acreage allocated by the State committee from the State reserve for this purpose shall be used by the county committee (i) for establishing allotments for old ELS cotton farms for which allotments were not established at the time allotments were originally established for old

ELS cotton farms in the county because of oversight on the part of the county committee, and (ii) for correcting errors in farm allotments.

(5) *Combined reserves.* The State committee may establish a single reserve to be allocated to counties for uses set forth in subparagraphs (1) and (4) of this paragraph. The county committee may establish a single reserve to be allocated to farms for the purposes set forth in subparagraphs (1) and (4) of this paragraph.

(i) *Equitable adjustments from State reserve for all old cotton farms.* Under the conservation programs, acreage diverted from the production of ELS cotton shall be considered acreage devoted to ELS cotton for purposes of establishing future State, county, and farm allotments. In order to prevent inequitable allotments on farms included in such programs, the State reserve for categories other than new farms shall not be larger than the acreage required to give all old ELS cotton farms equal consideration, whether the farm history resulted from actual seeding of ELS cotton or from acreage history required by law.

(j) *Limitation on adjustments for farms transferring acreage allotments.* If acreage was transferred from the farm by sale, lease, or by owner in the current or prior year, the county committee may adjust farm allotments for such farms with reserve acreage only in exceptional cases including but not limited to cases where the transferor will not benefit from the adjustment, or the transfer was temporary and allotment has been returned to the farm for the current year. Any such adjustment shall be subject to the approval of a representative of the State committee.

(k) *Reconstitution of farm.* The reconstitution of farms under §§ 722.501 to 722.550 shall be governed by the regulations pertaining to reconstitution of farms in Part 719 of this chapter, as amended.

3. Paragraphs (b) (4) and (7) of § 722.513 are amended to read as follows:

§ 722.513 Release and reapportionment of ELS cotton allotments.

* * * * *

(b) *Allotments which may be released and reapportioned.* * * *

(4) *Standards and guidelines for reapportionment.* The State committee shall establish standards and guidelines to assure uniform application of the basic factors of past acreages of ELS cotton, land, labor, and equipment available for the production of ELS cotton; crop rotation practices; and soil and other physical facilities affecting the production of ELS cotton required to be considered under section 344(m)(2) of the act in the reapportionment of released allotments to farms. Such standards and guidelines shall include the following limitations which apply to all States:

(i) The farm allotment for any farm to which released acreage is reapportioned shall not exceed the cropland for the farm.

(ii) Acreage allotments reapportioned to all farms in the county owned, operated, or controlled by a member of the community committee or county committee, for which applications are filed under subparagraph (3) of this paragraph, shall be approved on an individual basis by a representative of the State committee only upon a determination that the distribution is fair and equitable, considering acreage allocated to other farms and the acreage requested on such other farms.

(iii) Acreage allotment may not be reapportioned to a farm from which acreage allotment was transferred by sale, lease, or by owner in the current or prior year except in exceptional cases including but not limited to cases where the transferor will not benefit from the reapportioned acreage allotment, or the transfer was temporary and acreage allotment has been returned to the farm for the current year. Any such reapportionment by the county committee shall be subject to approval of a representative of the State committee.

* * * * *

(7) *Closing dates.* The State committee shall establish the following closing dates for the entire State or for areas consisting of one or more counties in the State taking into consideration the normal planting dates within the State. In establishing closing dates, the State committee shall also take into consideration the time required for reapportionment of surrendered acreage to counties and farms.

(i) The closing date for release of allotments which shall be no later than the date on which planting of ELS cotton normally becomes general on farms in the State, area or county.

(ii) The closing date for request for reapportionment of released acreage shall be the same as the closing date for release of acreage established under subdivision (i) of this subparagraph.

(iii) The closing date for reapportionment of acreage shall be 30 days following the closing date established under subdivision (i) of this subparagraph.

(iv) In accordance with subdivisions (i), (ii), and (iii) of this subparagraph the following dates are established by the State committees:

State	Closing date for release and requests for reapportionment	Final date for reapportionment
Arizona	March 10	30 days following applicable closing dates for release and requesting reapportionment.
California	March 17	Do.
Florida	February 28	Do.
Georgia	March 15	Do.
New Mexico	March 1	Do.
Texas	March 8	Do.

* * * * *

4. Section 722.528 is revised to read as follows:

§ 722.528 Records of transfer.

(a) *Persons eligible to file records for transfer.*—(1) *Sale or lease.* The owner and operator of any old ELS cotton farm, as defined in § 722.504(b)(12), for which an ELS cotton allotment is or will be established for the year in which the transfer by sale or lease is to take effect shall be eligible to file a record for transfer by sale or lease of all or part of such allotment to any other farm in the same county or to any other farm in another county designated for the production of ELS cotton in § 722.509(b) within the same State. If the owner and operator of the farm from which transfer by sale or lease is to be made are different persons, both such persons shall execute the record. Either the owner or operator of the receiving farm is required to sign the transfer. A county committee member or employee must witness the signature of either the owner or operator of the transferring farm and the owner or operator of the receiving farm. If such signatures cannot be witnessed in the county office where the farm is administratively located, they may be witnessed in any county office convenient to the owner's or operator's residence. The requirement that signatures be witnessed for producers who are ill, infirm, reside in distant areas, or are in other similar situations may be met by mail, provided a request is made by one of the parties to the transfer. In the case of a permanent transfer, such request must be accompanied by a statement signed by all parties to the transaction confirming that the sale has been made.

(2) *By owner.* The owner of any old ELS cotton farm, as defined in § 722.504(b)(12), for which an ELS cotton allotment is or will be established for the year in which the transfer is to take effect shall be eligible to file an application for transfer by owner of all or part of such allotment to another farm owned or controlled by such owner in the same county or in another county designated for the production of ELS cotton in § 722.509(b) within the same State. The county committee shall approve a transfer under this subparagraph requested on a nonpermanent basis to a farm controlled but not owned by the applicant only if such applicant will be the operator of the farm to which transfer is to be made for each of the years for which the transfer is requested. However, if the county committee determines that the applicant is prevented from remaining the operator of such farm for which such transfer has been approved due to conditions beyond his control, the transfer shall remain in effect. Conditions beyond his control shall include, but are not limited to, death, illness, incompetency, or bankruptcy of such person.

(b) *When records to be filed.* Records of transfers may be filed during the period beginning on the date original notices of acreage allotments are mailed to farm operators and ending on the date established by the State committee as the closing date for release and requests for reapportionment of acreage allotment according to § 722.513(b). The State committee may authorize a record of transfer to be filed after the closing date upon a finding that the producer was prevented from filing for reasons beyond his control.

(c) *Where records to be filed.* Records shall be filed with the county committee

of the county where the farm to which the acreage allotment is to be transferred is located, but the county office of the county where the farm from which the acreage allotment is to be transferred is located is hereby authorized to receive records on behalf of such county committee and shall forward a copy of each record to such county committee.

5. Section 722.529 is revised to read as follows:

§ 722.529 Amount of allotment transferable.

(a) *Farm allotment.* All or any part of the ELS cotton allotment established for a farm may be transferred as provided under §§ 722.526 to 722.531 except that (1) acreage allotment reapportioned to a farm under section 344(m)(2) of the Act shall not be transferred and (2) no transfer of allotment shall be made from a farm which received a new farm ELS cotton allotment in the current year or within the three immediately preceding crop years.

(b) *Productivity adjustments.* The farm yield for determining productivity adjustments is the average yield per harvested acre of lint ELS cotton on the farm during each of the three calendar years immediately preceding the year in which such yield is determined. The actual yield may be adjusted for abnormal weather conditions, for trends in yields, and any significant changes in production practices. The county committee shall determine the amount of acreage allotment to be transferred by sale, lease, and by owner, where productivity adjustment is required under this paragraph as follows:

(1) Multiply the transferred acres by the yield for the transferring farm. The result is the number of pounds transferred.

(2) Divide the pounds transferred by the yield for the receiving farm. The result is the number of acres by which the allotment on the receiving farm is to be increased. The amount of acreage allotment which may be transferred is limited to the cropland on the receiving farm less the receiving farm's current ELS cotton allotment. In the case of temporary transfers of acreage allotment for 2 or more years by lease or by owner, the productivity adjustment and amount of acreage allotment so transferred shall be redetermined by the county committee each year the transfer remains in effect.

(c) *Adjustments in county history.* The county history acreage for the 5-year base period shall be adjusted for each of the base years to correspond with the adjustments for permanent transfers under paragraph (b) of this section.

(d) *Adjustments in State history.* The State history acreage for each of the 5 base years shall be determined by adjusting the totals of previously reported county history acreages to reflect permanent transfers of history acreage, as adjusted under paragraph (c) of this section, among farms within the same county and from one county to another.

(e) *Acreage regarded as planted to ELS cotton in the State.* For purposes of establishing future State acreage allotments only and not for purposes of establishing future county allotments, the net losses of county history acreage as determined under paragraph (b) of this section shall be regarded as planted to ELS cotton.

(f) *Transfer of eminent domain pooled allotments.* Allotments established for a farm as pooled allotment under section 378 of the Act may be transferred under §§ 722.526 to 722.531 on a permanent basis during the 3-year life of the pooled allotment or for a term of years not to exceed the remaining number of crop years of such 3-year period.

6. Paragraph (e) of § 722.530 is deleted. Paragraph (f), (g), (h), and (i) are redesignated (e), (f), (g), and (h), respectively. The redesignated paragraph (e) is amended to read as follows:

§ 722.530 Additional conditions and limitations.

* * * * *

(e) *Limitation on transfers to and from a farm.* No transfer of acreage allotment under section 347f of the act for any year shall be made (1) from a farm receiving acreage allotment by transfers under section 347f of the act for such year, or (2) to a farm which has had acreage allotment transferred from it under section 347f of the act for such year. Where an allotment is transferred temporarily from a farm for one or more years (and the transfer remains in effect) and the farm is subsequently combined with another farm that is otherwise eligible to receive allotment by transfer, such earlier temporary transfer from the parent farm shall be disregarded for the purpose of applying this provision.

* * * * *

(Secs. 344, 347, 375, 63 Stat. 670, as amended, 675, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1344, 1347, 1375)

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

Signed at Washington, D.C., on May 1, 1972.

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

[FR Doc.72-6944 Filed 5-5-72;8:48 am]

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

[Navel Orange Reg. 266, 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.* The provisions in paragraph (b)(1)(i) and (ii) of § 907.566 (Navel Orange Regulation 266, 37 F.R. 8435) during the period April 28, through May 4, 1972, are hereby fixed as follows:

§ 907.566 Navel Orange Regulation 266.

* * * * *

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

(i) District 1: 1,008,000 cartons;

(ii) District 2: 192,000 cartons.

* * * * *

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

Dated: May 3, 1972.

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

[FR Doc.72-6972 Filed 5-5-72;8:52 am]

[Lemon Reg. 532]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.832 Lemon Regulation 532.

(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 impractical 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 provision hereof effective as hereinafter set forth. The commitee 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 informaton 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 May 2, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period May 7, 1972, through May 13, 1972, is hereby fixed at 260,000 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: May 3, 1972.

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

[FR Doc.72–7018 Filed 5–5–72;8:53 am]

[Plum Reg. 8]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Regulation by Grades and Sizes

Findings. (1) Pursuant to the amended marketing agreement, and Order No. 917, as amended (7 CFR Part 917, 36 F.R. 7510, 15381), regulating the handling of fresh pears, plums, and peaches grown in the State 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 of the Plum Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of plums, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The recommendation by the Plum Commodity Committee reflect its appraisal of the California plum crop and the current and prospective market conditions. Shipments of earlier varieties of California plums are expected to begin on or about May 7, 1972. The regulation would terminate the existing grade regulation (effective June 1, 1971, through May 31, 1972). It provides an additional 10 percent tolerance for defects not considered serious for two varieties, and exempts seven more varieties than were included under the regulation being terminated from restriction due to healed stem and cracks. The size regulation would include 41 named varieties, one more than the previous regulation. The grade and size requirements provided herein are necessary to prevent the handling, on and after May 7, 1972, through June 5, 1972, of any California plums of a lower grade or smaller size than specified herein for such plums, so as to provide consumers with good quality fruit consistent with (1) the overall quality of the crop, and (2) maximizing returns to the producers pursuant to the declared policy of the act.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than May 7, 1972. A reasonable determination as to the supply of, and the demand for, such plums, which are currently regulated pursuant to Plum Regulation 7 (36 F.R. 9495) must await the development of the crop thereof, and adequate information thereon was not available to the Plum Commodity Committee until April 26, 1972, on which date an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such plums. 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 was promptly submitted to the Department on April 27, 1972; shipments of the current crop of such plums are expected to begin on or about the effective date hereof; this regulation should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this regulation are identical with the aforesaid recommendation of the committee, information concerning such provisions and effective time has been disseminated among handlers of such plums; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

§ 917.427 Plum Regulation 8.

(a) Order: Plum Regulation 7 (36 F.R. 9495) is hereby terminated as of the effective date hereof.

(b) During the period May 7, 1972, through June 5, 1972, no handler shall ship any lot of packages or containers of any plums, other than the varieties named in paragraph (c) of this section, unless such plums grade at least U.S. No. 1.

(c) During the period May 7, 1972, through June 5, 1972, no handler shall ship:

(1) Any lot of packages or containers of Tragedy or Kelsey plums unless such plums grade at least U.S. No. 1, with a total tolerance of 10 percent of defects not considered serious damage in addition to the tolerances permitted by such grade; or

(2) Any lot of packages or containers of Angelino, Andy's Pride, Bee Gee, Casselman, Empress, Fresno Rosa, Grand Rosa, Improved Late, Santa Rosa, Late Santa Rosa, Linda Rosa, Red Rosa, Rosa Grande, Roysum, and Swall Rosa plums unless such plums grade at least U.S. No. 1, except that healed cracks emanating from the stem end which do not cause serious damage shall not be considered as a grade defect with respect to such grade; or

(3) Any lot of packages or other containers of Late Tragedy plums unless such plums grade at least U.S. No. 1, except that gum spots which do not cause serious damage shall not be considered as a grade defect with respect to such grade.

(d) During the period May 7, 1972, through June 5, 1972, no handler shall ship any package or other container of any variety of plums listed in column A of the following table I unless such plums are of a size that an 8-pound sample, representative of the sizes of the plums in the package or container, contains not more than the number of plums listed for the variety in column B of said table.

TABLE I

Column A—Variety	Column B—Plums-per-sample
Ace	55
Amazon	64
Andy's Pride	69
Angelino	65
Beauty	91
Bee Gee	65
Burmosa	58
Casselman	63
Duarte	62
El Dorado	68
Elephant Heart	53
Emily	59
Empress	57
Friar	56
Frontier	61
Grand Rosa	54
July Santa Rosa	64
Kelsey	47
Laroda	56
Late Duarte	60
Late Santa Rose (including Improved Late Santa Rosa and Swall Rosa)	64
Late Tragedy	93
Linda Rosa	63
Mariposa	61
Nubiana	56
Premier	102
President	57
Queen Ann	48
Red Beaut	91
Red Rosa	64
Red Roy	58
Rosa Grande	63
Santa Rosa	69
Sim-ka, Arrosa, New Yorker	48
Standard	83
Tragedy	111
Wickson	51

(d) When used herein, "U.S. No. 1" and "serious damage" shall have the same meaning as set forth in the U.S. Standards for Fresh Plums and Prunes (§§ 51.1520–1538 of this title); and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

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

Dated: May 3, 1972.

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

[FR Doc.72-6943 Filed 5-5-72;8:48 am]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

[AL-92(427)]

PART 1890t—TIMESAVING AND PROGRAM IMPROVEMENT

On Wednesday, December 8, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 23306) to amend 7 CFR Part 1807 to permit the agency to administer loan closing with the greatest efficiency possible. Interested persons were afforded the opportunity to participate in the rule making through the submission of comments. A number of comments were received and due consideration has been given to all material presented. In light of the comments and subsequent review, the regulations are being published as Part 1890t of Subchapter G and a number of revisions and editorial changes have been made principally with respect to the use of designated attorneys and title insurance companies for loan closing. The comments resulted in changes with respect to (1) the fidelity bond for the designated attorney which has been reduced from $50,000 to $10,000, (2) the requirement of errors and omissions liability insurance for title insurance companies which has been omitted, (3) the Farmers Home Administration providing a bond form for use by the designated attorney for his use in obtaining the required bond, and (4) the method of closing real estate loans in those counties in which few such loans are closed.

In accordance with the above, the regulations as amended will appear as Part 1890t of Subchapter G, Miscellaneous Regulations, Timesaving and Program Improvement, and are hereby adopted effective on the date of their publication in the FEDERAL REGISTER (5–6–72).

Sec.
1890t.1 Purpose.
1890t.2 Procedure for implementation by May 31, 1972.

AUTHORITY: The provisions of this Part 1890t issued under sec. 339, 75 Stat. 318, 7 U.S.C. 1989; sec. 510, 63 Stat. 437, 42 U.S.C. 1480; sec. 4, 64 Stat. 100, 40 U.S.C. 442; sec. 301, 80 Stat. 379, 5 U.S.C. 301; Order of Acting Secretary of Agriculture, 36 F.R. 21529; Order of Assistant Secretary of Agriculture for Rural Development and Conservation, 36 F.R. 21529.

§ 1890t.1 Purpose.

This part modifies Part 1803, Part 1807, Part 1890s, and prescribes the policy and procedures for closing real estate loans, including loans secured by leasehold but not Government-acquired property. An important goal of this Administration is to implement policies and procedures which will permit the agency to administer all programs with the greatest efficiency possible. This means that the Farmers Home Administration (FHA) must continuously review its policies and procedures to determine ways in which it can improve the quality and efficiency of our operations at all levels.

§ 1890t.2 Procedure for implementation by May 31, 1972.

(a) *Use of designated attorneys and title insurance companies for loan closing.* (1) Each State Director will authorize designated attorneys or approved title insurance companies to close real estate loans including loans secured by leasehold but not Government-acquired property and transfers specified in § 1807.1 of this chapter (such loans and transfers being hereinafter referred to as "loans" or "loan closings") and will give them responsibility for disbursing loan funds including any funds of a private investor in the insured note involved and directions for disbursing any funds the borrower is required to furnish in connection with the loan, provided:

(i) The designated attorney has liability insurance for errors and omissions in the amount of at least $100,000 and has a fidelity type bond of at least $10,000. If other associates or secretarial staff members have access to the funds in the escrow account, each such individual must have a fidelity bond to cover any fraudulent or dishonest act.

(ii) A title insurance company must, in addition to the requirement set forth in § 1807.1 of this chapter provide to the FHA evidence of its financial condition, including appropriate balance sheets and profit and loss statements, to enable the FHA to determine that it is in a financial position to cover any probable loss. Also, the title insurance company must furnish evidence that it has fidelity coverage of at least $50,000 on each individual who will have access to the loan funds for closing FHA loans. Where State law imposes other requirements giving FHA at least equivalent protection in the opinion of the State Director with the concurrence of the Office of the General Counsel (OGC), the State Director is authorized to approve title insurance companies on the basis of State law.

(iii) Form FHA 427–18, "Fidelity Bond for Loan Closing Attorneys," will be furnished to the designated attorney for his use in obtaining the required bond. However, if the Escrow Agent already has a fidelity type bond, the County Supervisor should review a copy of it to make sure it is comparable to the provisions of Form FHA 427–18. If the County Supervisor is unable to determine whether that bond meets FHA requirements he should refer it to the State Office for advice.

(iv) The designated attorney or title insurance company makes application on Form FHA 427–14, "Agreement to Provide Loan Closing Services," properly completed and executed, to take the responsibility for loan closings and the disbursement of such funds and the application is given written approval by the State Director.

(v) The State Director will approve the application by endorsing his approval on a conformed copy of the application and will notify the designated attorney or title insurance company of his approval by returning the approved copy. Such an attorney or company so approved may be referred to hereinafter as the "Escrow Agent."

(2) If an acceptable Escrow Agent is not available or if there is a low volume of real estate loans and the Escrow Agent's cost would be relatively high for each case because of the cost of the bonds, loans in that county will be closed in accordance with Part 1807 of this chapter in the usual manner. In a county where complicated problems will be encountered by the Escrow Agent disbursing the total funds, the State Director may authorize the County Supervisor to use the supervised bank account and send to the Escrow Agent only the funds required to be disbursed at loan closing. In any county where Escrow Agents are not being used, or where the Escrow Agent will disburse only a portion of the funds, summary statements of the reasons will be forwarded by the State Director to the National Office.

(3) Each State Director will prepare State requirements as necessary to implement loan closings under this Part 1890t. The State requirement will prescribe which originals and how many copies of specified forms must be executed or conformed and which originals and/or copies must be returned to the County Office after completion of the loan closing and any other essential information that is not contained in Part 1807 of this chapter, including the requirements of paragraph (a) of this section.

(4) Form FHA 427–15, "Loan Closing Instructions," will be used by the County Supervisor to transmit the necessary forms, documents and instructions to the Escrow Agent.

(5) For any loan closing for which an Escrow Agent will be responsible no FHA personnel will be present unless authorized by the State Director on an individual case basis.

(6) Each State Director will see that all designated attorneys and approved title insurance companies are fully informed of what their responsibilities are expected to be if they apply for and receive approval as Escrow Agents under this Part 1890t, and that they are given an opportunity to make application on Form FHA 427–14 for such approval. Designated attorneys and title insurance companies which do not apply within a reasonable time or are not approved will be removed from the lists of designated attorneys and approved title insurance companies except in cases covered by subparagraph (2) of this paragraph.

(b) *County Supervisor's responsibilities in loan closing.* The County Supervisor will:

(1) See that the requirements for property insurance set forth in Part 1806 of this chapter are complied with, including a receipt for payment of 1 year's insurance, and see that the applicant's income and debts have not increased substantially since the loan docket was developed. This will be done before the loan-closing instructions are issued and by use of Form FHA 427–16, "Notification of Loan Closing." If the applicant's income or debts have changed substantially, or if more than 90 days have passed since the loan was approved, the applicant will be required to contact the County Supervisor immediately for a review of his situation.

(2) Furnish to the Escrow Agent the check made payable to the borrower and all forms, documents, and instructions necessary for closing the loan.

(3) Require the Escrow Agent to furnish FHA with a receipt on Form FHA 427–17, "Loan Closing Statement," showing how the loan funds were disbursed.

(4) Review the material sent to him by the Escrow Agent to see that the loan was properly closed and that all funds were disbursed as instructed.

(c) *Escrow Agent's responsibilities in loan closing.* The Escrow Agent will:

(1) Apply for approval and agree to close loans and disburse funds by submitting to the State Director an executed completed original and one copy of Form FHA 427–14.

(2) Agree to furnish legal services, close loans, and disburse funds in accordance with Part 1807 of this chapter and other instructions to be received from the County Supervisor or other FHA official.

(3) Disburse loan funds and any funds furnished by the borrower as required in accordance with loan closing conditions. Loan checks received by the Escrow Agent will be endorsed by the loan applicant or his bonded agent and deposited by the Escrow Agent in an escrow account on the day of the loan closing and disbursed in accordance with Part 1807 of this chapter and other instructions received from FHA. The loan check will not be endorsed or deposited in the escrow account until the Escrow Agent has determined that the loan can be closed. Funds will not be disbursed from the escrow account until the mortgage is filed for record. Any balance of funds to be used to complete planned development will be deposited in a supervised bank account (which is a bank account on which checks must be signed by the borrower and countersigned by authorized personnel) by the Escrow Agent after obtaining the borrower's signature on Form FHA 402–1, "Deposit Agreement," that has been completed by the County Supervisor and submitted with instructions to the Escrow Agent. The check used for withdrawing the funds from the escrow account will be made payable to the borrower and endorsed by him or his bonded agent in the following manner—"For deposit only in my countersignature bank account in the (name of bank and address when necessary for identification) pursuant to Deposit Agreement with the Bank and the United States dated _____."

(d) *Discontinuance of having OGC issue closing instructions.* It has been determined that it is not more reasonable or practical to have OGC issue closing instructions in order to avoid having designated attorneys and/or title insurance companies close or assist in closing loans. Therefore, for any State where closing instructions are being routinely issued by OGC for all loans of the types specified in § 1807.1 of this chapter, the State Director will approve a sufficient number of designated attorneys and/or title insurance companies to make OGC issuance of such closing instructions unnecessary, and will discontinue using OGC for this purpose except when unusual circumstances of any individual case call for it. If the State Director cannot find a sufficient number of qualified available attorneys and/or title insurance companies to obviate the need for closing instructions being issued by OGC routinely, he will report the facts to the National Office.

(e) *Issuance of State requirements.* A State requirement will be prepared as necessary to implement the loan closing, disbursement of funds, and the furnishing and completion of forms. Also, if any form required for loan closing is not legally satisfactory for use in a particular State, a State form with the same name and number as the FHA form will be developed and used.

Dated: May 1, 1972.

JAMES V. SMITH,
Administrator,
Farmers Home Administration.

[FR Doc.72–6979 Filed 5–5–72;8:51 am]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 30—RULES OF GENERAL APPLICABILITY TO LICENSING OF BYPRODUCT MATERIAL

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

Reporting and Control Requirements for Tritium

On August 24, 1971, the Atomic Energy Commission published for comment in the FEDERAL REGISTER (36 F.R. 16593) proposed amendments of its regulations in 10 CFR Part 30, "Rules of General Applicability to Licensing of Byproduct Material" and 10 CFR Part 150, "Exemptions and Continued Regulatory Authority in Agreement States Under Section 274," which would prescribe new reporting and control requirements for tritium in the possession of Commission and Agreement State licensees. These procedures and reports provide, within reasonable limits and on a current basis, information needed by the Commission in the interest of the common defense and security of the United States as to the flow of tritium into, out of, and within the country, and inventory quantities at various locations.

All interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendments within 60 days after publication of the notice of proposed rule making in the FEDERAL REGISTER. After careful consideration of the comments received, and other factors involved, the Commission has adopted the amendments set forth below.

The only difference from the amendments published for comment is the inclusion of an exemption from certain of the control and reporting requirements with respect to tritium imported in devices that are authorized by the Commission to be transferred as license-exempt devices.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments of Title 10, Chapter 1, Code of Federal Regulations, Parts 30 and 150, are published as a document subject to codification, to be effective thirty (30) days after publication in the FEDERAL REGISTER.

1. The undesignated center head preceding § 30.51 of 10 CFR Part 30 is amended to read as follows:

RECORDS, INSPECTIONS, TESTS, PROCEDURES, AND REPORTS

2. New §§ 30.54 and 30.55 are added to 10 CFR Part 30 to read as follows:

§ 30.54 Control and accounting procedures for tritium.

(a) Except as specified in paragraph (b) of this section, each licensee who is authorized to possess at any one time and location more than 10,000 curies of tritium shall establish and maintain written material control and accounting procedures that are sufficient to enable the licensee to account for the tritium in his possession under specific license.

(b) Written material control and accounting procedures are not required for (1) tritium produced or possessed within a production or utilization facility incidental to the operation of the facility; (2) tritium contained in spent fuel, other than tritium intentionally produced in or recovered from a production or utilization facility for any subsequent use; (3) tritium contained in devices imported by persons licensed to transfer such devices to persons exempt from licensing pursuant to § 30.15; and (4) tritium contained in self-luminous devices imported by persons licensed to transfer such devices to persons exempt from licensing pursuant to § 30.19.

§ 30.55 Tritium reports.

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

(b) Except as specified in paragraphs (d) and (e) of this section, each licensee who is authorized to possess at any one time and location more than 10,000 curies of tritium shall submit to the Commission within thirty (30) days after June 5, 1972,[1] and within thirty (30) days after June 30 and December 31 of each year thereafter, a statement of his tritium inventory to the nearest hundredth of a gram calculated at 10,000 curies per gram. The reports shall be submitted to the U.S. Atomic Energy Commission, Post Office Box E, Oak Ridge, TN 37830, and shall include the Reporting Identification Symbol (RIS) assigned by the Commission to the licensee.

(c) Except as specified in paragraph (d) of this section, each licensee who is authorized to possess, import or export tritium shall report promptly to the Director, Division of Nuclear Materials Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545, by telephone, telegram, or teletype any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 10 curies of such material at any one time or more than 100 curies of such material in any 1 calendar year. The initial report shall be followed within a period of fifteen (15) days by a written report submitted to the Director, Division of Nuclear Materials Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545, which sets forth the details of the incident and its consequences. Subsequent to the submission of the written report required by this paragraph, the licensee shall promptly inform the Division of Nuclear Materials Safeguards by means of a written report of any substantive additional information, which becomes available to the licensee, concerning an attempted or apparent theft or unlawful diversion of tritium.

(d) The reports described in this section are not required for tritium possessed pursuant to a general license provided in Part 31 of this chapter or for tritium contained in spent fuel.

(e) The reports described in paragraph (b) of this section are not required for (1) tritium produced or possessed within a production or utilization facility incidental to the operation of the facility, other than tritium intentionally produced by or recovered from a production or utilization facility for any subsequent use; (2) tritium contained in devices imported by persons licensed to transfer such devices to persons exempt from licensing pursuant to § 30.15; or (3) tritium contained in self-luminous devices imported by persons licensed to transfer such devices to persons exempt from licensing pursuant to § 30.19.

(Secs. 81, 82, 161, 68 Stat. 935, 948; 42 U.S.C. 2111, 2112, 2201)

3. Section 150.10 of 10 CFR Part 150 is amended to read as follows:

§ 150.10 Persons exempt.

Except as provided in §§ 150.15, 150.16, 150.17, 150.18, and 150.19, any person in an Agreement State who manufactures, produces, receives, possesses, uses, or transfers byproduct material, source material, or special nuclear material in quantities not sufficient to form a critical mass is exempt from the requirements for a license contained in Chapters 6, 7, and 8 of the Act, regulations of the Commission imposing licensing requirements upon persons who manufacture, produce, receive, possess, use, or transfer such materials, and from regulations of the Commission applicable to licensees. The exemptions in this section do not apply to agencies of the Federal government as defined in § 150.3.

4. New §§ 150.18 and 150.19 are added to 10 CFR Part 150 to read as follows:

§ 150.18 Control and accounting procedures for tritium.

(a) Except as specified in parargaph (b) of this section, each person who, pursuant to an Agreement State license, is authorized to possess at any one time and location more than 10,000 curies of tritium shall establish and maintain written material control and accounting procedures which are sufficient to enable such person to account for the tritium in his possession under specific license.

(b) Written material control and accounting procedures are not required for tritium contained in spent fuel.

§ 150.19 Submission to Commission of tritium reports.

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

(b) Except as specified in paragraph (d) of this section, each person who, pursuant to an Agreement State license, is authorized to possess at any one time and location more than 10,000 curies of tritium shall submit to the Commission within thirty (30) days after June 5, 1972,[1] and within thirty (30) days after June 30 and December 31 of each year thereafter, a statement of his tritium inventory to the nearest hundredth of a gram calculated at 10,000 curies per gram. The reports shall be submitted to the U.S. Atomic Energy Commission, Post Office Box E, Oak Ridge, TN 37830, and shall include the Reporting Identification Symbol (RIS) assigned by the Commission to such person.

(c) Except as specified in paragraph (d) of this section, each person who, pursuant to an Agreement State license, is authorized to possess tritium shall report promptly to the Director, Division of Nuclear Materials Safeguards, by telephone, telegram, or teletype any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 10 curies of such material at any one time or 100 curies of such material in any 1 calendar year. The initial report shall be followed within a period of fifteen (15) days by a written report submitted to the Director, Division of Nu-

[1] Effective date of this amendment.

clear Materials Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545, which sets forth the details of the incident and its consequences. Subsequent to the submission of the written report required by this paragraph, each person subject to the provisions of this paragraph shall promptly inform the Division of Nuclear Materials Safeguards by means of a written report of any substantive additional information, which becomes available to such person, concerning an attempted or apparent theft or unlawful diversion of tritium.

(d) The reports described in this section are not required for tritium possessed pursuant to a general license issued pursuant to regulations of an Agreement State equivalent to Part 31 of this chapter or for tritium in spent fuel.

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

Dated at Germantown, Md., this 1st day of May 1972.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc.72-6954 Filed 5-5-72;8:50 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration; Department of Transportation

[Docket No. 11904, Amdt. 808]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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

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

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

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

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

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective June 1, 1972.

Colusa, Calif.—Colusa County Airport; VOR-1, Amdt. 2; Canceled.
Colusa, Calif.—Colusa County Airport; VOR-A, Original; Established.
Dallas, Tex.—Addison Airport; VOR-A, Amdt. 2; Revised.
Dublin, Va.—New River Valley Airport; VOR-A, Amdt. 5; Revised.
Dublin, Va.—New River Valley Airport; VOR/DME Runway 5, Amdt. 3; Revised.
Everett, Wash.—Snohomish County (Paine Field); VOR Runway 34, Original; Established.
Green Bay, Wis.—Austin-Straubel Field; VOR/DME Runway 36, Amdt. 2; Revised.
North Little Rock, Ark.—North Little Rock Municipal Airport; VOR/DME Runway 35, Amdt. 1; Revised.
Willoughby, Ohio—Lost Nation Airport; VOR Runway 5, Original; Established.
Willoughby, Ohio—Lost Nation Airport; VOR Runway 23, Original; Established.
Willoughby, Ohio—Lost Nation Airport; VOR Runway 27, Original; Established.

2. Section 97.25 is amended by establishing, revising, or canceling the following SDF-LOC-LDA SIAP's, effective June 1, 1972.

Dublin, Va.—New River Valley Airport; LOC Runway 5, Amdt. 1; Revised.
International Falls, Minn.—Falls International Airport; LOC/DME (BC) Runway 13, Original; Established.
Martinsburg, W. Va.—Martinsburg Municipal Airport; LOC(BC) Runway 26, Original; Established.

3. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective June 1, 1972.

Denver, Colo.—Arapahoe County Airport; NDB Runway 10, Amdt. 1; Revised.
Medina, Ohio—Freedom Field; NDB Runway 27, Amdt. 2; Revised.
Milwaukee, Wis.—General Mitchell Field; NDB Runway 1L, Amdt. 27; Revised.
Milwaukee, Wis.—General Mitchell Field; NDB Runway 7R, Amdt. 4; Revised.
Milwaukee, Wis.—General Mitchell Field; NDB Runway 19R, Amdt. 4; Revised.
Portsmouth, Va.—Chesapeake Portsmouth Airport; NDB Runway 2, Amdt. 1; Revised.
West Yellowstone, Mont.—Yellowstone Airport; NDB-A, Amdt. 1; Revised.

4. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective June 1, 1972.

Denver, Colo.—Stapleton International Airport; ILS Runway 35, Amdt. 13; Revised.
Milwaukee, Wis.—General Mitchell Field; ILS Runway 1L, Amdt. 30; Revised.
Milwaukee, Wis.—General Mitchell Field; ILS Runway 7R, Amdt. 6; Revised.

5. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAP's, effective June 1, 1972.

Denver, Colo.—Arapahoe County Airport; Radar-1, Amdt. 3; Revised.
Denver, Colo.—Stapleton International Airport; Radar-1, Amdt. 9; Revised.
Fort Wayne, Ind.—Fort Wayne Municipal (Baer Field); Radar-1, Amdt. 8; Revised.
Great Falls, Mont.—Great Falls International Airport; Radar-1, Amdt. 3; Revised.
Portsmouth, Va.—Chesapeake Portsmouth Airport; Radar-1, Amdt. 1; Revised.

6. Section 97.33 is amended by establishing, revising, or canceling the following RNAV SIAP's, effective June 1, 1972.

Leesburg, Va.—Leesburg Municipal/Godfrey Field; RNAV Runway 17, Amdt. 2; Revised.
Manassas, Va.—Manassas Municipal/Harry P. Davis Field; RNAV Runway 16, Amdt. 1; Revised.
Washington, D.C.—Dulles International Airport; RNAV Runway 12, Amdt. 1; Revised.

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

Issued in Washington, D.C. on April 27, 1972.

William G. Shreve, Jr.,
Acting Director,
Flight Standards Service.

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

[FR Doc.72-6852 Filed 5-5-72;8:45 am]

[Docket No. 72-CE-13-AD, Amdt. 39-1445]

PART 39—AIRWORTHINESS DIRECTIVES

Beech 99 Series Airplanes

Amendment 39-1368 (AD 72-1-6) published in the Federal Register on January 5, 1972, is an Airworthiness Directive which required a one time inspection, parts replacement as necessary, lubrication and rerigging of the landing gear retraction system on Beech 99 series airplanes to reduce the probability of landing gear retraction system malfunctions. Subsequent to the issuance of AD 72-1-6 additional cases of landing gear accidents or incidents have occurred in these series airplanes, one of which involved an airplane with a serial number outside the block specified in the AD and two of which may have involved integrity of mounting of actuators. To prevent these continued occurrences the FAA has decided to supersede AD 72-1-6 with a new AD requiring on all Beech 99 series airplanes repetitive inspections of the landing gear system and specifying fixed overhaul times for certain landing gear components. In addition, the AD will refer to the manufacturer's revised Beech 99 Airliner Shop Manual which provides more comprehensive instructions for maintaining the landing gear

system. Finally, this AD will delete the requirement for reporting defects, because reports submitted in connection with AD 72-1-6 have not provided any additional significant information.

Since this amendment in part provides for clarification, is to some extent relaxatory and is in the interest of safety, notice and public procedure hereon are impracticable and good cause exists for making the amendment effective in less than thirty (30) days.

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

BEECH. Applies to 99 series airplanes (Serial No. U-1 and up).

Compliance: To reduce probability of landing gear retraction/extension system malfunction, accomplish A, B, C, and E below within the next 50 hours' time in service after the effective date of this AD unless already accomplished within the intervals listed below and thereafter at the intervals as specified below:

(A) At intervals not exceeding 100 hours' time in service inspect forward and rear nose gear chains for wear and tension and lubricate the chains.

(B) At intervals not exceeding 2,500 landings, inspect each landing gear actuator for jackscrew end play and integrity of mounting.

(C) At intervals not exceeding 1,000 hours' time in service, lubricate each landing gear actuator.

(D) If an unairworthy condition is found during action outlined above, replace or repair components as necessary to correct the condition, prior to further flight, except that the aircraft may be flown in accordance with FAR 21.197 to a base where the repair or replacement can be made.

(E) Replace or overhaul main and nose landing gear actuators at intervals not exceeding 5,000 landings.

(F) Action prescribed above must be accomplished in accordance with the Beech 99 Airliner Shop Manual (Part No. 99-590015B revised March 1972, or any later revision) or by any FAA-approved equivalent method. Upon request of an operator, an FAA Maintenance Inspector, subject to approval of the Chief, Engineering and Manufacturing Branch, FAA, Central Region, may adjust inspection and replacement intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

This AD supersedes AD 72-1-6.

This amendment becomes effective May 12, 1972.

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

Issued in Kansas City, Mo., on April 28, 1972.

CHESTER W. WELLS,
Acting Director, Central Region.

[FR Doc.72-6918 Filed 5-5-72;8:47 am]

[Airspace Docket No. 72-SW-25]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Galveston, Tex., control zone by changing it from a full-time to a part-time control zone.

On April 11, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 7165) stating the Federal Aviation Administration proposed to alter the Galveston control zone.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable; however, it was pointed out that the name of the Galveston VORTAC had been changed to Scholes VORTAC.

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.

In § 71.171 (37 F.R. 2056), the Galveston, Tex., control zone is amended by deleting "Galveston VOR" and substituting "Scholes VORTAC," therefor and by adding "This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual."

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

Issued in Fort Worth, Tex., on April 28, 1972.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.72-6919 Filed 5-5-72;8:47 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 423—CARE LABELING OF TEXTILE WEARING APPAREL

Delegation of Authority To Act Upon Requests for Exemptions; Correction

In F.R. Doc. 72-5190 appearing at page 6835 of the issue for Wednesday, April 5, 1972, paragraph (b) of § 423.2 is hereby corrected to read as follows:

§ 423.2 Exemptions.

* * * * *

(b) *Procedure.* (1) The Director of the Bureau of Consumer Protection will, by letter to the applicant, grant or deny each request for exemption, with a brief statement of the reason for any denial. The letter will be placed upon the public record. Within five (5) days after the letter is placed upon the public record, the applicant or any person who would be adversely affected by the Director's decision may file with the Secretary a request for review and reversal thereof by the Commission. The Commission, in its discretion, may grant or deny the request for review and will by letter notify the applicant and any such affected person of its decision, with a brief statement of its reasons therefor, and will place the letter upon the public record.

(2) If no timely request for review is filed and if the Commission, on its own motion, does not place the Director's decision upon its docket for review, the Director's decision shall become the action of the Commission ten (10) days after the Director's letter to the applicant was placed upon the public record.

(3) If the Commission determines on its own motion to review the Director's decision, it may affirm or set aside such decision and grant or deny the applicant's request for an exemption. By letter, the Commission will notify the applicant and any affected party who filed a timely request for review of its decision, together with a brief statement of its reasons therefor, and will place said letter upon the public record.

By direction of the Commission dated March 14, 1972.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.72-7024 Filed 5-5-72;8:53 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 72-123]

PART 1—GENERAL PROVISIONS

Port of Entry; Vicksburg, Miss.

On April 7, 1972, notice of a proposal to designate Vicksburg, Miss., as a port of entry in the New Orleans, La., Customs district (Region V), was published in the FEDERAL REGISTER (37 F.R. 7003). No comments were received regarding this proposed designation.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), which was delegated to the Secretary of the Treasury by the President by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. 11), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 7 (34 F.R. 15846), Vicksburg, Miss., is hereby designated a port of entry in the New Orleans, La., district (Region V), effective as of May 1, 1972.

The geographical limits of the port of Vicksburg shall include all of Warren County, Miss., and Madison Parish, La.

To reflect this change, the table in § 1.2(c) of the Customs Regulations is amended by inserting in the column headed "Ports of Entry" in the New Orleans, La., district (Region V), "Vicksburg, Miss. (including territory described in T.D. 72–123)," directly below Greenville, Miss.

(80 Stat. 379, sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended, R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 1, 2, 66, 1624)

It is desirable to make the Customs port of entry available to the public as soon as possible. Therefore, good cause is found for dispensing with the delayed effective date provision of 5 U.S.C. 553(d).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

APRIL 28, 1972.

[FR Doc.72-6978 Filed 5-5-72;8:51 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

SUBCHAPTER C—DRUGS

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

Nequinate, Oxytetracycline

The Commissioner of Food and Drugs has evaluated a new animal drug application (48–205V) filed by Ayerst Laboratories, Division of American Home Products Corp., 685 Third Avenue, New York, N.Y. 10017, proposing the safe and effective use of nequinate in combination with oxytetracycline for specified conditions in chickens. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), in accordance with § 3.517 (21 CFR 3.517), and under authority delegated to the Commissioner (21 CFR 2.120), Parts 121 and 135e are amended as follows:

1. Section 121.251 is amended in Table 1 in paragraph (d) by adding a new item 13 as follows:

§ 121.251 Oxytetracycline.

* * * * * *

(d) * * *

TABLE 1.—OXYTETRACYCLINE IN COMPLETE CHICKEN AND TURKEY FEED

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
* * *	* * *	* * *	* * *	* * *	* * *
13. Oxytetracycline.	200	Nequinate..	18.16 (0.002%)	For broiler or fryer chickens only; as the monoalkyl (C_8–C_{18}) trimethyl ammonium salt of oxytetracycline as provided by code No. 030 in § 135.501(c) of this chapter.	As an aid in the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima, E. brunet* and *E. mivati*. For control of complicated chronic respiratory disease (air-sac infections), infectious synovitis, and treatment of blue comb (non specific infectious enteritis).

2. Part 135e is amended in § 135e.57 by adding a new subitem a.1 under item 2 in the table in paragraph (f) as follows:

§ 135e.57 Nequinate.

* * * * * * *

(f) * * *

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
* * *	* * *	* * *	* * *	* * *	* * *
2. * * *					
a. 1		Oxytetracycline.	200	For broiler or fryer chickens only; as the monoalkyl (C_8–C_{18}) trimethyl ammonium salt of oxytetracycline as provided by code No. 030 in § 135.501(c) of this chapter.	For control of complicated chronic respiratory disease (air-sac infection) infectious synovitis, and treatment of blue comb (nonspecific infectious enteritis).

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (5–6–72).

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

Dated: April 25, 1972.

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

[FR Doc.72-6844 Filed 5-5-72;8:46 am]

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

Poloxalene Liquid Premix

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (38–281V) filed by Smith Kline & French Laboratories, 1500 Spring Garden Street, Philadelphia, Pa. 19101, proposing the safe and effective use of poloxalene liquid premix in the manufacture of liquid cattle feed supplement intended for use for the prevention of legume bloat in cattle. The supplemental application is approved.

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

§ 135e.60 Poloxalene liquid feed supplement.

(a) *Specifications.* Poloxalene liquid feed supplement contains poloxalene meeting the specifications given in § 135c.23 of this chapter.

(b) *Approvals.* Premix level 99.5 percent granted to firm No. 034 as listed in § 135.501(c) of this chapter.

(c) *Assay limits.* Medicated liquid feed supplement must contain not less than 85 percent nor more than 115 percent of labeled amount of poloxalene.

(d) *Conditions of use.* (1) For prevention of legume (alfalfa, clover) bloat in cattle.

(2) Poloxalene liquid premix must be thoroughly blended and evenly distributed into a liquid feed supplement and offered to cattle in a covered liquid feed supplement feeder with lick wheels. The formula for the liquid feed supplement, on a weight/weight basis, is as follows: Ammonium polyphosphate 2.660 percent, phosphoric acid (75 percent) 3.370 percent, sulfuric acid 1.000 percent, water 10.000 percent, and molasses sufficient to make 100.000 percent, vitamins A&D and/or trace minerals may be added. Poloxalene liquid premix (99.5 percent) is to be added to the liquid feed supplement at a level of 7.5 grams (1.65 percent w/w) per pound of the liquid feed supplement. One free-turning lick wheel per 25 head of cattle must be provided and each animal must consume the medicated liquid feed supplement at the rate of 0.2 pound per 100 pounds of body weight per day for adequate protection. The medicated liquid feed supplement must be introduced at least 2–5 days be-

fore legume consumption to accustom the cattle to the medicated liquid feed supplement and to lick wheel feedings. If the medicated liquid feed supplement feeding is interrupted, this 2–5 day introductory feeding should be repeated.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (5–6–72).

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

Dated: April 25, 1972.

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

[FR Doc.72-6845 Filed 5-5-72;8:46 am]

Title 23—HIGHWAYS

Chapter II—Highway Safety Program Standards, Department of Transportation

PART 204—UNIFORM STANDARDS FOR STATE HIGHWAY SAFETY PROGRAMS

Pupil Transportation Safety

The purpose of this notice is to issue a new Highway Safety Program Standard, No. 17, on Pupil Transportation Safety. The initial national uniform standards for State highway safety programs were issued on June 27, 1967, pursuant to section 402(a) of title 23, United States Code. They were published as an amendment to the newly established Part 204 of title 23, Code of Federal Regulations, on November 14, 1968. Additional Highway Safety Program Standards were published on November 7, 1969. The purpose of this amendment is to add to Part 204 a Highway Safety Program Standard on Pupil Transportation Safety. Standard 17 is designed to improve State programs for transporting pupils safely in urban and rural areas by setting requirements for proper and safe equipment; maintenance of equipment; selection, training, and supervision of drivers and maintenance personnel; and administrative provisions in the field of pupil transportation.

The proposed standard has been distributed to States and other interested parties for comment. All comments and suggestions have been considered carefully, and the standard has been developed in cooperation with the States, their political subdivisions, appropriate Federal departments and agencies, and other interested groups and individuals. Recommendations of the National Highway Safety Advisory Committee, which are summarized below, also have been considered.

Comments from members of the transit industry related primarily to the inclusion of transit vehicles in the definition of a Type I school vehicle. Transit vehicles are included as Type I vehicles, and thereby subject to the identification and equipment requirements of paragraph IV.B of the Standard, except when their only carriage of schoolchildren is along with other passengers on regular transit routes. The transit buses are so included, because the hazards that make identification of large school vehicles important (such as frequent stops at nonstandard, noncontrolled locations) vary according to operational characteristics and not to vehicle ownership. In response to transit industry comments, however, NHTSA intends to review economic factors of transit involvement in pupil transportation, as well as alternative methods of identification of transit vehicles used to carry children exclusively to and from school. A Request for Comments has therefore been issued (published herein at page 9227 on the question of transit involvement in pupil transportation.

It is expected that States will begin immediately to implement the administrative, operational and maintenance requirements of the Standard by developing whatever programs are possible for the 1972–73 school year. Of particular importance are establishment of an administrative authority, development of schoolbus inspection procedures, and programs for proper selection and training of schoolbus drivers.

It is understood that since the schoolbus fleet represents an existing capital investment, the equipment and identification requirements may be less susceptible to immediate compliance. It is expected, however, that States will begin immediately to develop programs showing the long-range plans for achieving full compliance with these as with all other requirements within a reasonable period of time.

In consideration of the foregoing, 23 CFR 204.4 is hereby amended by adding Highway Safety Program Standard No. 17, "Pupil Transportation Safety," effective 30 days from the date of publication in the FEDERAL REGISTER.

This standard is issued under the authority of section 315, 401, and 402 of Title 23, United States Code, and the designation of authority at 49 CFR 1.51.

Issued on May 2, 1972.

DOUGLAS W. TOMS,
Administrator, National Highway Traffic Safety Administration.

HIGHWAY SAFETY PROGRAM STANDARD
No. 17

PUPIL TRANSPORTATION SAFETY

I. *Scope.* This standard establishes minimum requirements for a State highway safety program for pupil transportation safety; including the identification, operation, and maintenance of schoolbuses; training of personnel; and administration.

II. *Purpose.* The purpose of this standard is to reduce, to the greatest extent possible, the danger of death or injury to schoolchildren while they are being transported to and from school.

III. *Definitions.* "Type I school vehicle" means any motor vehicle with motive power, except a trailer, used to carry more than 16 pupils to and from school. This definition includes vehicles that are at any time used to carry schoolchildren and school personnel exclusively, and does not include vehicles that only carry schoolchildren along with other passengers as part of the operations of a common carrier.

"Type II school vehicle" means any motor vehicle used to carry 16 or less pupils to or from school. This does not include private motor vehicles used to carry members of the owner's household.

IV. *Requirements.* Each State, in cooperation with its school districts and its political subdivisions, shall have a comprehensive pupil transportation safety program to assure that school vehicles are operated and maintained so as to achieve the highest possible level of safety.

A. *Administration.* 1. There shall be a single State agency having primary administrative responsibility for pupil transportation, and employing at least one full-time professional to carry out its responsibilities for pupil transportation.

2. The responsible State agency shall develop an operating system for collecting and reporting information needed to improve the safety of school vehicle operations, in accordance with Safety Program Standard No. 10, "Traffic Records," § 204.4.

B. *Identification and equipment of school vehicles.* Each State shall establish and maintain compliance with the following requirements for identification and equipment of school vehicles. The use of stop arms is at the option of the State.

1. Type I school vehicles shall:

a. Be identified with the words, "School Bus," printed in letters not less than 8 inches high, located between the warning signal lamps as high as possible without impairing visibility of the lettering from both front and rear, and have no other lettering on the front or rear of the vehicle;

b. Be painted National School Bus Glossy Yellow, in accordance with the colorimetric specification of Federal Standard No. 595a, Color 13432, except that the hood shall be either that color or lusterless black, matching Federal Standard No. 595a, Color 37038;

c. Have bumpers of glossy black, matching Federal Standard No. 595a, Color 17038; unless, for increased night visibility, they are covered with a retroflective material.

d. Be equipped with a system of signal lamps that conforms to the schoolbus requirements of Federal Motor Vehicle Safety Standard 108, 49 CFR 571.21; and

e. Have a system of mirrors that will give the seated driver a view of the roadway to each side of the bus, and of the area immediately in front of the front bumper, in accordance with the following procedure:

When a rod, 30 inches long, is placed upright on the ground at any point along a traverse line 1 foot forward of the forwardmost point of a schoolbus, and extending the width of the bus, at least 7½ inches of the length of the rod shall be visible to the driver, either by direct view or by means of an indirect visibility system.

2. Any school vehicle meeting the identification requirements of 1.a–d above that is permanently converted for

use wholly for purposes other than transporting pupils to or from school shall be painted a color other than National School Bus Glossy Yellow, and shall have the stop arms, and equipment required by section IV.B.1.d, removed.

3. Type I school vehicles being operated on a public highway and transporting primarily passengers other than school pupils shall have the words, "School Bus," covered, removed, or otherwise concealed, and the stop arms and equipment required by section IV.B.1.d shall not be operable through the usual controls.

4. a. Type II school vehicles shall either:

(1) Comply with all the requirements for Type I school vehicles; or

(2) Be of a color other than National School Bus Glossy Yellow, have none of the equipment specified in IV.B.1.d, and not have the words, "School Bus," in any location on the exterior of the vehicle, or in any interior location visible to a motorist.

b. The State shall establish conditions under which one or the other of the above two specifications for Type II vehicles shall apply.

C. *Operation.* Each State shall establish and maintain compliance with the following requirements for operating school vehicles:

1. *Personnel.* a. Each State shall develop a plan for selecting, training, and supervising persons whose primary duties involve transporting school pupils, in order to assure that such persons will attain a high degree of competence in, and knowledge of, their duties.

b. Every person who drives a Type I or Type II school vehicle occupied by school pupils shall, as a minimum:

(1) Have a valid State driver's license to operate such a vehicle(s);

(2) Meet all special physical, mental, and moral requirements established by the State agency having primary responsibility for pupil transportation; and

(3) Be qualified as a driver under the Motor Carrier Safety Regulations of the Federal Highway Administration 49 CFR 391, if he or his employer is subject to those regulations.

2. *Pupil instruction.* At least twice during each school year, each pupil who is transported in a school vehicle shall be instructed in safe riding practices, and participate in emergency evacuation drills.

3. *Vehicle operation.* a. Each State shall develop plans for minimizing highway use hazards to school vehicle occupants, other highway users, pedestrians, and property, including but not limited to:

(1) Careful planning and annual review of routes for safety hazards;

(2) Planning routes to assure maximum use of buses, and avoid standees;

(3) Providing loading and unloading zones off the main traveled part of highways, wherever it is practicable to do so;

(4) Establishing restricted loading and unloading areas for schoolbuses at, or near schools;

(5) Requiring the driver of a vehicle meeting or overtaking a schoolbus that is stopped on a highway to take on or discharge pupils, and on which the red warning signals specified in IV.B.1.d are in operation, to stop his vehicle before it reaches the schoolbus and not proceed until the warning signals are deactivated; and

(6) Prohibiting, by legislation or regulation, operation of any vehicle displaying the words, "School Bus," unless it meets the equipment and identification requirements of this standard.

b. Use of flashing warning signal lamps while loading or unloading pupils shall be at the option of the State. Use of red warning signal lamps for any other purpose, and at any time other than when the school vehicle is stopped to load or discharge passengers shall be prohibited.

c. When vehicles are equipped with stop arms, such devices shall be operated only in conjunction with red signal lamps.

d. *Seating.* (1) Seating shall be provided that will permit each occupant to sit in a seat in a plan view lateral location, intended by the manufacturers to provide seating accommodation for a person at least as large as a 5th percentile adult female, as defined in 49 CFR 571.3.

(2) Bus routing and seating plans shall be coordinated so as to eliminate standees when a school vehicle is in motion.

(3) There shall be no auxiliary seating accommodations such as temporary or folding jump seats in school vehicles.

(4) Drivers of school vehicles equipped with lap belts shall be required to wear them whenever the vehicle is in motion.

(5) Passengers in Type II school vehicles equipped with lap belts shall be required to wear them whenever the vehicle is in motion.

D. *Vehicle maintenance.* Each State shall establish and maintain compliance with the following requirements for vehicle maintenance:

1. School vehicles shall be maintained in safe operating conditions through a systematic preventive maintenance program.

2. All school vehicles shall be inspected at least semiannually, in accordance with Highway Safety Program Manual Vol. 1, published by the Department of Transportation January 1969. School vehicles subject to the Motor Carrier Safety Regulations of the Federal Highway Administration shall be inspected and maintained in accordance with those regulations (49 CFR Parts 393 and 396).

3. School vehicle drivers shall be required to perform daily pretrip inspections of their vehicles, and to report promptly and in writing any defects or deficiencies discovered that may affect the safety of the vehicle's operation or result in its mechanical breakdown. Pretrip inspection and condition reports for school vehicles subject to the Motor Carrier Safety Regulations of the Federal Highway Administration shall be performed in accordance with those regulations (49 CFR 392.7, 392.8, and 396.7).

V. *Program evaluation.* The pupil transportation safety program shall be evaluated at least annually by the State agency having primary administrative responsibility for pupil transportation. The National Highway Traffic Safety Administration shall be furnished a summary of each evaluation.

SUMMARY OF COMMENTS AND RECOMMENDATIONS MADE BY THE NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE ON THE PUPIL TRANSPORTATION SAFETY STANDARD

As required by statute, the National Highway Safety Advisory Committee reviewed the draft Pupil Transportation Safety Standard and made comments and recommendations to the Secretary of Transportation in May and November 1970, summarized as follows:

1. The Committee recommended that the standard be issued initially to cover "pupil transportation safety" but that the standard should be expanded in the future to cover all youth transportation not under the jurisdiction of the Department of Transportation's Bureau of Motor Carrier Safety.

2. The Committee favored a "no standee" provision.

3. The Committee supported the uniform warning system for schoolbuses but recommended that warning systems (flashing lights) to control traffic should not be limited to larger buses (Type I vehicles).

4. To allow the use of highly reflective colors to ward off excessive solar radiation, the Committee recommended that schoolbus roofs be permitted to be some color other than schoolbus yellow. The Committee also recommended the deletion of the provision requiring bumpers to be painted "glossy black" to allow the use of rubber or other innovative bumper devices not susceptible to being painted.

5. Because of the inadequate and incompatible seat and body structure designs of schoolbuses, the Committee approved the omission of seat belts for passengers. The Committee also recommended that passengers in Type II vehicles be required to use belts only if so equipped.

6. The Committee recommended that monitors or proctors be required on each schoolbus to aid in loading and unloading the bus and to free the driver from tending the passengers while driving.

7. The Committee favored a provision in the standard calling for the periodic reevaluation or requalification of schoolbus drivers.

8. To allow States more flexibility in vehicle inspection programs, the Committee recommended that schoolbuses be inspected "periodically" rather than "semiannually."

[FR Doc.72-6950 Filed 5-5-72;8:50 am]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order 481–72]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart K—Criminal Division

DELEGATION OF AUTHORITY RESPECTING CERTAIN CIVIL ACTIONS

The Postal Reorganization Act authorizes the Attorney General to bring civil actions against persons who mail or cause to be mailed sexually oriented advertisements to any person who has filed with the Postal Service a statement that he desires to receive no such sexually oriented advertisements. 39 U.S.C. 3010, 3011. This order delegates to the Assistant Attorney General in charge of the Criminal Division authority to conduct, handle, and supervise such civil actions.

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, § 0.55 of Subpart K of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by adding the following new paragraph (n) between paragraphs (m) and (o):

§ 0.55 General functions.

* * * * *

(n) Civil actions arising under 39 U.S.C. 3010, 3011 (Postal Reorganization Act).

* * * * *

Dated: May 1, 1972.

RICHARD G. KLEINDIENST,
Acting Attorney General.

[FR Doc.72–6941 Filed 5–5–72;8:48 am]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 525—EMPLOYMENT OF HANDICAPPED CLIENTS IN SHELTERED WORKSHOPS

Change in Conditions for Employing Handicapped Homeworkers Outside of Work Activities Centers

On December 7, 1971, a proposal was published in the FEDERAL REGISTER at page 23235 to amend Part 525 of Title 29 of the Code of Federal Regulations in order to allow work activities centers to employ handicapped workers in or about a home, apartment, tenement, or room in a residential establishment without the necessity of obtaining a special industrial homeworker's certificate for such persons.

Interested parties were given 30 days in which to submit written data, views, or arguments regarding the proposal.

The great majority of the comments received favored the proposal. With respect to the comments received in opposition, some contended that homework is hard to regulate and the extension of homework would endanger labor standards. It should be noted that the proposed revision is identical to that in effect from 1953 through 1966 for all types of sheltered workshops, including those of the work activities center type, and that earlier provision continues unchanged for workshops with regular programs. I have not been aware of any undue problems with respect to homebound clients of sheltered workshops, nor has there been an observable threat to labor standards from these homebound programs. Both homework clients and shop clients must be paid wages which are at least commensurate with those paid nonhandicapped workers for essentially the same type and amount of work; and the workshop must be able to document compliance from records required to be maintained.

Some of the responses suggest the changes might result in lower wages for work activities center clients and would not open any jobs for homebound. The commensurate wage requirement and the qualifying criteria for work activities centers (§ 525.2(c)) would prevent the lowering of wages. These criteria would also restrict the work activties centers to employing those homebound who are low producers who normally are shut out of the homebound programs now operating because they cannot earn the minimum called for by certificates issued to sheltered workshops with regular programs.

The time for filing comments has expired. After consideration of all relevant matters presented, the proposed amendment is adopted, to become effective upon publication in the FEDERAL REGISTER (5–6–72).

The new § 525.12, Title 29 of the Code of Federal Regulations, reads as follows:

§ 525.12 Industrial homework.

A special certificate issued pursuant to this part authorizes a sheltered workshop to employ a handicapped worker in or about a home, apartment, tenement, or room in a residential establishment without the necessity of obtaining a special industrial homeworker's certificate for such persons under regulations of the Administrator governing the employment of industrial homeworkers; nor shall it be necessary for a sheltered workshop to obtain a special industrial homeworker's certificate for handicapped workers working in or about a home, apartment, tenement, or room in a residential establishment, who are earning the minimum required under section 6 of the Act.

(52 Stat. 1068, as amended; 29 U.S.C. 214)

Signed at Washington, D.C., this 2d day of May 1972.

HORACE E. MENASCO,
Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc.72–6942 Filed 5–5–72;8:50 am]

Chapter XIV—Equal Employment Opportunity Commission

PART 1601—PROCEDURAL REGULATIONS

PART 1602—RECORDS AND REPORTS

Miscellaneous Amendments

By virtue of the authority vested in it by section 713(a) of title VII of the Civil Rights Act of 1964, 42 U.S.C., section 2000e–12(a), 78 Stat. 265, the Equal Employment Opportunity Commission (hereinafter referred to as the Commission) hereby amends Title 29, Chapter XIV, Part 1601 and Part 1602 of the Code of Federal Regulations.

The amendments set forth changes necessary to implement the 1972 Amendments to the Civil Rights Act of 1964, Public Law 92–261, including procedures the Commission will follow in determining which State or local agencies meet the provisions of section 706 (c) and (d) of title VII as amended and are appropriate State or local authorities for the purposes of receiving and acting upon charges deferred by the Commission.

The Commission, since its inception, has followed a procedure of attempting to identify the appropriate State or local fair employment practices agencies to which deferral of charges is required by section 706 of title VII. The passage of amendments to title VII extending its coverage to employees of State and local governments, governmental agencies, political subdivisions and educational institutions renders the practice of identifying agencies to whom charges should be deferred on behalf of persons making charges burdensome and unreliable. The difficulty of correctly identifying all of the State and local agencies to which complaints may be deferrable, and the risk of a failure to identify correctly an appropriate agency, is such that the Commission finds it necessary to institute the procedure set forth below whereby an agency, if it believes it is an appropriate agency for the purposes of receiving deferred charges, may apply to the Commission for designation as such.

In devising this procedure, the Commission has taken into consideration its 6½ years of experience in relationships with State and local agencies responsible for administering fair employment practices legislation.

The problem of employment discrimination as defined by Federal law is one whose resolution requires not only expertise but also the technical perception that discrimination exists in the first instance. This kind of expertise is not found in the administrative or legal arms of some State or local agencies. For these reasons, procedures are necessary to insure that a State or local agency to which the Commission defers will administer its law in such a manner so as to provide rights and remedies comparable in scope to those provided under title VII.

The procedures the Commission will follow in reviewing applications of

agencies desirous of receiving Commission designation as a deferral agency (hereinafter referred to as a "706 Agency") reflect the Commission's experience and the Federal courts' findings that the nature of employment discrimination is complex, pervasive, and institutionalized, and that those filing charges may not fully comprehend the distinctions among its various forms. The Commission is under an obligation to safeguard the Federal rights of persons "* * * untutored in the technicalities of the law and who may or may not (at the time of filing the charge) be able to fully articulate their grievances or be aware of the full panoply of discriminatory practices against them or others similarly situated * * *" "Sanchez v. Standard Brands, Inc.," 431 F. 2d 455, at 466 (5th Cir. 1970). Similarly, the Commission is not always able at the time of the receipt of a charge to administratively discern all of the proper allegations of a complaint. There is a substantial possibility that a charge which initially alleges only limited violations of title VII "may encompass any kind of discrimination like or related to allegations contained in the charge and growing out of such allegations * * *" "King v. Georgia Power Company," 295 F. Supp. 943, at 947 (N.D. Ga. 1968). For these reasons, the Commission will designate as "706 Agencies" only those agencies whose laws prohibit essentially all of the practices prohibited by title VII, by essentially all of the persons by whom such practices are illegal under title VII, and on essentially all of the grounds covered by title VII.

Because the amendments herein adopted are procedural in nature, the provisions of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, for public notice and delay in effective date are inapplicable. These amendments shall become effective upon publication in the FEDERAL REGISTER and shall be applicable with respect to all charges presently pending before or hereafter filed with the Commission.

1. Sections 1601.2 and 1601.3 are amended to read as follows:

§ 1601.2 Terms defined in title VII of the Civil Rights Act of 1964, as amended.

The terms "person," "employer," "employment agency," "labor organization," "employee," "commerce," "industry affecting commerce," "State," and "religion," as used herein shall have the meanings set forth in section 701 of title VII of the Civil Rights Act of 1964, as amended.

§ 1601.3 Title VII, as amended: Commission.

The term "title VII, as amended" as used herein shall mean title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972. The term "Commission" shall mean the Equal Employment Opportunity Commission or any of its designated representatives.

2. Section 1601.3a is added to read as follows:

§ 1601.3a Vice Chairman's functions.

The member of the Commission designated by the President to serve as Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

3. Section 1601.6 is revised to read as follows:

§ 1601.6 Charges by or on behalf of aggrieved persons.

A charge that any person has engaged in or is engaging in an unlawful employment practice within the meaning of title VII, as amended, may be made by or on behalf of any person claiming to be aggrieved. A charge on behalf of a person claiming to be aggrieved may be made by any person, agency, or organization. Such charge need not identify by name the person on whose behalf it is made. The person making the charge, however, must provide the Commission with the name and address of the person on whose behalf the charge is made. During the Commission investigation, Commission personnel shall verify the authorization of such charge by the person on whose behalf such charge is made. The Commission shall keep such information confidential and in making deferrals to State and local authorities pursuant to §§ 1601.10 and 1601.12 not disclose such information to the State or local authorities except on condition that the identity of the person on whose behalf the charge is made be kept confidential. If this condition is violated by a recipient agency, the Commission may decline to honor subsequent requests for such information. A person filing a charge on behalf of an aggrieved person shall be considered a party to the Commission's proceeding with respect to receiving notice at each stage at which notice is sent to parties.

4. Section 1601.7 is amended to read as follows:

§ 1601.7 Where to make a charge.

A charge may be made at the offices of the Commission in Washington, D.C., or any of its field offices or with any designated representative of the Commission.

5. Section 1601.8 is amended to read as follows:

§ 1601.8 Forms; jurat.

Such charge shall be in writing and signed, and shall be sworn to before a notary public, designated representative of the Commission, or other person duly authorized by law to administer oaths, and take acknowledgments. Charge forms are available to all persons from all offices of the Commission. Appropriate assistance in filling out forms will be rendered to aggrieved persons or persons filing charges on their behalf by personnel of the Commission.

6. Section 1601.9 is amended to read as follows:

§ 1601.9 Withdrawal of a charge by an aggrieved person.

A charge filed by or on behalf of an aggrieved person may be withdrawn only by the aggrieved person with the consent of the Commission.

7. Sections 1601.10, 1601.11(b), and 1601.12 are revised to read as follows:

§ 1601.10 Charges by members of the Commission.

Any member of the Commission may file a charge in writing with the Commission. If section 706(d) of title VII should be applicable, the Commission, before taking any action with respect to the charge, shall notify the appropriate State or local 706 Agency, as defined in § 1601.12(c), and offer to refer the charge to it, except for certain section 704(a) charges as provided in § 1601.12(f). The Commission will allow the State or local authority a 10-day period to request an opportunity to act under its law except when EEOC notifies the appropriate authority in writing of a different time period.

§ 1601.11 Contents, amendment.

* * * * *

(b) Notwithstanding the provisions of paragraph (a) of this section, a charge is deemed filed when the Commission receives from the person making a charge a written statement sufficiently precise to identify the parties and to describe generally the action or practices complained of. A charge may be amended to cure technical defects or omissions, including failure to swear to the charge, or to clarify and amplify allegations made therein, and such amendments alleging additional acts which constitute unlawful employment practices directly related to or growing out of the subject matter of the original charge will relate back to the original filing date.

§ 1601.12 Deferrals to State and local authorities.

(a) In order to give full weight to the policy of section 706(c) of the Act, which affords State and local fair employment practice agencies that fall within the provisions of that section an opportunity to remedy alleged discrimination concurrently regulated by title VII of the Civil Rights Act of 1964 and State or local law, the Equal Employment Opportunity Commission adopts the following procedures with respect to allegations of discrimination filed with the Commission where there is no evidence that such allegations were earlier presented to an appropriate 706 Agency. It is the intent of the Commission to thereby encourage the maximum degree of effectiveness in the State and local agencies. The Commission shall endeavor to maintain close communication with the State and local agencies with respect to all matters forwarded to such agencies and shall provide such assistance to the State and local agency as is permitted by law and is practicable. It is the experience of the Commission that because of the complexities of the present procedures, persons who seek the aid of the Commission

are often confused and even risk loss of the protection of the Act. Accordingly, it is the intent of the Commission to simplify filing procedures for parties in deferral States and localities and thereby avoid the accidental forfeiture of important Federal rights.

(b) The following procedures shall be followed with respect to cases arising in the jurisdiction of "706 Agencies" to which the Commission defers as further defined in paragraph (c) of this section:

(1) Any document, whether or not verified, received by the Equal Employment Opportunity Commission as provided in § 1601.7, which may constitute a charge cognizable under title VII, shall be deferred to the appropriate 706 Agency, as further defined in paragraph (c) of this section, pursuant to the procedures set forth below.

(i) All such documents shall be date and time stamped on receipt.

(ii) A copy of the original document shall be transmitted by registered mail, return receipt requested, to the appropriate State or local agency, or, where the State or local agency has consented thereto, by certified mail, by regular mail or by hand delivery.

(iii) The aggrieved party and any person filing a charge on behalf of an aggrieved party shall be notified, in writing, that the document which he sent to the Commission has been forwarded to the State or local agency pursuant to the provisions of section 706(c), and that unless the Commission is notified to the contrary, on the termination of State or local proceedings, or after 60 days have passed, whichever comes first, the Commission will consider the charge to be filed with the Commission and commence processing the case. Where the State or local agency terminates its proceedings within 60 days without notification to the Commission of such action, the Commission will consider the charge to be filed with it on the date the person making the charge was notified of the termination.

(iv) The 60-day period shall be deemed to have commenced at the time such document is mailed or delivered to the State or local authority. On notification of the termination of State proceedings or the expiration of 60 days, whichever comes first, the Commission will consider the charge to be filed with the Commission and will commence processing the case.

(v) In cases where the document is filed with the Commission more than 240 days following the alleged act of discrimination but less than 300 days therefrom, the case shall be deferred pursuant to procedures set forth above: *Provided, however,* That unless the Commission is earlier notified of the termination of the State or local proceeding, the Commission will consider the charge to be filed with the Commission on the 299th day following the alleged discrimination and will commence processing the case. Where the State or local agency terminates its proceeding prior to the 299th day following the alleged act of discrimination, without notification to the Commission of such action, the Commission will consider the charge to be filed with it on the date the person making the charge was notified of the termination.

(vi) In any case where the State or local agency has not formally notified the Commission as to the termination of the State or local proceeding, the Commission shall serve the notice required by § 1601.13 within 10 days from the date it is made aware of the termination of such proceedings.

(c) 706 Agency defined: For the purposes of this section and § 1601.10, the term "706 Agency" shall include only those agencies which have applied for formal designation by the Commission in accord with the procedures set forth in paragraph (e) of this section; have been formally designated by the Commission in accord with the procedures set forth in paragraph (g) of this section; and have not had their formal designation withdrawn by the Commission in accord with the procedures set forth in paragraph (h) of this section.

(1) *Provided,* That effective immediately and until July 1, 1973, the Commission will consider the agencies designated by public notice as described in paragraph (d) as Provisional 706 Agencies and procedures for deferral of cases in paragraph (b) of this section and § 1601.10 will be followed with respect to them until that date.

(2) *Provided, further,* That no agency on such provisional list will be considered a 706 Agency for the purposes of according weight to its findings pursuant to § 1601.19d until it has complied with the procedures for application for formal designation and has received such formal designation by the Commission and has been listed in these regulations by formal amendment to paragraph (k) of this section.

(d) Provisional 706 Agencies and Provisional Notice Agencies:

(1) *Provisional 706 Agencies.* Until July 1, 1973, the Commission will defer charges alleging employment discrimination on the grounds of race, color, religion, sex, or national origin against covered public or private employers, unless otherwise indicated by public notice, arising in the jurisdiction of Provisional 706 Agencies the designation of which will be made in a public notice issued contemporaneously with this amendment of this § 1601.12. Agencies may be added as Provisional 760 Agencies by subsequent public notices issued by the Commission.

(2) *Provisional Notice Agencies.* Until July 1, 1973, with respect to the jurisdictions of Provisional Notice Agencies, the designation of which will be made in a public notice issued contemporaneously with this amendment of this § 1601.12, as the same may be added to by subsequent public notices issued by the Commission, the Commission will not defer but will, with respect to charges alleging employment discrimination on the grounds of race, color, religion, national origin, and/or where indicated, sex: (i) Note receipts of said charges and serve notice thereof upon the respondent or respondents; (ii) schedule the charge for investigation; and (iii) inform the appropriate agency or person of the receipt of the charge.

(e) Procedure to apply for designation as a 706 Agency: Any agency desiring to be designated as a 706 Agency may obtain an application form from the Commission (by writing to the EEOC Regional Director having jurisdiction or to the Office of State and Community Affairs, 1800 G Street NW., Washington, DC 20506) and shall submit it together with the following materials and information:

(1) A copy of the agency's fair employment practices law and any rules, regulations and guidelines of general interpretation issued pursuant thereto.

(2) A chart of the organization of the agency responsible for administering and enforcing said law.

(3) The amount of funds made available to or allocated by the agency for fair employment purposes.

(4) The identity and telephone number of the agency attorney whom the Commission may contact in reference to any legal questions that may arise in the process of its review of the agency's application.

(5) A statement, on a form to be provided by the Commission, certifying the following:

(i) That the law prohibiting discrimination establishes or authorizes that agency to exercise administrative enforcement authority.

(ii) That the law and administrative practice do not place any excessive burdens on the complainant which might discourage the filing of complaints.

(iii) That the law is comparable in scope to title VII coverage and is administered by the agency so that, in fact, the practices prohibited and remedies required are comparable in scope to the practices prohibited and the remedies required under title VII of the Civil Rights Act of 1964, as interpreted by the United States Supreme Court in the case of "Griggs v. Duke Power," 401 U.S. 424 (1971).

(f) Criteria for the protection of Federal rights: No agency shall be designated or continued as a designated 706 Agency unless the law which it administers:

(1) Protects persons from discrimination on essentially all of the grounds covered by title VII as amended; and

(2) Includes in the practices prohibited essentially all of the practices prohibited by title VII as amended; and

(3) Includes in its coverage of persons by whom such practices are declared illegal, essentially all of the classes of persons as defined under title VII; and

(4) Is administered and interpreted by the agency so that it does, in fact, prohibit the practices prohibited by title VII and does, in fact, require the remedies required by title VII.

Provided, however, No agency shall be denied designation as a 706 Agency on the sole ground that the statute which it enforces omits from the practices prohibited (as that term is used in subparagraph (2) of this paragraph) those practices prohibited by section 704(a) of the

Civil Rights Act of 1964: *Provided, further, however,* That the Commission will not defer charges alleging a violation of section 704(a) to any 706 Agency administering legislation omitting such a provision unless such agency (in the application for designation required in paragraph (e) of this section or otherwise) specifically certifies that it interprets its legislation to prohibit the practices prohibited by section 704(a). Unless and until this certificate of section 704(a) coverage is received, the Commission will consider section 704(a) charges in such jurisdiction as filed with the Commission when the written statement required by § 1601.11(b) is received and will serve the notice required by § 1601.13.

(g) Commission determinations: The Commission, after examining the materials and applications required in paragraph (e) of this section and after applying criteria outlined in paragraph (f) of this section, shall make a determination.

(1) If the Commission determines that an agency shall be designated as a 706 Agency, it shall notify the agency that it proposes to issue such designation. Such proposed designation shall be published in the FEDERAL REGISTER and shall provide any person or organization not less than 15 days in which to file written comments with the Commission. If after evaluating any comments so received the Commission is still of the opinion that issuance of the proposed designation as published in the FEDERAL REGISTER is appropriate, it shall effect such designation by issuance and publication of an amendment to paragraph (k) of this section. Thereafter, the procedure in paragraph (b) of this section and § 1601.10 shall be followed for cases in the jurisdiction of the 706 Agency.

(2) If the Commission determines that any agency shall not be designated as a 706 Agency it shall notify the applicant agency of its decision and such notice shall provide the reason(s) why it proposes not to designate the agency and shall grant it not less than 15 days to request a conference concerning the matter in accord with paragraph (j) of this section.

(h) Performance standards: The continued designation of a 706 Agency will be dependent upon the 706 Agency's willingness and ability to administer its law in such a manner that, in fact, the practices prohibited and remedies required are comparable in scope to those practices prohibited and remedies required under Federal law and satisfy the performance standards set forth below:

(1) In all cases where the 706 Agency finds cause to credit the allegations of a charge, it shall effectively eliminate the discrimination and, where appropriate, provide for full compensatory and prospective relief consistent with the applicable Federal law.

(2) In all cases where the 706 Agency enters into a conciliation agreement, consent order, or order after public hearing, it shall include in any such agreement or order mechanisms for monitoring compliance with the terms thereof and mechanisms for enforcing compliance in the event any terms thereof are not implemented.

(i) Withdrawal of designation: The Commission may upon its own motion, upon the motion of any person or organization, or upon the motion of a Regional Director of the Commission, withdraw the designation as a 706 Agency previously issued to an agency based upon (1) reconsideration of the application and materials and the information referenced in paragraph (e) of this section; or (2) application of the criteria in paragraph (f) of this section; or (3) consideration of the agency's performance as required in paragraph (h) of this section. Whenever the Commission has reason to believe that such designation as a 706 Agency no longer serves the interest of effective enforcement of title VII, it may, after following the procedures below, including the opportunity for a conference provided for in paragraph (j) of this section, withdraw such designation. Before taking such action it shall notify the 706 Agency of its proposed withdrawal of such designation. Such notification shall set forth the reasons for the proposed withdrawal and provide the agency not less than 15 days to submit data, views, and arguments in opposition and to request a conference in accordance with paragraph (j) of this section. Such proposed withdrawal of designation shall also be published in the FEDERAL REGISTER and shall provide any persons or organizations who take an interest at least 15 days in which to file written comments on the proposal with the Commission and to request a conference. If a request for a conference in accordance with paragraph (j) of this section is not received within the time period provided, the Commission shall evaluate any arguments or comments it has received from the agency and from any persons and organizations who take an interest and if, after such evaluation, the Commission still is of the opinion that designation should be withdrawn because it has determined that such designation no longer serves the interest of effective enforcement of title VII, the Commission shall so notify the agency and effect the withdrawal by the issuance and publication of an amendment to paragraph (k) of this section.

(j) Request for conference: In order to provide a State or local agency full opportunity to present its views whenever pursuant to paragraph (g) or (i) of this section a conference is requested within the time allowed by said sections for making such request, the Director of State and Community Affairs or his designee shall hold such a conference. Said conference officer shall issue a preconference order. The order shall indicate the issues to be resolved and any initial procedural instructions which might be appropriate for the particular conference. It shall fix the date, time, and place of the conference. The date shall not be less than 20 days after the date of the order. The date and place shall be subject to change for good cause.

(1) A copy of such preconference order shall be served on the State or local agency and on any person or organization who files a written comment in accordance with paragraph (g) or (i) of this section. The agency and all such persons and organizations shall be deemed to be participants in the conference. After service of the order, or of a notice designating a conference officer and until such officer submits his recommended determination, all communications relating to the subject matter of the conference shall be addressed to him. The conference officer shall have full authority to regulate the course and conduct of the conference. A transcript shall be made of the proceedings at the conference. The transcript and all comments and petitions relating to the proceedings shall be made available for inspection by interested persons.

(2) The conference officer shall prepare his proposed findings and recommended determination, a copy of which shall be served on each participant. Within 20 days after such service any participant may file written exceptions. After the expiration of the period for filing exceptions, the conference officer shall certify the entire record, including his proposed findings and recommended determination and exceptions thereto, to the Commission, which shall review the record and issue a final determination.

(3) Such determination shall become effective by the issuance and publication of an amendment to paragraph (k) of this section.

(k) Designated 706 Agencies: The actions of the Commission in designating 706 Agencies, and in withdrawing such designations, from time to time, will be stated in amendments to this paragraph and published in the FEDERAL REGISTER as and when such actions are taken. The designated 706 Agencies are: (as of the date of this publication, no such designations have been made).

NOTE: If this list contains two or more agencies whose geographic jurisdiction is concurrent as to a particular charge, the Commission reserves the right to defer the charge to only one of the agencies and to make an administrative determination as to which agency is more appropriate to the effective enforcement of title VII.

8. Section 1601.13 is revised to read as follows:

§ 1601.13 Service of a notice of charge.

Within 10 days after the filing of a charge, the Commission shall furnish the respondent with a notice thereof by mail or in person (including the date, place, and circumstances of the alleged unlawful employment practice). Unless otherwise determined by the Commission, the notice shall not identify the person filing the charge or on whose behalf it was filed. When a charge is received at some other Federal office (EEOC or otherwise) than the appropriate EEOC District office, it shall be forwarded immediately to that District office and notice shall be mailed to the respondent within 10 days after receipt of the charge in that District office,

or after termination of any necessary deferral period, as the case may be.

9. Section 1601.14 is amended to read as follows:

§ 1601.14 By whom made.

The investigation of a charge shall be made by the Commission. During the course of such investigation, the Commission may utilize the services of State and local agencies which are charged with the administration of fair employment practice laws or appropriate Federal agencies, and, to the extent relevant, may utilize the information gathered by such agencies. As a part of each investigation, the person making the charge on behalf of the aggrieved person, the aggrieved person, and the respondent shall each be offered an opportunity to submit a statement of its position or evidence with respect to the allegations.

10. Section 1601.15 is revised to read as follows:

§ 1601.15 Documentary evidence; summoning witnesses and taking testimony.

(a) To effectuate the purposes of title VII, as amended, any member of the Commission shall have the authority to issue subpenas requiring the attendance and testimony of witnesses and the production of evidence, including, but not limited to, books, records, correspondence, or documents, in the possession or under the control of the person subpenaed. Any District Director or Deputy District Director of the Commission may issue and sign a subpena on behalf of the Commission. The subpena shall state the name and address of its issuer, identify the person subpenaed, the person to whom and the place, date, and time at which it is returnable. A subpena may be returnable to a duly authorized investigator or other representative of the Commission. No member of the Commission or any District Director or his deputy will issue a subpena upon request of a person filing a charge, a person on whose behalf a charge was filed, or a respondent.

(b) Any person served with a subpena whether ad testificandum or duces tecum who intends not to comply therewith, shall, within 5 days after the date of service of the subpena upon him, petion the Director of Compliance by mail at 1800 G Street NW., Washington, DC 20506 (serving a copy upon the District Director who issued the subpena) to revoke or modify the subpena. The petition shall state each ground upon which the petitioner relies. Within 5 days after receipt thereof, so far as practicable, the Director of Compliance shall make a determination upon the petition, stating reasons, which shall be reviewed by the Commission and unless the Commission decides otherwise shall become final 3 days thereafter. The Commission shall serve a copy of the final determination of the petition upon the petitioner. For purposes of this section, service shall be made and proof thereof established pursuant to section 11(4) of the National Labor Relation Act, as amended, 29 U.S.C. 161(4), as made applicable to proceedings hereunder by section 710 of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–9.

(c) Upon the failure of any person to comply with a subpena issued under this section, the Commission may utilize the procedures of section 11(2) of the National Labor Relation Act as amended, 29 U.S.C. 161(2), to compel enforcement of the subpena.

11. Section 1601.19d is revised to read as follows:

§ 1601.19d Determination as to reasonable cause.

(a) Following receipt of the full investigative file, the Commission shall consider and decide the issues presented and serve a copy of its decision upon the parties. If the Commission determines that the charge fails to state a valid claim for relief under title VII, or that there is not reasonable cause to believe that a charge is true, the Commission shall dismiss the charge. Where, however, the Commission determines that there is reasonable cause to believe that an unlawful employment practice has occurred or is occurring it shall endeavor to eliminate such practice by informal methods of conference, conciliation, and persuasion. In making its determination as to whether reasonable cause exists, the Commission shall accord substantial weight to final findings and orders made by designated 706 Agencies, as listed in § 1601.12(k), pursuant to the requirements of section 706 (b), (c), and (d) of title VII. For the purposes of this section, the following definitions shall apply:

(1) "Final findings and orders" shall mean:

(i) The findings of fact and order incident thereto issued by a 706 Agency after a public hearing on the merits of a charge; or

(ii) The consent order or consent decree entered into by the 706 Agency prior to or during a public hearing on the merits of a charge if such consent order or decree may be enforced by the courts.

Provided, however, That no findings and order of a 706 Agency shall be considered the final findings and order for purposes of this section unless the 706 Agency shall have served a copy of such findings and order upon the Commission and upon the person claiming to be aggrieved; and shall have informed such person of his rights of appeal, or to request reconsideration or rehearing or similar rights; and the time for such appeal, reconsideration, or rehearing request shall have expired or the issues on such appeal, reconsideration or rehearing shall have been fully determined.

(2) "Substantial weight" shall mean that such full and careful consideration shall be accorded to final findings and orders, as defined above, as is appropriate in light of the facts supporting them, when they meet all of the prerequisites set forth below:

(i) The proceedings were fair and regular; and

(ii) The remedies and relief granted are comparable in scope to the remedies and relief required by Federal law; and

(iii) The final findings and order serve the interest of the effective enforcement of title VII.

Provided, That giving "substantial weight to final findings and orders" of a "706 Agency" does not include according weight, for purposes of applying Federal law, to that agency's conclusions of law.

(b) The Commission shall promptly notify the person making the charge on behalf of the aggrieved person, the aggrieved person, and the respondent, or, in the case of a charge filed under § 1601.10, the person aggrieved, if known, and the respondent of its determination under paragraph (a) of this section. The Commission's determination is final when issued; therefore, requests for reconsideration will not be granted. The Commission may, however, on its own motion, reconsider its determination at any time and, when it does so, the Commission shall promptly notify the person making the charge on behalf of the aggrieved person, the aggrieved person, and the respondent, or, in the case of a charge filed under §1601.10, the person aggrieved, if known, and the respondent of its intention to reconsider its determination, and of its subsequent decision on reconsideration.

(c) Where a member of the Commission has filed a charge under § 1601.10, he shall not participate in the determination in that case.

(d) Notwithstanding any other provision in this part, where the allegations of a charge on its face, or as amplified by the statements of the person making the charge on behalf of the aggrieved person and the aggrieved person to the Commission disclose that the charge is not timely filed or otherwise fails to state a valid claim for relief under title VII, the Commission may dismiss the case without further action, but it shall notify the person making the charge on behalf of the aggrieved person, the aggrieved person, and the respondent if notice of the charge pursuant to § 1601.13 or the charge has been served, in writing of its disposition of the case and the reasons therefor. The Commission's dismissal of a charge becomes final when issued; therefore, requests for reconsideration will not be granted. The Commission may, however, on its own motion, reconsider such dismissal at any time and, if it does so, the Commission shall promptly notify the person making the charge on behalf of the aggrieved person, the aggrieved person, and the respondent if notice of the charge or the charge has been served, of its decision.

12. Section 1601.24 is revised to read as follows:

§ 1601.24 Confidentiality of endeavors.

Nothing that is said or done during and as part of the informal endeavors of the Commission to eliminate unlawful employment practices by informal methods of conference, conciliation, and persuasion may be made a matter of public

information by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the parties concerned. This provision does not apply to such disclosures to the representatives of Federal, State, and local agencies as may be appropriate or necessary to the carrying out of the Commission's functions under the title: *Provided*, That the Commission may refuse to make disclosures to any such agency which does not maintain the confidentiality of such endeavors in accord with this section or in any circumstances where the disclosures will not serve the purposes of the effective enforcement of title VII.

13. In §§ 1601.25, 1601.25a, and 1601.25b certain changes are made which necessitate the addition of a new section, therefore these sections are replaced by §§ 1601.25, 1601.25a, 1601.25b, and 1601.25c and are set forth as follows:

§ 1601.25 Notice to respondent, person filing a charge on behalf of the aggrieved person and aggrieved person.

In any instance in which the Commission is unable to obtain voluntary compliance as provided by title VII, as amended, it shall so notify the respondent, the person filing a charge on behalf of the aggrieved person, the aggrieved person or persons, and any State or local agency to which the charge has been previously deferred pursuant to § 1601.12 or § 1601.10. Notification to the aggrieved person shall include:

(a) A copy of the charge.

(b) A copy of the Commission's determination of reasonable cause.

(c) Advice concerning his right to proceed in court under section 706f(1) of title VII.

§ 1601.25a Preliminary or temporary relief.

In the interest of the expeditious procedure required by section 706(f)(2) of title VII, as amended, the Commission hereby delegates to the District Director the authority, upon the basis of a preliminary investigation, to make the determination on its behalf that prompt judicial action is necessary to carry out the purposes of the Act, and, where the District Director so determines, the Commission or the Attorney General in a case involving a government, governmental agency, or political subdivision, may bring an action for appropriate temporary or preliminary relief pending final disposition of such charge.

§ 1601.25b Processing of cases, when notice issues under § 1601.25.

(a) The Commission may bring a civil action against any respondent named in a charge, not a government, governmental agency, or political subdivision, after thirty (30) days from the date of the filing of a charge with the Commission unless a conciliation agreement acceptable to the Commission has been secured. The Commission shall not find a conciliation agreement acceptable unless the aggrieved person is a party thereto.

(b) The Commission shall not issue a notice pursuant to § 1601.25 prior to a determination under § 1601.19d or where reasonable cause has been found, prior to efforts at conciliation with respondent, except as provided in paragraph (c) of this section.

(c) At any time after the expiration of one hundred and eighty (180) days from the date of the filing of a charge or upon dismissal of the charge at any stage of the proceedings or upon the expiration of the time for filing objections to dismissal by the Field Director pursuant to § 1601.19, an aggrieved person may demand in writing that a notice issue pursuant to § 1601.25, and the Commission shall promptly issue such a notice, and provide copies thereof and copies of the charge to all parties.

(d) Issuance of notice pursuant to paragraph (c) of this section shall suspend further Commission proceedings unless the Field Director determines that it is in the public interest to continue such proceedings, or unless, within twenty (20) days after receipt of such notice, a party requests the Field Director, in writing, to continue to process the case.

§ 1601.25c Issuance of notice in cases involving Commissioner charges.

(a) Section 706f(1) of the Civil Rights Act of 1964, as amended, provides that in cases involving Commissioner charges when the Commission has been unable to secure voluntary compliance with the Act, the Commission shall notify any person whom the charge alleges was aggrieved by the alleged unlawful employment practices of his right to sue in a Federal District Court. To come within the purview of this section an individual may either be specifically designated by name or be among the class of persons aggrieved by the practices complained of in the charge. Accordingly, in cases involving Commissioner charges, the Commission will follow the procedures outlined in paragraphs (b), (c), (d), and (e) of this section.

(b) The Commission shall not issue any Notice-of-Right-to-Sue prior to a determination on the merits, except as provided in paragraph (d) of this section. Furthermore, where the Commission has found reasonable cause, the Commission shall not issue such notice prior to failure of the Commission's conciliation efforts, except as provided in paragraph (d) of this section.

(c) Where the Commission has found reasonable cause but has been unable to obtain voluntary compliance with title VII, the Commission shall so notify the respondent and all identifiable members of the class aggrieved by the practices complained of in the charge. Notification to aggrieved members of the class shall include the following:

(1) A copy of the charge.

(2) A copy of the Commission decision.

(3) Advice concerning his right to proceed in court under section 706f(1) of title VII.

(d) At any time after 180 days have expired since the charge was filed, any member of the class aggrieved by the practices alleged in the charge may demand in writing that a Notice-of-Right-to-Sue issue, and the Commission shall promptly issue such Notice-of-Right-to-Sue, pursuant to paragraph (c) of this section and provide copies thereof and copies of the charge to all parties.

(e) Issuance of a notice pursuant to paragraph (d) of this section does not terminate the Commission's jurisdiction of the proceeding and the case shall continue to be processed.

14. Section 1602.7 is amended to read as follows:

§ 1602.7 Requirement for filing of report.

On or before March 31, 1967, an annually thereafter, every employer subject to title VII of the Civil Rights Act of 1964 which meets the 100-employee test set forth in section 701(b) thereof shall file with the Commission or its delegate executed copies of Standard Form 100, as revised (otherwise known as "Employer Information Report EEO–1") in conformity with the directions set forth in the form and accompanying instructions. Notwithstanding the provisions of § 1602.14, every such employer shall retain at all times at each reporting unit, or at company or divisional headquarters, a copy of the most recent report filed for each such unit and shall make the same available if requested by an officer, agent, or employee of the Commission under the authority of section 710 of title VII. Appropriate copies of Standard Form 100 in blank will be supplied to every employer known to the Commission to be subject to the reporting requirements, but it is the responsibility of all such employers to obtain necessary supplies of same prior to the filing date from the Joint Reporting Committee, Federal Depot, 1201 East 10 Street, Jeffersonville, IN 47130.

15. Sections 1602.14, 1602.15, and 1602.17 are revised to read as follows:

§ 1602.14 Preservation of records made or kept.

(a) Any personnel or employment record made or kept by an employer (including but not necessarily limited to application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, layoff or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship) shall be preserved by the employer for a period of 6 months from the date of the making of the record or the personnel action involved, whichever occurs later. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of 6 months from the date of termination. Where a charge of discrimination has been filed, or an action brought by the Commission or the Attorney General, against an employer under title VII, the respondent employer shall preserve all personnel records relevant to the charge or action until final disposition of the charge or the action. The term "personnel records relevant to the charge," for example, would include personnel or employment records relating to the aggrieved person and to all other employees holding positions simi-

lar to that held or sought by the aggrieved person and application forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the aggrieved person applied and was rejected. The date of "final disposition of the charge or the action" means the date of expiration of the statutory period within which the aggrieved person may bring an action in a U.S. District Court or, where an action is brought against an employer either by the aggrieved person, the Commission, or by the Attorney General, the date on which such litigation is terminated.

(b) The requirements of this section shall not apply to application forms and other preemployment records of applicants for positions known to applicants to be of a temporary or seasonal nature.

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

§ 1602.15 Requirement for filing and preserving copy of report.

On or before September 30, 1967, and annually thereafter, certain joint labor-management committees subject to title VII of the Civil Rights Act of 1964 which control apprenticeship programs shall file with the Commission, or its delegate, executed copies of Apprenticeship Information Report EEO–2 in conformity with the directions set forth in the form and accompanying instructions. The committees covered by this regulation are those which (a) have five or more apprentices enrolled in the program at any time during August and September of the reporting year, and (b) represent at least one employer sponsor and at least one labor organization sponsor which are themselves subject to title VII. Every such committee shall retain at all times among the records maintained in the ordinary course of its affairs a copy of the most recent report filed, and shall make the same available if requested by an officer, agent, or employee of the Commission under the authority of section 710 of title VII. It is the responsibility of all such committees to obtain from the Commission or its delegate necessary supplies of the form.

§ 1602.17 Commission's remedy for failure to file report.

Any person failing or refusing to file Report EEO–2 when required to do so may be compelled to file by order of a U.S. District Court, upon application of the Commission, under authority of section 709(c) of title VII.

16. Sections 1602.22, 1602.24, and 1602.28 are revised to read as follows:

§ 1602.22 Requirements for filing and preserving copy of report.

On or before November 30, 1967, and annually thereafter, every labor organization subject to title VII of the Civil Rights Act of 1964 shall file with the Commission or its delegate an executed copy of Local Union Equal Employment Opportunity Report EEO–3 in conformity with the directions set forth in the form and accompanying instructions, provided that the labor organization has 100 or more members at any time during the 12 months preceding the due date of the report, and is a "local union" (as that term is commonly understood) or an independent or unaffiliated union. Labor organizations required to report are those which perform, in a specific jurisdiction, the functions ordinarily performed by a local union, whether or not they are so designated. Every local union or a labor organization acting in its behalf, shall retain at all times among the records maintained in the ordinary course of its affairs a copy of the most recent report filed, and shall make the same available if requested by an officer, agent, or employee of the Commission under the authority of section 710 of title VII. It is the responsibility of all persons required to file to obtain from the Commission or its delegate necessary supplies of the form.

§ 1602.24 Commission's remedy for failure to file report.

Any person failing or refusing to file Report EEO–3 when required to do so may be compelled to file by order of a U.S. District Court, upon application of the Commission, under authority of section 709(c) of title VII.

§ 1602.28 Preservation of records made or kept.

(a) All records made by a labor organization or its agent solely for the purpose of completing Report EEO–3 shall be preserved for a period of 1 year from the due date of the report for which they were compiled. Any labor organization identified as a "referral union" in the instructions accompanying Report EEO–3, or agent thereto, shall preserve other membership or referral records (including applications for same) made or kept by it for a period of 6 months from the date of the making of the record. Where a charge of discrimination has been filed, or an action brought by the Commission or the Attorney General, against a labor organization under title VII, the respondent labor organization shall preserve all records relevant to the charge or action until final disposition of the charge or the action. The date of "final disposition of the charge or the action" means the date of expiration of the statutory period within which the aggrieved person may bring an action in a U.S. District Court or, where an action is brought against a labor organization either by the Commission, the aggrieved person, or by the Attorney General, the date on which such litigation is terminated.

(b) Nothing herein shall relieve any labor organization covered by title VII of the obligations set forth in Subpart E, §§ 1602.20 and 1602.21, relating to the establishment and maintenance of a list of applicants wishing to participate in an apprenticeship program controlled by it.

(Sec. 713(a), 78 Stat. 265, 42 U.S.C., sec. 2000e–12(a))

This amendment is effective upon publication in the FEDERAL REGISTER (5–6–72).

Signed at Washington, D.C., this 28th day of April 1972.

WILLIAM H. BROWN III,
Chairman.

[FR Doc.72–6834 Filed 5–5–72;8:45 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 73—RADIO BROADCAST SERVICES

Subpart G—Emergency Action Notification System and the Emergency Broadcast System; Correction

In the matter of general revision of Subpart G, Part 73 of the Commission's rules, to update and simplify the rules governing the Emergency Broadcast System (EBS).

The attachment to the Commission's Order, FCC 72–301, in the above entitled matter, adopted April 5, 1972, and published in the FEDERAL REGISTER on April 14, 1972 (37 F.R. 7396) is corrected as shown below.

Released: April 21, 1972.

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

Subpart G of Part 73, Title 47, Chapter I of the Code of Federal Regulations is amended as follows:

1. The heading of the table of contents is corrected to read "Subpart G" instead of "Subpart C".

§ 73.905 [Amended]

2. In § 73.905, the spelling of the word "contingencies" is corrected in the first sentence of the introductory paragraph.

§ 73.933 [Amended]

3. In § 73.933(b)(14), the cross-reference to § 73.57 is corrected to read § 73.52.

§ 73.936 [Amended]

4. In the introductory text of § 73.936, third sentence, the 11th and 12th words "including FM" are deleted.

§ 73.937 [Amended]

5. In the introductory text of § 73.937, third sentence, the 11th word "including" is corrected to "including".

6. Paragraph (c) of § 73.961 is corrected to read as follows:

§ 73.961 Tests of the Emergency Action Notification System.

* * * * *

(c) The test transmissions set forth in (a) and (b) will be as follows:

(1) A full line of ";X's".

(2) A 10-bell alarm.

(3) The test text, as follows:

"Testing Emergency Action Notification System—Repeat—Testing Emergency Action Notification System.

"If this were not a test you would receive a message authenticator word followed by the Emergency Action Notification message.

Another message would immediately follow requesting specific NIAC order arrangements and give point of program origination—and the same message authenticator word transmitted again.

"Testing Emergency Action Notification System—Repeat—Testing Emergency Action Notification System.

"(Date and time, Washington, D.C. time)."

(4) A full line of "X's".

(5) A 10-bell alarm.

* * * * *

[FR Doc.72-6980 Filed 5-5-72;8:52 am]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM-92, Amdt. 173-62]

PART 173—SHIPPERS

Retest Requirements for Tank Cars

The purpose of this amendment to the Department's Hazardous Materials Regulations is to delete reference to the specification ARA-II tank car and to update the tank car retest requirements. An editorial change is also made to § 173.251 (a)(2) by deleting an unnecessary reference to DOT-106A500 tanks.

On October 16, 1971, the Hazardous Materials Regulations Board published Docket No. HM-92; Notice No. 71-26 (36 F.R. 20173) proposing the changes described above except the change to § 173.251. This change was proposed in Docket No. HM-85; Notice No. 71-14 (36 F.R. 9602) but was inadvertently omitted in the subsequent amendment in that docket.

Several comments were received. There were no objections, but commenters suggested several editorial changes for reasons of consistency or clarification. The Board has adopted almost all these suggestions. These changes are found in § 173.31(c)(12) and in the Retest Table. Changes in the table were made to the entries 103C, 103CAL, 105A300W, 112A500W, 113A60W, and 113A175W. The entry 103B100W was deleted as an obsolete specification since these tank cars were converted to another specification. Editorial changes were also made to Notes b, n, and r. Note L was changed and redesignated Note s.

In consideration of the foregoing, 49 CFR Part 173 is amended to read as follows:

(A) In § 173.31, paragraph (a)(2) Table is amended by deleting Spec. ARA-II each time it appears in the table; paragraph (c)(3) is amended; paragraphs (c)(11) and (c)(12) are added; Retest Table 1 is amended in its entirety and replaced to follow paragraph (c)(12), footnotes b and n are amended; footnote L is amended and redesignated footnote s; footnotes q and r are added to read as follows:

§ 173.31 Qualification, maintenance, and use of tank cars.

* * * * *

(c) * * *

(3) Unless longer retest interval is authorized, tanks in service 10 years or over must be internally inspected and interior heater systems inspected for defects which would make leakage or failure probable during transit.

* * * * *

(11) Any glass, rubber, or lead-lined tank need not be periodically retested, but the interior heater systems and safety valves must be retested at the prescribed interval. See also subparagraph (9) of this paragraph.

(12) Any tank lined with an elastomeric polyvinyl chloride at least 3/32-inch thick or an elastomeric polyurethane at least 1/16-inch thick need not be periodically retested, but the heater system and safety relief valves must be retested at the prescribed intervals. The tank must be retested before lining is renewed.

* * * * *

RETEST TABLE 1

Specification	Retest interval years				Retest pressure-psi		
	Tank and interior heater systems			Safety relief valve	Tank	Safety relief valve	
	Up to 10 years	Over 10 to 22 years	Over 22 years			Start to discharge	Vapor tight
DOT-103	10	10	10	10	60	[o] 35	28
103AL		5	5	5	60	35	28
103W		[p] 20	10	10	60	[o] 35	28
103ALW	10	10	10	10	60	35	28
103A	[d] 5	3	1	2	60	35	28
103AW	[d] 5	3	1	2	60	35	28
103A-ALW	[d] 5	3	1	(*)	60	[b] 35	28
103ANW	[d] 5	3	1	2	60	35	28
103B	[f] 5	[f] 3	[f] 1	None	60		
103BW	[f] 5	[f] 3	[f] 1	None	60		
103C	5	3	1	(*)	60	35	26
103CAL		2	1	(*)	60	35	28
103CW	[d] 5	3	1	(*)	60	[b] 35	28
103DW	[d] 5	3	1	(*)	60	35	28
103EW	[d] 5	3	1	(*)	60	35	28
104	10	10	10	10	60	[o] 35	28
104A	10	10	10	5	100	75	60
104W		[p] 20	10	10	60	[o] 35	28
105			[n] 10	[n] 5	500	[g] 225	180
105A100	10	10	10	5	100	75	60
105A100ALW	10	10	10	5	100	75	60
105A100W	10	10	10	5	100	75	60
105A200ALW	10	10	10	5	200	150	120
105A200F	10	10	10	5	200	150	120
105A200W	10	10	10	5	200	150	120
105A300	[n] 10	[n] 10	[n] 10	[n] 5	300	[g] 225	180
105A300ALW	10	10	10	5	300	225	180
105A300W	[n f i] 10	[n f i] 10	[i] 10	[n i k] 5	300	[g n] 225	[n] 180
105A400	[n] 10	[n] 10	[n] 10	[n] 5	400	300	240
105A400W	[n] 10	[n] 10	[n] 10	[n] 5	400	[m] 300	240
105A500	[n] 10	[n] 10	[n] 10	[n] 5	500	[h] 375	300
105A500W	[n f] 10	[n f] 10	[n f] 10	[n k] 5	500	[h] 375	300
105A600	[n] 10	[n] 10	[n] 10	[n] 5	600	450	360
105A600W	[n] 10	[n] 10	[n] 10	[n] 5	600	[m] 450	360
109A100ALW	10	10	10	5	100	75	60
109A200ALW	10	10	10	5	200	150	120
109A300ALW	10	10	10	5	300	225	180
109A300W	10	10	10	5	300	225	180
111A60ALW1	10	10	10	10	60	35	28
111A60ALW2	[d] 5	3	1	(*)	60	35	28
111A60F1	10	10	10	10	60	35	28
111A60W1		[p] 20	10	10	60	35	23
111A60W2 [q]	5	3	1	2	60	35	28
111A60W5	5	3	1	None	60		
111A60W7	5	3	1	(*)	60	35	28
111A100ALW1	10	10	10	10	100	75	60
111A100ALW2	5	3	1	(*)	100	75	60
111A100F1		10	10	10	100	75	60
111A100W1		[p] 20	10	10	100	75	60
111A100F2 [q]	5	3	1	2	100	75	60
111A100W2 [q]	5	3	1	2	100	75	60
111A100W3		[p] 20	10	10	100	75	60
111A100W4	10	10	10	5	100	75	60
111A100W5	[f] 5	[f] 3	[f] 1	None	100		
111A100W6	[d] 5	3	1	(*)	100	75	60
112A200W	10	10	10	5	200	150	120
112A340W	10	10	10	5	340	[s] 255	[s] 204
112A400F		10	10	5	400	300	240
112A400W	10	10	10	5	400	[s] 300	[s] 240
112A500W	10	10	10	5	500	[h] 375	300
113A60W	(*)	(*)	(*)	5	(*)	30	24
113A175W	(*)	(*)	(*)	5	(*)	115	95
114A340W	10	10	10	5	340	[s] 255	[s] 204
114A400W	10	10	10	5	400	[s] 300	[s] 240
115A60ALW	10	10	10	5	60	35	28
115A60W1	10	10	10	5	60	35	28
115A60W6	10	10	10	5	60	35	28

See footnotes at end of table.

RETEST TABLE 1—Continued

Specification	Retest interval years [1]				Retest pressure-psi		
	Tank and interior heater systems			Safety relief valve	Tank	Safety relief valve	
	Up to 10 years	Over 10 to 22 years	Over 22 years			Start to discharge	Vapor tight
EMERG. USG-A, B & C		10	10	10	60	25	
ARA-III			10	10	60	[2]25	20
III acid (unlined)			1	None	60		
III (rubber lined)			(7)	None	60		
IV			10	10	60	[2]25	20
IV-A			10	5	100	35	28
V			[8]10	[8]5	300	[9]225	180

[1] Specifications 103CW and 103A-ALW cars built prior to Aug. 31, 1956, equipped with safety relief valves set to discharge at 45 p.s.i., may be continued in service. Such valves may be set to discharge at 35 p.s.i. by installing a spring suitable for the lower pressure. Specifications 103A-ALW and 103CW tank cars used to transport anhydrous hydrazine may have a safety relief valve having a start to discharge pressure of 45 p.s.i. with a tolerance of plus or minus 3 p.s.i. and a vapor tight pressure of 36 p.s.i.

[2] If the alternate safety relief valve start-to-discharge pressure setting is used, the retest pressures fo the safety relief valves must be in accordance with the provisions of § 179.102-11 of this chapter.

[7] When tanks are converted to class DOT-111AW2 or F2 from existing pressure type tanks, the retest interval must be computed from the date converted instead of the date built. The conversion date must be stenciled on the tank below the built date.

[8] When tanks are converted to class DOT-103AW from existing DOT-103W or 103BW tanks, the retest interval at conversion must be computed the same as 10-year-old equipment.

[9] Tanks complying with this specification need not be periodically retested.

§ 173.119 [Amended]

(B) In § 173.119, paragraphs (f) (4) and (h) are amended by deleting "Spec. ARA-II" each time it appears in the paragraphs.

(C) In § 173.251, paragraph (a) (2) is amended to read as follows:

§ 173.251 Boron trichloride.

(a) * * *

(2) Specification 105A300W or 106A-500X (§§ 179.100, 179.101, 179.300, 179.-301 of this chapter). Tank cars.

(Secs. 831-835, title 18, United States Code; sec. 9, Department of Transportation Act, 49 U.S.C. 1657)

This amendment is effective September 30, 1972. However, compliance with the regulations, as amended herein, is authorized immediately.

Issued in Washington, D.C., on May 2, 1972.

G. H. READ,
Captain, Alternate Board Member, for the U.S. Coast Guard.

MAC E. ROGERS,
Board Member for the Federal Railroad Administration.

[FR Doc.72-6888 Filed 5-5-72;8:45 am]

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

[Docket No. 69-7; Notice 18]

PART 571—MOTOR VEHICLE SAFETY STANDARDS

Occupant Crash Protection; Pressure Vessels and Explosive Materials

The purpose of this notice is to add a new section to Motor Vehicle Safety Standard No. 208, *Occupant Crash Protection*, 49 CFR 571.208, dealing with pressure vessels and explosive devices.

After review of the comments to the notice of proposed rule making (Docket 69-7, Notice 14, October 9, 1971; 36 F.R. 19705), the agency has concluded that its original assessment of the need for regulation was essentially correct and that a regulation should therefore be adopted. As indicated in Notice 14, the NHTSA sees a regulation of restraint systems such as air bags containing explosive materials or pressure vessels as having two primary functions: To impose directly on manufacturers the obligation to conform to Federal hazardous materials regulations, and to create a uniform system of regulation that will override any conflicting State or local regulation.

The approach taken in the notice was to propose a general incorporation of all applicable portions of the hazardous materials regulations as found in 49 CFR Parts 170-189. Most of the comments, while agreeing with the general intent of the proposal, objected to the breadth of this incorporation as too vague and too likely to result in difficulties of interpretation. There was a consensus that serious problems would arise as a result of the Hazardous Materials Regulations Board's practice of issuing special permits that allow shipment of regulated items that do not conform to the regulations. The majority of devices used in occupant protection systems vary in some way from the requirements of the regulations and have been shipped under one or more special permits. The comments pointed out that adoption of the regulations without some adjustment to allow for the existence of special permits would effectively prohibit most of these devices.

It has therefore been decided to limit the incorporation of the HMRB regulations by referencing those parts of the regulations from which no variances have been granted. Without exception, the pressure vessels used in air bag systems to date have been manufactured in basic conformity with the recently adopted Specification 39 (49 CFR 178.65). The variances which have caused the manufacturers to obtain special permits have been variances in the choice of materials and in the method of fabrication. All cylinders have been able to conform to the basic performance requirements of the specification, so that an incorporation into Standard 208 of the performance requirements of Specification 39 would enable manufacturers to continue to make their present systems.

Taken together, the performance requirements are considered by the NHTSA to be an adequate regulation of the safety of pressurized containers in occupant restraint systems. The HMRB will continue to exercise its jurisdiction over the shipment of the systems, so that a manufacturer will still have to obtain a special permit in order to ship systems that do not conform to the specification. The adoption of section S9 is not intended in any way to diminish the responsibilities of a manufacturer under the applicable regulations of the HMRB. For example, evidence of the requisite number of tests and inspections will continue to be required for shipment under the HMRB regulations, even though failure to test and inspect will not be a violation of Standard 208.

As adopted, the section consists of two subsections, the first dealing with pressure vessels and the second with explosives. The pressure vessel subsection applies to vessels that are designed to be continuously pressurized, as distinguished from systems that are pressurized only during actuation. A pressure vessel that contains an explosive charge as well as gas under continuous pressure will have to conform to both subsections.

A continuously pressurized vessel is required to conform to the requirements of Specification 39 concerning type, size, service pressure, and test pressure of vessels (paragraph 2 of the specification); seams (6(b)); wall thickness (7); openings and attachments (9 (a) and (b)); safety devices (10); pressure tests (11); and flattening tests (12). The reference to the latter two paragraphs are drafted to make it clear that the quality control aspects of those paragraphs are not included in the standard. The remaining portions of Specification 39, including the inspection requirements of paragraphs 3, 4, and 15, the material specifications of paragraph 5, the rejected cylinder procedure of paragraph 13, and the markings requirement of paragraph 14, are not incorporated.

Review of the explosives provisions of the hazardous materials regulations showed that some of the requirements, if applied literally, would not be appropriate for automotive installations. For instance, certain types of pyrotechnic inflators are categorized as explosive power devices and are required to be shipped in fiberboard or wooden containers. Neither of these types of containers would be proper for a system designed to protect

occupants in a vehicle from the effects of a crash. The primary needs are for a requirement that sets limits on the sensitivity of the explosive and one that requires it to be in a container that will protect the occupants of the vehicle from the effects of inadvertent ignition. These requirements are hereby adopted, in accordance with comments made by General Motors.

In consideration of the foregoing, Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, 49 CFR 571.208, is amended as follows:

1. S3 *Application.* is amended to read as follows:

S.3 *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses. In addition, S9, *Pressure vessels and explosive devices,* applies to vessels designed to contain a pressurized fluid or gas, and to explosive devices, for use in the above types of motor vehicles as part of a system designed to provide protection to occupants in the event of a crash.

2. A new section, *Pressure vessels and explosive devices,* is added to read as follows:

S9 *Pressure vessels and explosive devices.*

S9.1 *Pressure vessels.* A pressure vessel that is continuously pressurized shall conform to the requirements of §§ 178.65–2, 178.65–6(b), 178.65–7, 178.65–9(a) and (b), and 178.65–10 of this title. It shall not leak or evidence visible distortion when tested in accordance with § 178.65–11(a) of this title and shall not fail in any of the ways enumerated in § 178.65–11(b) of this title when hydrostatically tested to destruction. It shall not crack when flattened in accordance with § 178.65–12(a) of this title to the limit specified in § 178.65–12(a)(4) of this title.

S9.2 *Explosive devices.* An explosive device shall not exhibit any of the characteristics prohibited by § 173.51 of this title. All explosive material shall be enclosed in a structure that is capable of containing the explosive energy without sudden release of pressure except through overpressure relief devices or parts designed to release the pressure during actuation.

Effective date: June 12, 1972. Because of the immediate need to establish a uniform system of regulation, good cause is found for an effective date sooner than 180 days after issuance.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1407, delegation of authority at § 1.51)

Issued on May 3, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72–6948 Filed 5–3–72;12:39 pm]

Title 50—WILDLIFE AND FISHERIES

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

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 16—MIGRATORY BIRD PERMITS

Control of Depredating Birds

Pursuant to Article IV of the Convention Between the United States of America and the United Mexican States for the Protection of Migratory Birds and Game Mammals (50 Stat. 1311), the President of the United States and the President of the United Mexican States have agreed that 32 families of migratory birds be added to those named in Article IV of the Convention aforesaid. That agreement was formally exchanged by their personal representatives in Mexico City, Mexico, on March 10, 1972.

The 32 families of migratory birds added by said agreement are:

Scientific name	English name	Spanish name
Accipitridae	Eagles, hawks	Gavilanes, aguilas, aguilillas.
Alcedinidae	Kingfishers	Martin pescador.
Alcidae	Auklets, murres, puffins.	Pato de noche.
Anhingidae	Snake birds	Ahuizote.
Aramidae	Limpkins	Totalaca.
Ardeidae	Herons, egrets, bitterns.	Garzas, garzones.
Cathartidae	New world vultures.	Zopilotes, auras.
Ciconiidae	Stork and wood ibis.	Jabiru, Galambae.
Podicipedidae	Grebes	Zambullidores, Buzos.
Corvidae	Ravens, crows, jays.	Cuervos, urracas.
Diomedeidae	Albatrosses	Albatros.
Falconidae	Falcons, hawks	Gavilan, Caracara.
Fregatidae	Man-of-war birds	Fragata.
Phalacrocoracidae	Cormorant	Cormoran, corvejon.
Phoenicopteridae	Flamingo	Flamenco.
Gaviidae	Loons	Somorgujos.
Haematopodidae	Oyster catcher	Ostrero.
Hydrobatidae	Storm petrels	Petreles.
Jacanidae	Jacanas	Cirujano.
Laridae	Sea gulls, terns	Gavioetas, Gallito.
Pandionidae	Ospreys	Aguililla pescadora.
Pelecanidae	Pelicans	Pelicanos.
Phaethontidae	Tropic birds	Raba de junco.
Procellariidae	Shearwaters	Petreles, Fulmaros.
Rynchopidae	Skimmers	Rayador.
Sittidae	Nuthatches	Saltapalos.
Stercorariidae	Jaeger	Estercorario, Skus.
Strigidae	Owls	Tecolots, Lechuza.
Sulidae	Boobies, gannets	Bubias.
Threskiornithidae	Spoonbill, ibises	Teoquechol, Cucharera.
Tytonidae	Barn owl	Lecchuzas.
Trogonidae	Trogons	Pabellon, Cuauhtotola.

Included in these families of migratory birds are some species which may require some measure of control or management otherwise because of depredation in certain circumstances.

Consequently, it is determined that Part 16 of Title 50, Code of Federal Regulations, should be amended so as to include these particular species of birds with those now designated in § 16.22, thereby providing for control of depredating birds.

Accordingly, Part 16 of Title 50, Code of Federal Regulations, is amended as follows:

1. In the Table of Contents, the headnote of § 16.22 is amended to read:

Sec.
16.22 Depredating blackbirds, cowbirds, grackles, common crows, magpies, and horned owls.

2. The first paragraph of § 16.22 is amended to read:

§ 16.22 Depredating blackbirds, cowbirds, grackles, common crows, magpies, and horned owls.

A Federal permit shall not be required to control yellow-headed, red-winged, bi-colored red-winged, tri-colored red-winged, and Brewer's blackbirds, cowbirds, all grackles, common crows, magpies, and horned owls when found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance; *Provided:*

* * * * *

Since this amendment relieves an existing restriction with respect to depredating common crows, magpies, and horned owls and provides for control measures in instances where any of the species named in this section as amended become concentrated in such numbers and manner as to constitute a health hazard or other public nuisance, it is determined that notice and public procedure thereon are impracticable, unnecessary and contrary to the public interest and that this amendment shall become effective upon publication in the FEDERAL REGISTER.

(40 Stat. 755, as amended; 16 U.S.C. 704; and 50 Stat. 1311)

Effective date: Upon publication in the FEDERAL REGISTER (5–6–72).

F. V. SCHMIDT,
Acting Director, Bureau of Sport Fisheries and Wildlife.

MAY 2, 1972.

[FR Doc.72–6939 Filed 5–5–72;8:50 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 760]

BEEKEEPERS

Proposed Indemnity Payment Program

Notice is hereby given that the Agricultural Stabilization and Conservation Service, under the authority of section 804 of the Agricultural Act of 1970, 84 Stat. 1382, 7 U.S.C. 135b note, is considering amending the Beekeeper Indemnity Payment Program regulations, 7 CFR Part 760, to improve the administration of the program.

This proposed amendment would:

1. Require each beekeeper to submit by June 15 of each year, a statement specifying the number of colonies he maintains at each apiary and the location of his apiaries.

2. Require that all applications for payment be filed by April 1 following the year in which the losses occurred, and provide that only one payment be made for all losses occurring during a calendar year.

3. Authorize a payment of $1.50 for each queen nucleus suffering damage between January 1, 1967, and June 11, 1971, if the beekeeper cannot establish the extent of his loss but submits a statement from a disinterested person who witnessed the loss.

4. Set forth guidelines to be followed when inspections of damaged apiaries are performed on a sampling basis.

5. Require all inspection reports to be submitted to county offices by November 1 each year.

6. Prohibit payments for any loss of bees occurring after November 1 of each year and for any loss of queen nuclei occurring after July 1 of each year.

7. Require all beekeepers who maintain 300 or more colonies of bees and/or queen nuclei to file their applications on the basis of the net losses rather than flat rates of payment.

8. Permit beekeepers with less than 300 colonies of bees or queen nuclei to file an application on the basis of flat rates of payment. However, such rates would be reduced from those currently in effect.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendment to the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. Each person submitting comments, suggestions, or objections regarding the proposed amendment shall include his name and address and shall give reasons for any suggested changes in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Deputy Administrator, State and County Operations, during regular business hours (8:15 a.m. to 4:45 p.m.) (7 CFR 1.127 (b)).

All comments received before May 20, 1972, will be considered before final action is taken on this proposal.

It is proposed that Part 760 be amended by revising paragraphs (a) and (b) of § 760.103, paragraph (c) of § 760.104, §§ 760.105 and 760.109 to read as follows:

§ 760.103 Application for payment.

(a) A beekeeper, to be eligible for an indemnity payment, shall file an application for payment with the County Committee and establish to the satisfaction of the County Committee all of the following:

(1) That during the application period, he suffered a loss of bees;

(2) That the loss of bees was caused by the use of pesticides near or adjacent to his apiary, and occurred without his fault;

(3) That if he used pesticides, such use of pesticides in no way contributed to the loss of his bees;

(4) That if he had advance notice that pesticides were going to be used near or adjacent to his apiary, he took reasonable precautions to protect his bees from exposure to pesticides, or, if he took no such precautions, that his failure to do so was reasonable under the circumstances.

(5) That after exposure of his bees to pesticides, he took reasonable action to minimize the bee loss to the extent that such action was feasible; and

(6) That the loss of bees was caused solely by the use of pesticides.

(b) A beekeeper, to be eligible for an indemnity payment for losses occurring during 1972 and any subsequent year, shall, no later than June 15 of each such year, submit to the ASCS County Office where his headquarters are located a signed statement specifying the number of colonies of bees and queen nuclei maintained at each apiary and the location of each apiary: *Provided, however,* That such statement may be submitted after such date if the County Committee determines that the beekeeper's failure to submit the statement by such date was for good cause: *And provided, further,* That an amendment to such statement shall be submitted after such date to reflect any purchase or sale of colonies or queen nuclei after June 15, together with proof of such purchase or sale. The number of colonies and queen nuclei specified in this statement, as amended, shall be the maximum number of colonies and queen nuclei for which the beekeeper will be eligible to receive an indemnity payment for losses incurring during 1972 and any subsequent year.

* * * * *

§ 760.104 Application for payment.

* * * * *

(c) Applications for payment on losses of bees sustained after the effective date of this subpart shall be filed as promptly as practicable but not later than 1 year following the date of loss, except that applications for payment on losses of bees sustained during 1972 and each subsequent year shall be filed not later than April 1 following the year in which the losses occurred, and only one indemnity payment will be made to the beekeeper for all losses occurring during each such year.

* * * * *

§ 760.105 Proving loss of bees.

A beekeeper shall submit to the County Committee an executed Form ASCS-448 or Form ASCS-449, whichever is applicable, specifying the number of colonies destroyed, severely damaged, and moderately damaged; the number of queen nuclei destroyed and severely damaged; and evidence of the losses of bees specified in such form.

(a) (1) With respect to any loss of bees which occurred between January 1, 1967, and June 11, 1971, both dates inclusive, such evidence may include, but is not limited to:

(i) Official reports of bee losses filed by the beekeeper with State or local authorities.

(ii) Daybooks or other regularly kept business records in which losses of bees were recorded by the beekeeper at the time of such losses.

(iii) Written statements signed by disinterested persons, such as landowners, farmers, or apiary inspectors, having personal knowledge of the beekeeper's loss of bees.

(iv) Photographs showing bee losses: *Provided,* That such photographs shall be authenticated as to date, location, and accuracy of what they portray.

(v) Reports of State or local apiary inspectors.

(vi) The beekeeper's tax returns or other reports showing losses of bees.

(2) If the beekeeper is unable to establish the extent of his losses of bees (that is, whether his loss of bees resulted in his colonies being destroyed, severely damaged, or moderately damaged), the extent of his loss will, for the purposes of this subpart, be deemed to be moderate damage: *Provided,* That the beekeeper submits to the County Committee, together with whatever other documents are required by this subpart, a written statement signed by a disinterested person that he witnessed the beekeeper's loss of bees but could not assess the extent of such loss.

(3) If the beekeeper is unable to establish the extent of his loss of queen nuclei (that is, whether his loss resulted in his nuclei being destroyed or severely damaged), payment at the rate of $1.50 for each such damaged queen nucleus will be made: *Provided*, That the beekeeper submits to the County Committee, together with whatever other documents are required by this subpart, a written statement signed by a disinterested person that he witnessed the beekeeper's loss of queen nuclei but could not assess the extent of such loss.

(b) With respect to any loss of bees for which application for payment will be made and which occurs after June 11, 1971, such evidence shall include, but is not limited to:

(1) A written statement signed by a disinterested person, such as the State apiarist, ASCS personnel, or other persons familiar with beekeeping, describing losses of bees which he has observed.

(2) Full information regarding the loss, including but not limited to the following:

(i) Cause of loss;

(ii) Extent of loss;

(iii) Date of loss; and

(iv) Location of apiary.

(c) If the statement required by paragraph (b)(1) of this section is based on a sample of the colonies in an apiary, the following guidelines shall be substantially complied with in selecting the samples of colonies to be examined:

(1) Count the colonies in the apiary.

(2) Select the colonies to be included in the sample from all areas of the apiary so as to assure that the sample is representative of conditions in the apiary as a whole. Colonies should be selected at random to assure an accurate determination of the extent of loss in the apiary.

(3) Open and thoroughly inspect at least the specified number of colonies for the applicable size of apiary:

(i) Apiary of 1–15 colonies, all colonies.

(ii) Apiary of 16–75 colonies, 15 colonies.

(iii) Apiary of more than 75 colonies, 20 percent of the colonies.

(d) All statements required by paragraph (b)(1) of this section with respect to losses occurring after January 1, 1972, must be submitted to the County Office by November 1 of the year in which the losses occurred. Beginning with 1972, no change in the degree of loss of bees will be recognized after November 1 each year and no payment will be made for any loss of queen nuclei which occurs between July 1 and December 31.

§ 760.109 Computation of payment.

(a) The County Committee will determine the amount of the indemnity payment due a beekeeper whom it has determined to be in compliance with the terms and conditions of this subpart. Such payment shall be in the amount of the beekeeper's net loss from losses of his bees resulting from application of pesticides, less any indemnification for the loss of his bees or payment of any nature which the beekeeper has received through insurance, legal action, or otherwise. The beekeeper shall have his net loss determined by the County Committee on the basis of evidence submitted by him to the County Committee relating to the following:

(1) The cost of bees obtained to replace those lost,

(2) Loss of sales of honey and beeswax,

(3) Loss of pollination fees,

(4) Loss of sales of queen bees and packaged bees, and

(5) Other related costs incident to the loss of bees.

However, if the beekeeper maintains less than 300 colonies of bees and/or queen nuclei, he may have his payment determined by the County Committee on the basis of the following rates:

(i) $15 for each colony destroyed.

(ii) $10 for each colony severely damaged.

(iii) $5 for each queen nucleus destroyed.

Dated: May 1, 1972.

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

[FR Doc.72-6945 Filed 5-5-72;8:48 am]

DEPARTMENT OF COMMERCE

Patent Office

[37 CFR Part 1]

EVIDENCE OF PATENTABILITY OR PRIORITY

Proposed Special Statement in Affidavit or Declaration When Relying Upon Facts, Data, Test Results or Other Evidence

Notice is hereby given that, pursuant to the authority contained in section 6 of the Act of July 19, 1952 (66 Stat. 793; 35 U.S.C. 6) the Patent Office proposes to amend Title 37, Code of Federal Regulations, by adding a new § 1.69.

All persons are invited to present their views, objections, recommendations, or suggestions in connection with the proposed new section, to the Commissioner of Patents, Washington, D.C. 20221, on or before June 27, 1972, on which date a hearing will be held at 9 a.m. in Room 8C06, Building 2, Crystal Plaza, 2011 Jefferson Davis Highway, Arlington, VA 22202. All persons wishing to be heard orally at the hearing are requested to notify the Commissioner of Patents of their intended appearance. Any written comments or suggestions may be inspected by any person upon written request a reasonable time after the closing date for submitting comments.

New § 1.69 seeks to guard against the omission from facts, data, test results, or other evidence presented in connection with patentability or priority of invention, of known evidence which is inconsistent with that presented or which would convey a different impression. The purpose is to insure presentation to the Patent Office of the evidence needed to make an informed decision on patentability or priority of invention. The section thus requires a verified statement that no such inconsistent evidence is known to the person making the statement, if such is the fact.

The text of proposed new § 1.69 is as follows:

§ 1.69 Special statement in affidavit or declaration when relying upon facts, data, test results, or other evidence.

(a) An affidavit or declaration filed during the prosecution of an application presenting evidence urged as bearing on patentability or priority of invention will be considered only if the applicant or other person making the affidavit or declaration states therein that no evidence is known to him which is inconsistent with that relied on in the affidavit or declaration, or which would tend to give an impression different from that conveyed by the affidavit or declaration.

(b) If, during the prosecution, the applicant, to establish patentability, relies on representations as to facts, data, or test results set forth in the specification, such representations will be considered for that purpose only if applicant files an affidavit or declaration attesting as to the truth of the representations and asserting that no facts, data, or test results are known to him which are inconsistent with those set forth in the specification, or which would tend to give an impression different from that conveyed by the specification.

Dated: April 28, 1972.

ROBERT GOTTSCHALK,
Commissioner of Patents.

Approved: May 1, 1972.

JAMES H. WAKELIN, Jr.,
Assistant Secretary for Science and Technology.

[FR Doc.72-6925 Filed 5-5-72;8:49 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 61, 67, 121, 127, 183]

[Docket No. 11434; Reference Notice 71-31]

MEDICAL CERTIFICATION AND SURVEILLANCE: AIR CARRIER FLIGHT CREWMEMBERS

Notice of Public Hearing

The Federal Aviation Administration will hold a public hearing at 9:30 a.m., June 26, 1972, at Federal Office Building 10A, 800 Independence Avenue SW., Washington, DC 20591, to receive the views of all interested persons concerning Notice 71-31 which proposed to amend Parts 61, 67, 121, 127, and 183 of the Federal Aviation Regulations to provide for the medical certification and surveillance of air carrier flight crew-

members by designated air carrier physicians, without disturbing the reconsideration and review rights now available to applicants who are denied medical certificates. Notice 71–31 was published in the FEDERAL REGISTER on October 5, 1971 (36 F.R. 19393).

As proposed in Notice 71–31, Parts 121 and 127 would be amended to require, after 1 year, medical examination of flight crewmembers upon initial employment, when required by Part 67, and in certain other situations, performed by physicians who are full-time or part-time employees of the air carrier certificate holders or, in lieu thereof, by physicians who perform medical services for those air carriers on a contractual or regular consulting basis. Each air carrier certificate holder would be required to provide adequate medical facilities for these purposes, and would be prohibited from using a person as a flight crewmember if it knows, or reasonably should know, of a physical deficiency or increase thereof that makes him unable to meet the physical requirements of his current medical certificate. Part 183 would be amended to provide for the designation of the air carrier physicians as medical examiners, and Parts 61 and 67 would be amended to accommodate these changes with respect to duration of medical certificates and giving of medical examinations.

Based upon requests from the Air Line Pilots Association, International, the Allied Pilots Association, Flight Engineers' International Association, and the Air Transport Association, and because of the wide interest in this matter, the FAA has decided that it would be in the public interest to give all interested parties an opportunity to comment on the need for the changes proposed. The hearing will be an informal hearing conducted by a designated representative of the Administrator under 14 CFR 11.33. It will not be a judicial or evidentiary type hearing, so there will be no cross-examination of persons presenting statements (5 U.S.C. sec. 553).

An FAA spokesman will make an opening statement discussing, in brief, the proposals made in Notice 71–31. Interested persons will then have an opportunity to present their oral statements. These statements should be responsive to Notice 71–31.

After all initial statements have been completed, those persons who wish to make rebuttal statements will be given an opportunity to do so in the same order in which they made their initial statements.

Interested persons are invited to attend the hearing and present oral or written statements on the matters set forth herein that will be made a part of the record of the hearing. Any person who wishes to make an oral statement at the hearing should notify the FAA by June 12, 1972, stating the amount of time requested for his initial statement. In addition, any person who is unable to attend the hearing may submit relevant written comments. These comments should be received by the FAA by June 12, 1972, to be made a part of the hearing record. All communications concerning this hearing should be addressed to the Office of the General Counsel, Rules Docket, GC–24, Federal Aviation Administration, Department of Transportation, 800 Independence Avenue SW., Washington, DC 20591, marked "Attention: Presiding Officer, Public Hearing on Notice 71–31."

A transcript of the hearing will be made, and anyone may buy a copy of the transcript from the reporter.

This notice is issued under the authority of sections 313 (a) and (c), 314 (a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354 (a) and (c), 1355, 1421, 1424), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 2, 1972.

P. V. SIEGEL,
Federal Air Surgeon.

[FR Doc.72–6921 Filed 5–5–72;8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71–EA–131]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Norfolk, Va., transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Region Air Traffic Division Chief.

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Norfolk, Va., transition area was amended by Airspace Docket No. 71–EA–88 effective December 9, 1971, and published in the FEDERAL REGISTER (36 F.R. 20363) on October 21, 1971. The airspace action proposed in this docket would alter Part 71 of the Federal Aviation Regulations by again amending the Norfolk, Va., transition area as hereinafter set forth.

In § 71.181 (37 F.R. 2143) the Norfolk, Va., transition area is amended as follows: Following the phrase, "to 11.5 miles southwest." add, "and within a 9-mile radius of Oceana NAS (Soucek Field) (latitude 36°49'30" N., longitude 76°01'45" W.)".

The alteration of the transition area proposed herein is necessary to provide controlled airspace, specified by existing criteria, for aircraft executing instrument approach and departure procedures at Oceana NAS.

This amendment is proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 F.R. 9565) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 1, 1972.

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

[FR Doc.72–6920 Filed 5–5–72;8:47 am]

National Highway Traffic Safety Administration

[23 CFR Part 204]

[Docket No 72-8]

PUPIL TRANSPORTATION SAFETY

Highway Safety Program Standard; Request for Comments

The purpose of this notice is to request public comment on that portion of Highway Safety Program Standard 17, Pupil Transportation Safety (published herein at page 9212) that pertains to the application of school vehicle identification requirements to transit buses operated by common carriers.

Standard 17 is issued pursuant to authority of section 402(a) of the Highway Safety Act of 1966 (23 U.S.C. sec. 402 (a)). It establishes uniform program guidelines to be followed by States in developing highway safety programs as required by the Act. Requirements relating to schoolbus operations, busdriver training, maintenance, etc., apply to all vehicles that are at any time used exclusively to carry children to and from school. Identification and equipment requirements, however, apply only to Type I vehicles (as defined in paragraph III of the standard) and Type II vehicles (as defined in paragraph III of the standard) at the option of the State. Under the current standard, common carriers are included as Type I vehicles except when they carry schoolchildren along with other passengers along regular transit routes. NHTSA believes this is necessary, since the safety hazards that require identification (for example, frequent stops at nonstandard locations that are not otherwise controlled) vary according to vehicle size and operation, and not vehicle ownership.

The transit industry, has, however, raised strong objections to the application of the standard as it currently reads. NHTSA has determined that before any amendment of the standard can be considered, more information is necessary to determine the extent of transit involvement in carriage of schoolchildren exclusively, apart from carriage, even at subsidized rates, along with other passengers on regular transit routes. Comments are therefore requested on the specific types of situations in which transit vehicles are used to carry schoolchildren to and from school.

NHTSA is particularly interested in the following type of data from school districts and other users:

1. The percentage of school transportation that is provided through off-route contract service, that is, carriage on transit vehicles along special school routes under a contractual arrangement between the transit carrier and the school district;

2. The percentage of the school population carried on regular transit routes;

3. The numbers of vehicles involved in the transportation under 1 or 2 above;

4. Cost to the school district per passenger, per vehicle, per hour, or according to whatever other method of billing is used in off-route contract carriage; and

5. The safety record of the off-route contract transportation by transit vehicles, in terms of accidents, injuries and fatalities.

Further economic data from the transit industry on costs and revenue relating to the transportation of schoolchildren on both regular and contract routes, including breakdowns of the percentage of revenue, equipment use, etc., attributable to each is also requested.

While an amendment to the standard does not require public notice and comment pursuant to statute, this request for comments is issued to afford the public an opportunity to participate in the action and to obtain the widest possible range of views on this subject.

Interested persons are invited to submit written data, views, and arguments in response to this request. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on September 8, 1972, will be considered, and will be available for examination in the docket at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Administration. However, action may be taken at any time after that date, and comments filed after the above date and too late for consideration in regard to the action will be treated as suggestions for future action. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

This request for comments is issued under the authority of section 402 of the Highway Safety Act of 1966, 23 U.S.C. 402, and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on May 2, 1972.

JAMES E. WILSON,
Associate Administrator,
Traffic Safety Programs.

[FR Doc. 72-6949 Filed 5-5-72;8:50 am]

ATOMIC ENERGY COMMISSION

[10 CFR Part 140]

FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

Indemnity Locations

The Atomic Energy Commission is considering the adoption of an amendment to its regulation Financial Protection Requirements and Indemnity Agreements, 10 CFR Part 140, which would specify how the Commission will determine the geographical boundaries of indemnity locations in indemnity agreements affording indemnity protection for the preoperational storage of fuel at the site of a power reactor under construction, and the geographical boundaries of indemnity locations where a nuclear reactor is operating and an additional power reactor is under construction nearby on a contiguous site by the same licensee.

Existing Commission practices for determining indemnity locations have evolved over the years, and are not presently specified in the Commission's regulations. The Commission is now considering modifying its present practices and incorporating its method of delineating indemnified locations in Part 140 thus providing the public, utilities, and nuclear suppliers with this information. The amendment would appear as a new § 140.96, *Appendix F*, of 10 CFR Part 140.

An indemnity "location" is described in each indemnity agreement primarily to distinguish between that property of the licensee which is at the location and that which is away from the location. Under indemnity agreements executed by the Commission under the Price-Anderson Act (section 170 of the Atomic Energy Act of 1954, as amended), the licensee's property away from the location (offsite property) is protected by Government indemnity and underlying financial protection as if it were owned by any other member of the public. The licensee's property on the location (such as the reactor itself) (onsite property), on the other hand, is not protected by indemnity and underlying financial protection, but can instead be protected by nuclear property insurance which the licensee can purchase.

Indemnification of reactor facilities begins when cold fuel is brought to the facility for preoperational storage, usually as construction of the reactor is nearing completion. At that time, the utility is required by the Commission's regulations to furnish proof of financial protection (usually nuclear liability insurance) and to enter into an indemnity agreement with the AEC. Under the Commission's present practice, the boundaries of the indemnity location described in the agreement have been the storage vault or other structure in which the fuel is stored. The remainder of the construction area is thus outside the indemnity location—"offsite." If an incident should occur in the storage structure, during the preoperational storage period, causing property damage in the remainder of the construction area, the utility would be entitled to compensation for damage to such offsite property. When the operating license is issued, the indemnity agreement is amended to enlarge the indemnity location to include the completed reactor and associated facilities. If a licensee later constructs a follow-on reactor unit adjacent to the first, the construction area for the follow-on unit is treated as being outside the indemnity location—offsite—for the first unit until preoperational storage of fuel for the follow-on unit is licensed. At that time, the indemnity location for the first unit is amended to add the fuel storage

structure for the follow-on unit. When an operating license is issued for the follow-on unit, the indemnity "location" is further amended to include the new reactor unit.

The Commission has concluded that the present use of the limited indemnity location concept as described above should be discontinued. Under the proposed amendment to Part 140, the indemnity location for power reactors would embrace the entire facility, including construction areas. When a preoperational storage license is issued and the Commission enters into an indemnity agreement, the agreement would specify that the indemnified location includes the entire facility. If a follow-on unit is built adjacent to an existing reactor, the indemnity location for the first unit would be expanded to include the second unit site at the time the construction permit is issued for the latter.

Protection for construction workers and other persons at the site would not be affected by the proposed change.

This proposed method may not be susceptible of application to all circumstances (e.g., where conventional builder's risk policies, subject to a nuclear exclusion, remain in effect at some units, construction of which was commenced when such coverage was still available). Where the Commission on application of any affected person or on its own initiative determines that a departure from this proposed method would be authorized by law and otherwise in the public interest, it may establish a different indemnity location in individual cases.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendment of 10 CFR Part 140 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendment should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within 60 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments received may be examined in the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

A new § 140.96 *Appendix F—Indemnity locations*, is added to 10 CFR Part 140 to read as follows:

§ 140.96 Appendix F—Indemnity locations.

(a) *Geographical boundaries of indemnity locations.*

(1) In every indemnity agreement between the Commission and a licensee which affords indemnity protection for the preoperational storage of fuel at the site of a nuclear power reactor under construction, the geographical boundaries of the indemnity location will include the entire construction area of the nuclear power reactor.

(2) In every indemnity agreement between the Commission and a licensee which affords indemnity protection for an existing nuclear power reactor the geographical boundaries of the indemnity location shall include the entire construction area of any additional nuclear power reactor built as part of the same power station by the same licensee.

(3) This section is effective (60 days after the effective date of this amendment) as to construction permits already issued and, as to construction permits issued on or after (effective date of this amendment), the provisions of this section will apply no later than such time as a construction permit is issued authorizing construction of any additional nuclear power reactor.

(Secs. 161, 170, 68 Stat. 948, 71 Stat. 576; 42 U.S.C. 2201, 2210)

Dated at Germantown, Md., this 25th day of April 1972.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary of the Commission.

[FR Doc.72-6905 Filed 5-5-72;8:47 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

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

Proposed Interim Tolerances

In the FEDERAL REGISTER of April 13, 1966 (31 F.R. 5723), the Secretaries of Agriculture and Health, Education, and Welfare issued a joint statement to the effect that all pesticides registered for food or feed on a no-residue or zero tolerances established by December 31, 1970, or registration would be cancelled. Subsequently, it was agreed that, in general, registrations should be continued in those situations where petitions had been submitted prior to December 31, 1970, but that in no event would any such registration be continued without tolerance beyond December 31, 1971 (notice was published in the FEDERAL REGISTER of December 5, 1970; 35 F.R. 18550)). However, many of those petitions were submitted just prior to the deadline and due to amendments are still under review.

Accordingly it is concluded that interim tolerances should be established for those pesticide chemicals for which the aforementioned petitions are pending. These tolerances are to provide a basis for extension of the registration only until the processing of the pending petitions is completed and action is taken thereon. On the basis of available data it is concluded that these interim tolerances will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (b), (e), 68 Stat. 511, 514; 21 U.S.C. 346a (b), (e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), it is proposed that Part 180 be amended by adding the following new section to Subpart C:

§ 180.319 Interim tolerances.

While petitions for tolerances for negligible residues are pending and until action is completed on these petitions, interim tolerances are established for residues of the listed pesticide chemicals in or on raw agricultural commodities as follows:

Substance	Use	Tolerance in parts per million	Raw agricultural commodity
Binapacryl (2-*sec*-butyl-4,6-dinitrophenyl-3-methyl-2-butenoate) and its metabolite 2-*sec*-butyl-4,6-dinitrophenol calculated as binapacryl.	Insecticide, fungicide.	0.2	Apples, grapes, pears.
Bromoxynil (3,5-dibromo-4-hydroxybenzonitrile).	Herbicide	0.1	Forage and grain of barley and wheat.
2-*sec*-Butyl-4,6-dinitrophenol	Insecticide	1	Alfalfa and alfalfa hay, almond hulls, barley forage and hay, bean forage, birdsfoot trefoil and trefoil hay, clover and clover hay, oats forage and straw, pea vines, peanut vines' rye forage and straw, soybean forage, vetch and vetch hay, wheat forage and straw.
		0.1	Almonds, apples, apricots, barley, beans, blackberries, blueberries, boysenberries, cherries, citrus, corn fodder and forage, cottonseed, cotton forage, corn grain, fresh corn including sweet corn (kernels plus cob with husk removed), cucurbits, currants, dates, filberts, garlic, gooseberries, grapes, hops, raspberries, nectarines, oats, olives, onions, peaches, peanut hulls, peanuts, pears, peas, pecans, peppermint, plums (prunes), potatoes, loganberries, rye, soybeans, spearmint, strawberries, wheat.
2-Chloro-1-(2,4-dichlorophenyl)-vinyl diethyl phosphate.	Insecticide	.005	Eggs, meat, milk, fat and meat byproducts of cattle and poultry.

Substance	Use	Tolerance in parts per million	Raw agricultural commodity
p-Chlorophenoxyacetic acid	Herbicide	0.1	Tomatoes.
2-(*m*-Chlorophenoxy)propionamide and 2-(*m*-chlorophenoxy) propionic acid.	do	0.25	Peaches.
S-(*p*-Chlorophenylthiomethyl) *O,O*-dimethyl phosphorodithioate.	Insecticide	0.1	Cottonseed.
2,4-D (2,4-dichlorophenoxyacetic acid).	Herbicide	20	Corn fodder and forage, sorghum fodder and forage.
		1	Alfalfa, blueberries, clover.
		0.5	Fresh corn including sweet corn (kernels plus cob with husk removed), corn grain, cranberries, grapes.
		0.1	Potatoes, rice, rice straw, sorghum, sugarcane.
4-(2,4-Dichlorophenoxy) butyric acid	Herbicide	0.2	Alfalfa, barley, birdsfoot trefoil, clover, oats, soybean hay, soybeans, wheat.
O,O-Dimethyl *S*-[2-(ethylsulfinyl)-ethyl] phosphorothioate.	Insecticide	1	Blackberries, broccoli, brussels sprouts, cab, bage, cauliflower, cucumbers, raspberries-summer squash, turnip tops.
		0.5	Corn grain, fresh corn including sweet corn (kernels plus cob with husk removed), sugar beet tops.
		0.3	Melons, pears, pumpkins, sugar beets, turnips, winter squash.
		0.1	Cottonseed, potatoes.
2,4-Dinitro-6-octyl-phenyl crotonate and 2,6-dinitro-4-octylphenyl crotonate, mixture of.	Fungicide, insecticide.	0.1	Apples, apricots, cucurbits, grapes, peaches, pears.
Dipropyl isocinchomeronate	Insecticide	0.1	Meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep.
		0.004	Milk.
Endothall (7-oxabicyclo-(2.2.1) heptane-2,3-dicarboxylic acid).	Herbicide	0.2	Sugar beets.
5-Ethoxy-3-trichloromethyl-1,2,4-thiadiazole.	Fungicide	0.3	Cottonseed.
2-Methyl-4-chlorophenoxyacetic acid	do	20	Forage of barley, oats, rye, wheat.
		2	Straw of barley, oats, rye, wheat.
		0.2	Grain of barley, oats, rye, wheat.
		0.1	Flaxseed, rice.
Naled (1,2-dibromo-2,2-dichloroethyl dimethyl phosphate).	Insecticide	3	Celery, collards, kale.
		0.5	Beans, cottonseed, dried beans, grapes, hops, peaches, peas, safflower seed, soybeans, sugar beets, walnuts.
		0.05	Eggs, meat, milk, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, sheep.
1-Naphthaleneacetic acid	Herbicide	0.1	Olives.
Nicotine	Insecticide	1	Eggs and poultry.
N-Octylbicycloheptenedicarboximide.	do	0.25	Milk and in meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep.
Parathion (*O,O*-diethyl-*O*-nitrophenylthiophosphate) or its methyl homolog.	do	0.5	Rye.
		0.1	Almonds, filberts, pecans, potatoes, safflower seed, sorghum, sugar beets, sugarcane, sweet-potatoes, walnuts.
Phenothiazine	do	2	Meat, fat, and meat byproducts of cattle.
Potassium arsenite	do	2.7	Kidney and liver of cattle and horses (external animal uses only).
		0.7	Meat, fat, and meat byproducts of cattle and horses (external uses only).
Silvex (2-(2,4,5-trichlorophenoxy) propionic acid).	Herbicide	0.1	Apples, rice, sugarcane, plums (prunes).
Sodium arsenite	Insecticide (External animal uses only.)	2.7	Kidney and liver of cattle and horses (external uses only).
		0.7	Meat, fat, and meat byproducts of cattle and horses.
Tetraethyl pyrophosphate	Insecticide	0.01	Apples, cabbage, cauliflower, hops, oranges, peaches, potatoes.
Toxaphene (chlorinated camphene containing 67-69% chlorine).	do	1	Alfalfa hay.
		0.05	Milk.

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, within 30 days after publication hereof in the FEDERAL REGISTER, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, DC 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: May 1, 1972.

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

[FR Doc.72-6858 Filed 5-5-72;8:46 am]

[40 CFR Part 180]

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

2,4-D; Proposed Tolerance

Correction

In F.R. Doc. 72-6416 appearing at page 8462 in the issue for Thursday, April 27, 1972, the second paragraph under the heading for § 180.142 should read as follows:

Where tolerances are established at higher levels from other uses of 2,4-D on the subject crops, the higher tolerance applies also to residues from the irrigation ditch bank use cited above.

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 21, 25]

[Docket No. 19495; FCC 72-362]

INTERNATIONAL AND DOMESTIC COMMUNICATION-SATELLITE FACILITIES

Earth Station Coordination and Interference Calculation Methods

In the matter of amendment of Parts 21 and 25 of the rules to establish revised earth station coordination and interference calculation methods for international and domestic communication-satellite facilities by nongovernmental entities.

1. Notice is hereby given to proposed rule making in the above-entitled matter.

2. The sections of Parts 21 and 25 of the rules currently in force that deal

with the questions of coordination between earth stations and terrestrial stations were based on methods developed in 1963 and prior years.

3. These sections deal only with the calculation of coordination distance and do not set forth specific methods to determine if there will be interference between stations inside this coordination area.

4. These sections were intended to apply specifically to earth stations in international fixed-satellite systems and did not take into account possible different conditions presented by domestic systems.

5. In the comments and reply comments in the domestic communication satellite proceeding (Docket No. 16495), various applicants have suggested that the earth station coordination procedures and methods for calculating interference mentioned in Appendix D to the "Report and Order" issued in 1970 (22 FCC 2d 86, 133–139) should be revised in some respects. The Communications Satellite Corp. (Comsat), American Telephone & Telegraph Co. (AT&T), and the Western Union Telegraph Co. (Western Union) noted that Appendix D does not require, and the various applicants in Docket No. 16495) have not employed, uniform procedures in coordinating earth stations. Moreover, Appendix D is silent on the use of artificial site shielding and preelimination by the use of auxiliary contours.

6. It appears that some modifications may be appropriate and that further inquiry and rule making in this area are warranted. A description of proposed methods is given below. Some of this material is intended to apply to both domestic and international systems, while some portions apply to one or the other (in particular, portions of Table 1, § 25.252). This material is based on Chapter 8 (and annexes thereto) of the Final Report of the Special Joint Meeting (SJM) of the CCIR, 1971. Some of this material was also adopted by the WARC, 1971, appearing in Annex 18 to the Final Acts (which adds a new Appendix 28 to the Radio Regulations). By proposing these methods, the Commission does not intend to prejudge the outcome to consideration by the Senate of those portions of the Final Acts of the WARC. Rather, their inclusion in both places indicates that both the Commission and the WARC have each relied on techniques that have been developed and refined over the years by the CCIR and other organizations concerned with the sharing of frequencies by space and terrestrial services.

7. The material below also sets forth proposed changes to the rules regarding frequency tolerance and to standards for spurious emissions for earth and space stations.

8. Authority for the proposed rule making and inquiry instituted herein is contained in sections 1, 2, 3, 4 (i) and (j), 214, 301, 303, 307–390, and 403 of the Communications Act of 1934 and sections 102(d) and 201(c) (6) and (11) of the Communications Satellite Act of 1962.

9. Interested persons may submit comments on the foregoing and the proposed criteria for calculating coordination contours and interference set forth in the appendix below on or before June 2, 1972.

10. In order that the outcome may be known to the pending applicants in Docket No. 16495 as soon as possible, the Commission intends to expedite this proceeding and will not grant any extension of filing times in the absence of extraordinary cause shown. In reaching its decision in this matter, the Commssion may take into account any other relevant information before it, in addition to the comments invited by this notice.

11. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted: April 19, 1972.

Released: April 27, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

1. In § 21.100, paragraph (d) is amended to read as follows:

§ 21.100 Frequencies.

* * * * *

(d) All applicants for regular authorization in the Point-to-Point Microwave Radio and Local Television Transmission Services shall, before filing an application, coordinate proposed frequency usage (including relevant technical details) with existing users in the area and other applicants with previously filed applications, whose facilities could affect or be affected by the new proposal in terms of frequency interference or restricted ultimate system capacity. In coordinating frequency usage with stations in the Communication-Satellite Service, applicants shall also comply with the requirements of § 21.706 (c) and (d). All applicants, permittees, and licensees shall cooperate fully and make reasonable efforts to resolve technical problems and conflicts that may inhibit the most effective and efficient use of the radio spectrum. Applicants should make every reasonable effort to avoid blocking the growth of systems that are likely to need additional capacity in the foreseeable future. The applicant shall identify in the application all entities with which the technical proposal was coordinated. In the event that technical problems are not resolved or if the existing licensee, permittee, or applicant does not respond to coordination efforts within 30 days after notification, an explanation shall be submitted with the application.

* * * * *

[1] Commissioners Johnson and H. Rex Lee absent.

2. In § 21.706, paragraphs (c) and (d) are revised to read as follows:

§ 21.706 Supplementary showing required with applications.

* * * * *

(c) In those frequency bands shared with the Communication-Satellite Service, an applicant for a new station, for new points of communication, for the initial frequency assignment in a shared band for which coordination has not been previously effected, or for authority to modify the emission or radiation characteristics of an existing station in a manner that may increase the likelihood of harmful interference, shall ascertain in advance whether the station(s) involved lie within the coordination contour of an existing earth station or one for which an application has been accepted for filing. For each such potential interference path, the applicant shall perform the computations required to determine that the expected level of interference to or from the terrestrial station does not exceed the maximum permissible interference power level in accordance with the technical standards and guidelines of Part 25 of this chapter. In those instances where the results of these computations indicate a safety margin of less than 5 decibels, the applicant shall also submit such computations together with the supporting technical data. The Commission may, in the course of examining any application, require the submission of additional showings, complete with pertinent data and calculations in accordance with Part 25 of this chapter, showing that harmful interference will not result from the proposed operation. (Technical characteristics of the earth stations on file and coordination contour maps for these earth stations will be kept on file for public inspection in the offices of the Commission's Common Carrier Bureau in Washington, D.C.)

(d) Each applicant filing pursuant to paragraph (a) of this section shall also ascertain in advance whether the beam of his proposed antenna(s) intersects the beam of any earth station antenna within the rain scatter contour of which the terrestrial antenna is located, below the altitude given in the following table for the rain climate in which the earth station is located.

Rain climate	*Maximum scattering heights*[1] *(km.)*
1	15
2	11
3	11
4	11
5	11

[1] Heights given in the table are conservative values based on the limited measurements and studies made to date. These results are discussed in several reports: 1. "Frequency of Occurrence of Rain Attenuation of 10 dB or greater at 10 G_c," P. M. Austin, Weather Radar Research Project, Department of Meteorology, M.I.T., December 1966 (Observations made in New England). 2. "Radar Reflectivity Profiles in Thunderstorms," R. J. Donaldson, Jr., J. Met., vol. 18, 1961, pp. 292–305. (Observations made in New England). 3. "Interference due to Rain," NASA-Goddard Report No. 750–71–211 Re-

vised, August 1971 (Prepared by Dr. R. Crane, M.I.T. Lincoln Laboratory). 4. "Remote Sensing of Hail and Hail Growth in Convective Clouds," R. E. Fischer, Atmospheric Science Paper No. 141, Department of Atmospheric Science, Colorado State University, Fort Collins, Colo., June 1969.

If a beam intersection occurs, the applicant shall provide a detailed technical showing that harmful interference will not result from this antenna beam intersection. For the purposes of this paragraph, the beam of an antenna is to be taken as that portion of the antenna radiation pattern inside of which the gain is within 20 dB of the maximum antenna gain. The concepts of rain climate and rain scatter contour are as defined in § 25.254 of this chapter.

3. Section 21.809 is revised to read as follows:

§ 21.809 Stations affected by coordination contour procedures.

In frequency bands shared with the Communication-Satellite Service, applicants shall also comply with the requirements of § 21.706 (c) and (d).

4. In § 25.202 the headnote is amended, a title is added to paragraphs (a), (b), (c), and (d) and paragraphs (e), (f), and (g) are added to read as follows:

§ 25.202 Frequencies, frequency tolerance and emission limitations.

(a) *Frequency bands.* * * *

(b) *Frequencies, telecommand.* * * *

(c) *Frequencies, telemetering.* * * *

(d) *Frequencies, tracking.* * * *

(e) *Frequency tolerance, earth stations.* The carrier frequency of each earth station transmitter authorized in these services shall be maintained within the following percentage of the reference frequency (unless otherwise specified in the instrument of station authorization, the reference frequency shall be the assigned frequency):

Frequency range (GHz)	Frequency tolerance	
	Percent	P.p.m.
1 to 10	0.0005	5
Above 10	0.001	10

(f) *Frequency tolerance, space stations.* [Reserved] [2]

(g) *Emission limitations.* The mean power of emissions shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

(1) In any 4 kHz band, the center frequency of which is removed from the assigned frequency by more than 50 percent up to and including 100 percent of the authorized bandwidth: 25 decibels;

(2) In any 4 kHz band, the center frequency of which is removed from the assigned frequency by more than 100 percent up to and including 250 percent of the authorized bandwidth: 35 decibels;

[2] The Commission does not have any specific proposal for the text of this reserved paragraph: But it does seek comments and proposals as to whether a maximum value for frequency translation error in space stations should be specified and, if so, what should be its value.

(3) In any 4 kHz band, the center frequency of which is removed from the assigned frequency by more than 250 percent of the authorized bandwidth, an amount equal to 43 decibels plus 10 times the logarithm (to the base 10) of the transmitter power in watts;

(4) In any event, when an emission outside of the authorized bandwidth causes harmful interference, the Commission may, at its discretion, require greater attenuation then specified in subparagraphs (1), (2), and (3) of this paragraph.

5. In § 25.203, paragraphs (b) and (c) are amended and paragraphs (d) and (e) are added to read as follows:

§ 25.203 Choice of sites and frequencies.

* * * * *

(b) An applicant for an earth station authorization in a frequency band shared with equal rights with terrestrial microwave services shall compute the coordination distance contour(s) for the proposed station in accordance with the procedures set forth in §§ 25.251 through 25.253 and the rain scatter contour(s) for the proposed station in accordance with the procedures set forth in § 25.254. The applicant shall submit with his application a map or maps drawn to appropriate scale and in a form suitable for reproduction indicating the location of the proposed station and these contours. These maps, together with the pertinent data on which the computation of these contours is based, including all relevant transmitting and/or receiving parameters of the proposed station that might be useful in assessing the likelihood of interference, an appropriately scaled plot of the elevation of the local horizon as a function of azimuth, and the electrical characteristics of the earth station antenna(s), shall be submitted by the applicant in a single exhibit to his application.

(c) (1) An applicant for an earth station authorization shall perform an interference analysis in accordance with the procedures set forth in § 25.255 for each terrestrial station, for which a license or construction permit has been granted or for which an application has been accepted for filing, which is or is to be operated in a shared frequency band to be used by the proposed earth station and which is located within the coordination distance contour of the proposed earth station.

(2) The earth station applicant shall, before filing his application, provide each such terrestrial station licensee, permittee, and prior filed applicant with the technical details of the proposed earth station and the relevant interference analyses that were made.

(3) All permittees, applicants, and licensees so notified shall as promptly as possible notify the earth station applicant of any potential interference problems and otherwise cooperate with the earth station applicant so that he may resolve technical problems and conflicts that inhibit the most effective use of the radio spectrum.

(4) To be acceptable for filing, the earth station application shall contain a list of terrestrial carriers which were so notified identifying those from whom responses were received within 30 days after notification was given.

(5) In the event that technical problems have been raised by a terrestrial station licensee, permittee, or prior applicant that: Result in an agreement or operating arrangement between the parties; or that require that special procedures be taken to reduce the likelihood of harmful interference, such as the use of artificial site shielding; or would result in lessened quality or capacity of either system; the details thereof shall be contained in the application.

(6) In the event that all technical problems have not been resolved prior to filing, the earth station applicant shall include in his application a brief description of each such unresolved problem and such calculations, measurements and/or other factors to demonstrate that harmful interference will not result from the proposed operation.

(7) In those instances where the results of interference analyses indicate an interference margin of less than 5 dB, the applicant shall also submit such analyses together with the supporting technical data. The Commission may, in the course of examining any application, require the submission of additional showings, complete with pertinent data and computations in accordance with the technical standards and procedures of this part, that harmful interference will not be caused or received from the proposed earth station.

(d) An applicant for an earth station authorization shall also ascertain whether the coordination distance contours, computed for those values of parameters indicated in table 1 of § 25.252 for international coordination, cross the boundaries of another administration. In this case, the applicant shall furnish the Commission copies of these coordination distance contours on maps drawn to appropriate scale for use by the Commission in effecting coordination of the proposed earth station with the administration(s) affected.

(e) Each applicant shall also ascertain in advance whether the antenna beam of his proposed earth station intersects the beam of any terrestrial antenna located within the earth station's rain scatter contour, below the altitude given in the following table for the rain climate in which the earth station is located.[3]

Rain climate	*Maximum scattering height*
1	15
2	11
3	11
4	11
5	11

If such a beam intersection occurs, the applicant shall provide a detailed technical showing that harmful interference will not result from this antenna beam intersection. For the purposes of this paragraph, the beam of an antenna is to be taken as that portion of the antenna radiation pattern inside of which the gain is within 20 dB of the maximum antenna gain.

[3] See table footnote, § 21.706(d).

§ 25.204 [Amended]

6. In § 25.204, paragraph (d) and the note which follows are deleted.

7. Section 25.209 is added new to read as follows:

§ 25.209 Antenna performance standards.

(a) Any antenna to be employed in transmission at an earth station in the Communication-Satellite Service shall conform to the following standards:

(1) The diameter-to-wavelength ratio d/λ of the antenna at its nominal operating frequency, or frequencies, shall be greater than or equal to 170;

(2) All sidelobes located farther than one degree from the axis of the main beam of the antenna shall be suppressed at least 20 dB with respect to the main beam gain;

(3) The peak sidelobe gain shall lie below the envelope defined by:

$$32-25\log_{10}(\Theta)\ \text{dBi}\quad 1^\circ\leq\Theta\leq 48^\circ$$
$$-10\ \text{dBi}\quad 48^\circ<\Theta\leq 180^\circ$$

where Θ is the angle in degrees from the axis of the main lobe, and dBi refers to dB relative to an isotropic radiator.

(b) Any antenna employed for reception at an earth station in the Communication-Satellite Service shall be protected from interference only to the degree to which harmful interference would not be expected to be caused to an earth station employing an antenna conforming to the antenna standard of paragraph (a) of this section.

(c) The authorization of any earth station antenna not conforming to the standard of paragraph (a) of this section shall be so conditioned that the use of such an antenna shall impose no limitation upon the operations, location, or design of any terrestrial station, any other earth station or any space station.

8. In § 25.251 paragraphs (g) and (h) are deleted, and the headnote and paragraphs (a) through (f) are revised to read as follows:

§ 25.251 General guidelines for coordination.

(a) Coordination is required whenever a new earth station or a new terrestrial station is to be operated in a frequency band shared by space and terrestrial services with equal rights and whenever those parameters which affect the coordination process of an earth station or a terrestrial station operating in such a shared frequency band are to be modified.

(b) Although two types of interference paths have to be considered, i.e., from an earth station transmitter into terrestrial receivers, and from a terrestrial transmitter into earth station receivers, the use of different frequency bands for transmission and reception by the Communication-Satellite Service limit the consideration to only one type of interference path in each frequency band, namely:

(1) In those shared frequency bands limited to transmission by an earth station, only the possibility of interference from earth station transmitters into terrestrial receivers needs to be considered;

(2) In those shared frequency bands limited to reception by an earth station, only the possibility of interference from terrestrial transmitters into the earth station receivers needs to be considered.

(c) The administrative aspects of the coordination process are set forth in §§ 21.100(d) and 21.706 (c) and (d) of this chapter in the case of coordination of terrestrial stations with earth stations, and in § 25.203 in the case of coordination of earth stations with terrestrial stations. The technical aspects of the coordination process are set forth in §§ 25.252 through 25.256.

(d) For the purposes of effecting coordination between terrestrial and earth station in frequency bands shared with equal rights by these services, the following assumptions should be made, absent specific information to the contrary:

(1) That the earth station antenna may be directed towards any point on that portion of the geostationary arc visible at the earth station location at which the corresponding elevation angle exceeds or is equal to the limits specified in § 25.205;

(2) That any terrestrial station and any earth station within 100 kilometers of each other must be coordinated whether or not a lesser coordination distance results from any calculation;

(3) That the terrestrial antenna conforms to the sidelobe suppression standard B set forth in § 21.108(c) of this chapter;

(4) That the earth station antenna conforms to the antenna performance standards set forth in § 25.209(a);

(5) That both systems occupy all frequencies allocated to the particular service in the band to which they are assigned.

(e) In lieu of the assumptions of paragraph (d)(1) and/or paragraph (d)(5) of this section, an applicant for an earth station authorization may effect coordination for a limited portion of the geostationary arc visible at the earth station location and/or a limited portion of the frequency band: *Provided, however,* That the operation of the earth station shall be limited to that portion of the geostationary arc and/or that portion of the frequency band for which coordination has been effected.

(f) The authorization of a developmental earth station under § 25.290 and the authorization of a transportable earth station for operation at a given location for a limited period of time shall be so conditioned that the operations of such an earth station shall not place any limitations upon the operations, location, or design of any terrestrial station. For this reason, the interference analyses performed in the coordination of these earth stations may be undertaken for specific frequency assignments and therefore may take advantage of any offset in frequency calculated in accordance with applicable CCIR reports and recommendations (for example Report 388-1).

9. Sections 25.252 through 25.256 are added new to read as follows:

Sec.

§ 25.252 Maximum permissible interference power.

(a) The maximum permissible interference power $P_{max}(p)$ in *dBW* in the reference bandwidth of the potentially interfered-with station, not to be exceeded for all but p percent of the time from each source of interference, is given by the general formula

$$P_{max}(p)=10\log_{10}(kT_rB)+J+M(p)-W$$

where

$$M(p)=M(p_0/n)=M_0(p_0)$$

with:

k=Boltzmann's constant ($1.38\cdot10^{-23}$ joules per °K),

T_r=Thermal noise temperature of the receiving system (degrees Kelvin),

B=Reference bandwidth (in Hz) (bandwidth over which the interference power can be averaged),

J=Ratio (in dB) of the maximum permissible long-term interfering power to the long-term thermal noise power in the receiving system (where long-term refers to 20 percent of the time),[4]

n=Number of expected entries of interference, assumed to be uncorrelated,

p=Percentage of the time during which the interference from one source may exceed the allowable maximum value,

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[4] The factor J (in dB) is defined as the ratio of total permissible long-term (20 percent of the time) interference power in the system, to the long-term thermal noise power in a single receiver. For example, in a 50-hop terrestrial hypothetical reference circuit, the total allowable additive interference power is 1,000 *pW0p* (C.C.I.R. Recommendation 357-1) and the mean thermal noise power in a single hop may be assumed to be 25 *pW0p*. Therefore, since in a FDM/FM system the ratio of the interference noise power to the thermal noise power in a 4 kHz band is the same before and after demodulation, $J=16$ dB. In a fixed-service satellite system, the total allowable interference power is also 1,000 *pW0p* (C.C.I.R. Recommendation 356-2), but the thermal noise contribution of the down path is not likely to exceed 7,000 *pW0p*, hence $J\geq-8.5$ dB. In digital systems it may be necessary to protect each communication path individually, and in that case, long-term interference power may be of the same order of magnitude as long-term thermal noise, hence $J=0$ dB.

p_e=Percentage of the time during which the interference from all sources may exceed the allowable maximum value; since the entries of interference are not likely to occur simultaneously:

$$p_e = np,$$

$M(p)$=Ratio (in dB) between the maximum permissible interference power during p percent of the time for one entry of interference, and during 20 percent of the time for all entries of interference, respectively,

$M_e(p_e)$=Ratio (in dB) between the maximum permissible interference power during p_e percent and 20 percent of the time respectively, for all entries of interference,[5]

W=Equivalence factor (in dB) relating the effect of interference to that of thermal noise of equal power in the reference bandwidth.[6]

[5] $M_e(p_e)$ (in dB) is the "interference margin" between the long-term (20 percent) and the short-term (p_e percent) allowable interference powers. For analogue radio-relay and fixed-satellite systems in bands between 1 and 15 GHz, this is the ratio (in dB) between 50,000 and 1,000 pW0p (17 dB). In the case of digital systems, $M_e(p_e)$ may tentatively be set equal to the fading margin which depends, inter alia, on the local rain climate.

[6] The factor W (in dB) is the ratio of thermal noise power to interference power, in the reference bandwidth, producing the same interference effect after demodulation (e.g. in a FDM/FM system it would be expressed for equal voice channel performance; in a digital system it would be expressed for equal bit error probabilities). For FM signals, it is defined as follows:

$$W = 10 \log_{10} \left[\frac{\text{Interfering power in the receiving system after demodulation}}{\text{Thermal noise power in receiving system after demodulation}} \times \frac{\text{Thermal noise power at the receiver input in the reference bandwidth}}{\text{Interfering power at radio frequency in the reference bandwidth}} \right]$$

Also, when the wanted signal uses FM modulation with r.m.s. modulation indices which are greater than unity, W is approximately 4 dB, regardless of the characteristics of the interfering signal. For low index FDM/FM systems a very small reference bandwidth (4 kHz) has been used in order to avoid the necessity of dealing with a large range of characteristics of both wanted and unwanted signals upon which, for greater reference bandwidths, the value of W would depend. When the wanted signal is digital, W is usually equal to or less than 0 dB, regardless of the characteristics of the interfering signal.

(b) In the case of interference between FM/FDM signals, the maximum permissible interference power may also be calculated from the equivalent formula:

$$P_{max}(p) = 10 \log_{10} (kT_rB) + I_e(p) - N_e - W$$

where

$I_e(p)$=psophometrically weighted interference power (dBm0p) in a telephone channel not to be exceeded for more than p percent of the time,

N_e=psophometrically weighted thermal noise power (dBm0p) in a telephone channel,

and the remaining parameters are as defined above.

(c) If the actual values for the parameters in the formulas of paragraph (a) of this section are not known, values for them may be taken from the appropriate column of table 1 of this section. Values for $I_e(p)$ and N_e may be obtained from CCIR Report 382 when the formula of paragraph (b) of this section is used to calculate $P_{max}(p)$.

(d) In cases where an earth station or a terrestrial station may employ more than one type of emission, the parameters chosen for analysis should correspond to that pair of emissions which results in the greatest coordination distance.

TABLE 1.—Parameters to be used in the calculation of the maximum permissible interference power level and minimum permissible basic transmission loss

Frequency band (MHz)		3,700–4,200	5,925–6,425	6,625–7,125	10,950–11,200	11,450–12,200	12,500–12,750	14,000–14,500
Interference path		T→E	E→T	T→E	T→E	T→E	E→T	E→T
Interference parameters and criteria.	P_e (percent)	0.03	0.01	0.03	0.03	0.03	0.01	0.01
	n	3	[1] 2	3	2	2	[1] 2	[1] 2
			[2] 4				[2] 4	[2] 4
	P (percent)	0.01	[1] 0.005	0.01	0.015	0.015	[1] 0.005	[1] 0.005
			[2] 0.0025				[2] 0.0025	[2] 0.0025
	J (dB)	−8.5	16.0	−8.5	−8.5	−8.5	16.0	16.0
	M_e (P_e)	17.0	17.0	17.0	17.0	17.0	17.0	17.0
	W (dB)	4.0	0.0	4.0	4.0	4.0	0.0	0.0

[1] This value should be used for international systems.
[2] This value should be used for domestic systems.
E=earth station. T=terrestrial station.

Frequency band	3,700–4,200	5,925–6,425	6,625–7,125	10,950–11,200	11,450–12,200	12,500–12,750	14,000–14,500
Interference path	T→E	E→T	T→E	T→E	T→E	E→T	E→T
Reference bandwidth, B(Hz)	B	4×10^3	B	B	B	4×10^3	4×10^3
System noise temperature, T_r(°K)	T_r	750	T_r	T_r	T_r	1,500	1,500
P_t (dBW)	13	P_E	9	5	5	P_E	P_E
G_t[3] (dBi)	42	$G_E(\alpha)$	46	50	50	$G_E(\alpha)$	$G_E(\alpha)$
G_r[3] (dBi)	$G_E(\alpha)$	45.0	$G_E(\alpha)$	$G_E(\alpha)$	$G_E(\alpha)$	50.0	50.0
$P_{max}(p)$ (dBW)	$10\log_{10}(T_r)+10\log_{10}(B)-224.$	−131	$10\log_{10}(T_r)+10\log_{10}(B)-224.$	$10\log_{10}(T_r)+10\log_{10}(B)-224.$	$10\log_{10}(T_r)+10\log_{10}(B)-224.$	−128	−128
L_w (dBW)	0	3	0	0	0	3	3
S (dBW)		173				175	175
E (dBW)	55		55	55	55		

[3] $=G_E(\alpha)$ is the gain of the earth station antenna toward the horizon at the azimuth of interest α and can be derived using the methods of 25.253(b).

§ 25.253 Determination of coordination distance for near great circle propagation mechanisms.

(a) The requirement that the interference power at the input to the receiver of the potentially interfered-with station be less than the maximum permissible interference power level $P_{max}(p)$ for all but p percent of the time (as determined in § 25.252), is equivalent to the requirement that a minimum permissible basic transmission loss between the two stations be exceeded for all but p percent of the time. For uniformity and convenience, this minimum permissible basic transmission loss is determined for each azimuth for $p=0.01$ percent of the time, at a frequency of 4 GHz. This value is termed the normalized basic transmission loss, L_s (0.01), and can be calculated from the formula:

$$L_s(0.01)=P_t+G_t+G_r-P_{max}(p)-F(p)-20\log_{10}(f/4)-Lw$$

where

P_t = maximum available transmitting power (in dBW) in the reference bandwidth B, at the input to the antenna of the potentially interfering station. If this value is not known, the value contained in the appropriate column of table 1 of § 25.252 should be used;

G_t = gain (in dB relative to an isotropic radiator) of the transmitting antenna of the potentially interfering station;

G_r = gain (in dB relative to an isotropic radiator) of the receiving antenna of the potentially interfered-with station;

$P_{max}(p)$ = maximum permissible interference power (in dBW) in the reference bandwidth B of the potentially interfered-with station not to be exceeded for all but p percent of the time as determined from § 25.252;

$F(p)$ = correction factor (in dB) to relate the effective percentage of the time p to 0.01 percent of the time as determined from figure 1 of this section;

f = frequency (in GHz);

L_w = receiving system transmission line loss (in dB).

The following considerations apply to the selection of values for the parameters in this formula:

(1) The maximum gain of terrestrial antenna, either G_t or G_r, is to be used in the formula above. This value may be obtained from the appropriate column of table 1 of § 25.252.

(2) For an earth station communicating with geostationary satellites, the gain of the earth station antenna, either G_r or G_t, is generally taken as the gain in the direction toward the physical horizon at the azimuth under consideration, except that in certain cases, as described in paragraph (f) of this section, where the elevation angle of the earth station antenna is below 12°, the main beam gain is used instead of the horizon gain. In the case of an earth station communicating with nongeostationary satellites, an equivalent time invariant gain should be used. This time invariant gain is taken as the greater of the maximum horizon gain minus 10 dB and the horizon gain not exceeded for more than 10 percent of the time.

(3) In those frequency bands where the potential for interference is from an earth station transmitter into a terrestrial receiver, a sensitivity factor S may be defined in terms of the terrestrial antenna gain G_m and the maximum permissible interference power $P_{max}(p)$ at the terrestrial receiver by

$$S=G_m-P_{max}(p)-L_w$$

With this definition, the formula for the normalized basic transmission loss may be re-written as

$$L_s(0.01)=P_t+G_t+S-F(p)-20\log_{10}(f/4)$$

in terms of the parameters defined above. In this way, auxiliary contours, generated for sensitivity factor values of 5, 10, 15, 20 dB etc. below the value corresponding to the main contour, may be convenient in performing preliminary interference analyses.

(4) In those frequency bands where the potential for interference is from a terrestrial transmitter into an earth station receiver, an equivalent isotropically radiated power E may be defined in terms of the terrestrial transmitter power P_m and the terrestrial antenna gain G_m by

$$E=P_m+G_m$$

With this definition, the formula for the normalized basic transmission loss may be rewritten as

$$L_s(0.01)=E+G_r-P_{max}(p)-F(p)-20\log_{10}(f/4)-L_w$$

in terms of the parameters defined above. In this way, auxiliary contours, generated for equivalent isotropically radiated powers of 5, 10, 15, 20 dB etc., below the value corresponding to the main contour, may be convenient in performing preliminary interference screenings.

(b) The gain of the earth station antenna in the direction of the physical horizon around the earth station may be computed by the following method with the aid of figure 2 in the case of an earth station communicating with geostationary satellites. An example of this method is illustrated in figure 3 in the particular case of an earth station location at 45° north latitude for an azimuth of 210°.

(1) Figure 2 shows the permissible location arcs of geostationary satellites in a rectangular azimuth-elevation plot (α, ϵ), each arc corresponding to a particular earth station latitude, λ. For the latitude of the given earth station, that portion of the geostationary arc visible at the earth station for which coordination is to be effected is marked off between the appropriate limits. The example of figure 3 shows that portion of the arc of the geostationary orbit visible from an earth station at a latitude of 45° north for the case of satellites located between 10° east and 45° west of the earth station.

(2) The horizon profile $\Theta(\alpha)$ as a function of the azimuth α is then plotted along the bottom of figure 2 as illustrated in the example of figure 3.

(3) At each azimuth interval (e.g. for each 5° of azimuth), the minimum angular distance $\phi(\alpha_s)$ between the physical horizon at azimuth α and the plotted portion of the geostationary arc is determined graphically, as illustrated in figure 3, using the elevation scale at the far left of the figure.

(4) The earth station gain towards the horizon at azimuth α may now be determined by evaluating either the actual earth station antenna pattern, if known, or the reference antenna pattern of § 25.209 at the minimum angular distance $\phi(\alpha_s)$.

(c) The dependence of basic transmission loss on climate is reflected in the definition of three radio-climatic zones:

Zone A: Land;

Zone B: Sea, at latitudes greater than 23.5° north and 23.5° south;

Zone C: Sea, at latitudes between 23.5° north and 23.5° south, inclusive.

In addition, zones B and C are taken to extend inland, either to the distance at which the height of the terrain is 1,000 meters above sea level, or 100 kilometers inland, whichever is less.[7]

[7] Strict application of this formula may produce incorrect results in some areas, such as Long Island, N.Y.; the peninsular portion of Florida; and the Great Lakes region. The Commission invites comments on how these and perhaps other such areas should be treated, and in what radio-climatic zone they should be assumed to fall.

(d) The coordination distance due to near great circle propagation mechanisms in a particular direction is calculated from the normalized basic transmission loss L_o (0.01) computed from the formula of paragraph (a) of this section in the following manner:

(1) Using the normalized basic transmission loss L_o (0.01), a unit elevation correction H_o (in dB) is obtained for the frequency under consideration from figure 4 for the appropriate radio-climatic zone. Linear interpolation between the curves of figure 4 is used for frequencies not shown.

(2) This unit elevation correction H_o together with the elevation angle of the physical horizon in the direction of azimuth under consideration is then used with figure 5 for the appropriate radio-climatic zone to obtain the total horizon correction H (in dB). If the horizon elevation is less than 0.2°, the value of 0 dB is used for H.

(3) The required coordination loss L_c (in dB) is then calculated by subtracting the total horizon correction H from the normalized basic transmission loss L_o(0.01)

$$L_c = L_o(0.01) - H$$

(4) The coordination distance for the radio-climatic zone in which the earth station is located can now be determined from Figure 6 for the appropriate radio-climatic zone together with the required coordination loss L_c and the frequency f.

(5) For those azimuths for which the earth station antenna elevation angle is less than 12°, the coordination distance calculated in this manner may have to be adjusted in accordance with the procedure set forth in paragraph (f) of this section.

(e) When the coordination distance, calculated for the radio-climatic zone in which the earth station is located, extends into another radio-climatic zone, the effective multizone coordination distance is the sum of the distances x_A, x_B, and x_C traversed by the radio path in zones A, B, and C, respectively, which are determined from the relationship

$$\frac{x_A}{D_A} + \frac{x_B}{D_B} + \frac{x_C}{D_C} = 1$$

where D_A, D_B, and D_C are the coordination distances in zone A, B, and C, respectively, calculated under the assumption that the radio path lies entirely in zones A, B, and C, respectively. The use of this relationship is illustrated by the following examples.

(1) Assume that the earth station is located in zone A and that a coordination distance D_A=345 km has been calculated assuming that the radio path lies only in zone A. However, in the particular direction being considered, the radio path crosses over into zone B at a distance of 290 km from the earth station. Assume further, that if the station were located in zone B, a coordination distance of D_B=530 km would be required. Setting x_C=0, the relationship above can be solved for the unknown distance x_B in zone B:

$$x_B = D_B\left(1 - \frac{x_A}{D_A}\right)$$

By substituting the known values x_A=290 km, D_A=345 km and D_B=530 km, the required distance in zone B is found to be x_B=85 km. The effective coordination distance d_e is then found to be

$$d_e = x_A + x_B = 290 + 85 = 375 \text{ km.}$$

(2) Taking this same example one step further, assume that the radio path reenters zone A at a distance of 340 km from the earth station. In this case, the distance initially traversed by the radio path in zone A is known to be x_A'=290 km, and distance in zone B is x_B=340 $-x_A'$=50 km. Therefore, it is necessary to solve for the remaining distance x_A'' in zone A by

$$x_A'' = D_A\left(1 - \frac{x_B}{D_B}\right) - x_A'.$$

Substituting the values for D_A, x_B, D_B, and x_A', x_A'' is found to be

$$x_A'' = 345\left(1 - \frac{50}{530}\right) - 290 = 21 \text{ km}$$

so that the total lengths of the two segments of the radio path lying in zone A is

$$x_A = x_A' + x_A'' = 290 + 21 = 311 \text{ km}$$

and the effective coordination distance is

$$d_e = x_A + x_B = 311 + 50 = 361 \text{ km.}$$

(f) The coordination distance calculated in paragraph (d) and (e) of this section may be too small for those azimuths at which the elevation of the antenna of an earth station communicating with a geostationary satellite is below 12°. In these cases the following procedure is to be used to determine whether the regular coordination distance contour for each of these azimuths should be increased:

(1) A coordination distance d' is calculated for such an azimuth in the same manner as for the regular coordination distance d_o from paragraph (d) of this section, except that:

(i) The main beam gain of the earth station antenna is used instead of the horizon gain,

(ii) The earth station antenna elevation angle for this azimuth is used instead of the horizon elevation angle,

(iii) The zone A curves of figures 4, 5, and 6 are used irrespective of the actual radio-climatic zone.

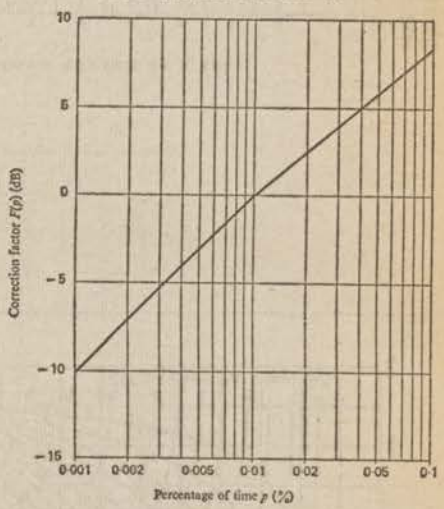
(2) If the coordination distance d' calculated in this manner is greater than the regular coordination distance d_o, the effective coordination distance d_e for this azimuth is then taken as

$$d_e = d_o + \frac{(d' - d_o)(12 - \epsilon)}{7} \text{ km } 5° \leq \epsilon \leq 12°$$

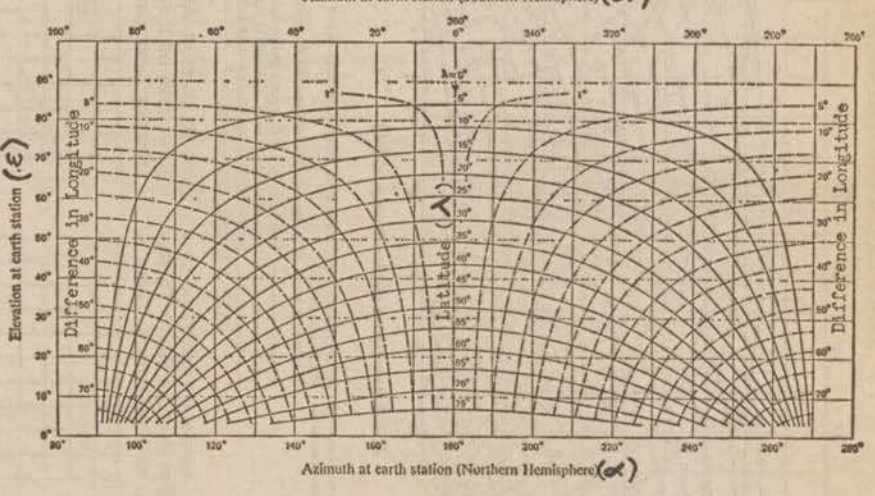
where ϵ is the earth station antenna elevation angle.

CORRECTION FACTOR $F(p)$ FOR PERCENTAGES OF THE TIME p OTHER THAN 0.01 PERCENT

FCC § 25.253, FIGURE 1.



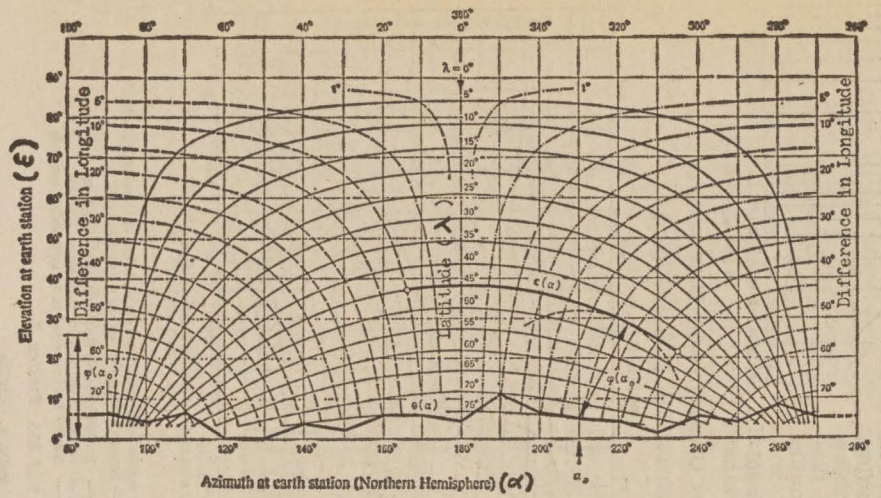
POSITION ARCS OF GEOSTATIONARY SATELLITES



Arc of geostationary satellite orbit visible from earth station at terrestrial latitude λ
Difference in longitude between earth station and the sub-satellite point:
Satellite longitude E of earth station longitude
Satellite longitude W of earth station longitude
Satellite longitude equal to the earth station longitude

FCC § 25.253, FIGURE 2.

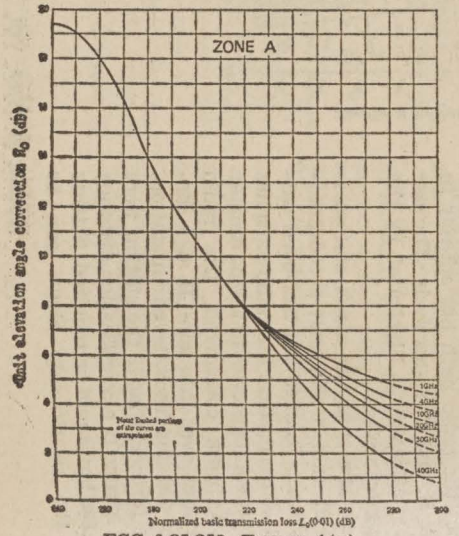
EXAMPLE OF DERIVATION OF ϕ



Arc of geostationary satellite orbit visible from earth station at terrestrial latitude λ
Horizon profile θ(α)
Difference in longitude between earth station and the sub-satellite point:
Satellite longitude E of earth station longitude
Satellite longitude W of earth station longitude
Satellite longitude equal to the earth station longitude

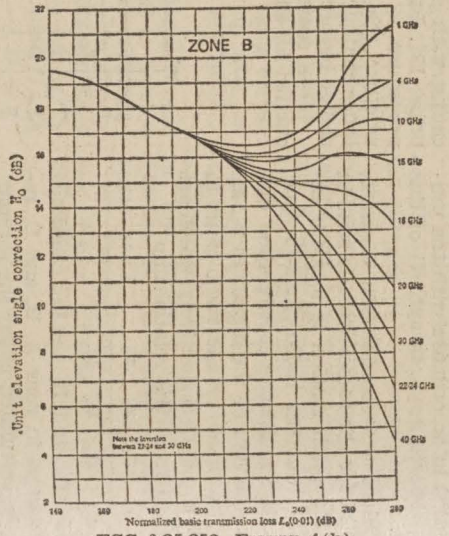
FCC § 25.253, FIGURE 3.

UNIT ELEVATION ANGLE CORRECTION AS A FUNCTION OF NORMALIZED BASIC TRANSMISSION LOSS AND FREQUENCY, ZONE A



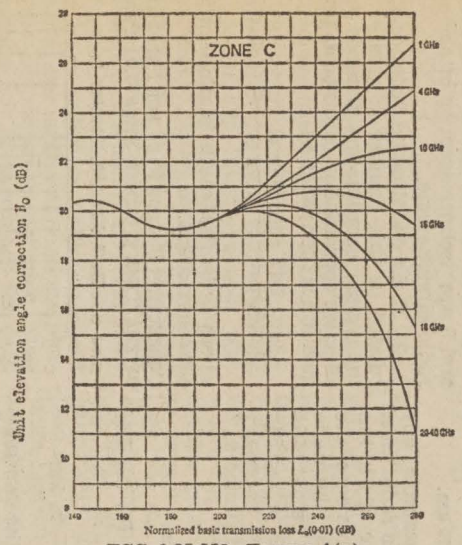
FCC § 25.253, FIGURE 4(a).

UNIT ELEVATION ANGLE CORRECTION AS A FUNCTION OF NORMALIZED BASIC TRANSMISSION LOSS AND FREQUENCY, ZONE B



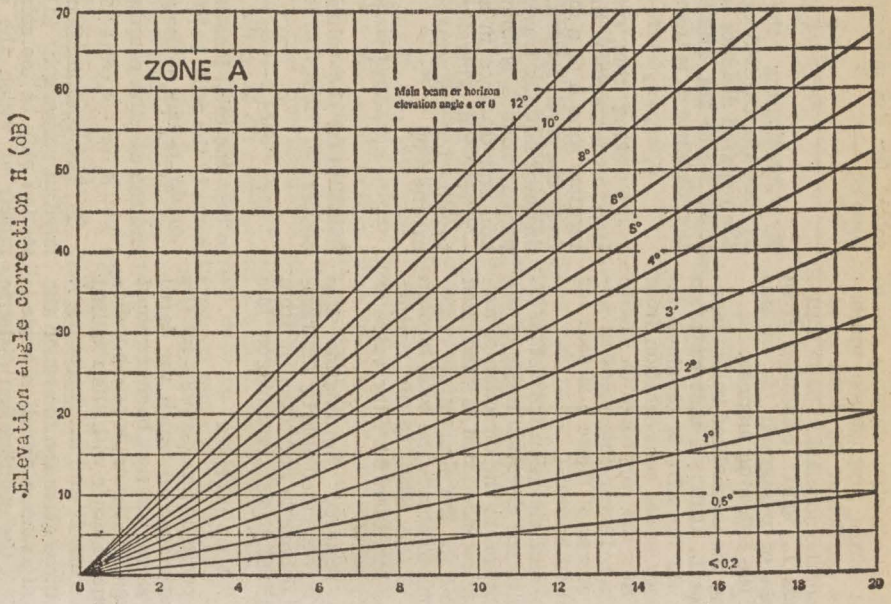
FCC § 25.253, FIGURE 4(b).

UNIT ELEVATION ANGLE CORRECTION AS A FUNCTION OF NORMALIZED BASIC TRANSMISSION LOSS AND FREQUENCY, ZONE C



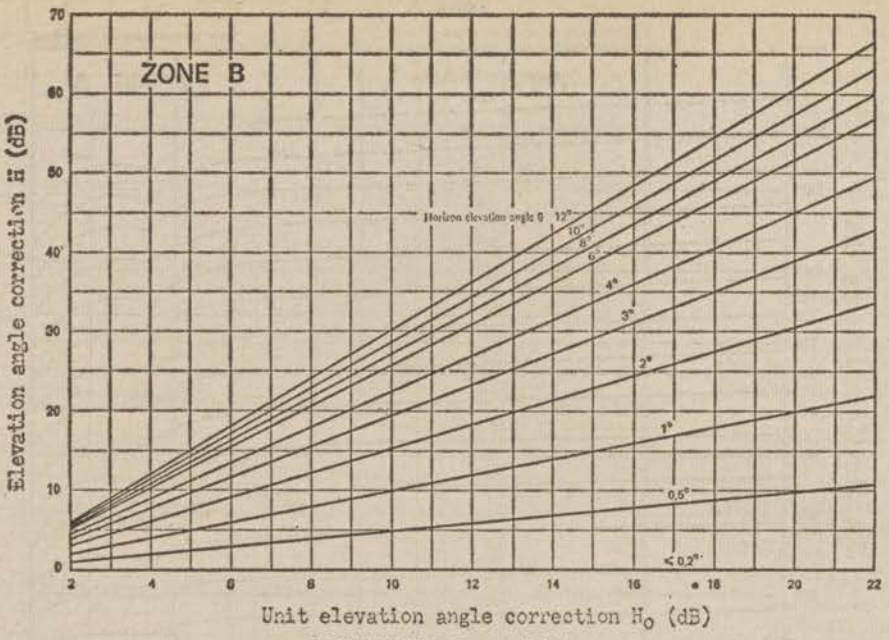
FCC § 25.253, FIGURE 4(c).

ELEVATION ANGLE CORRECTION, ZONE A



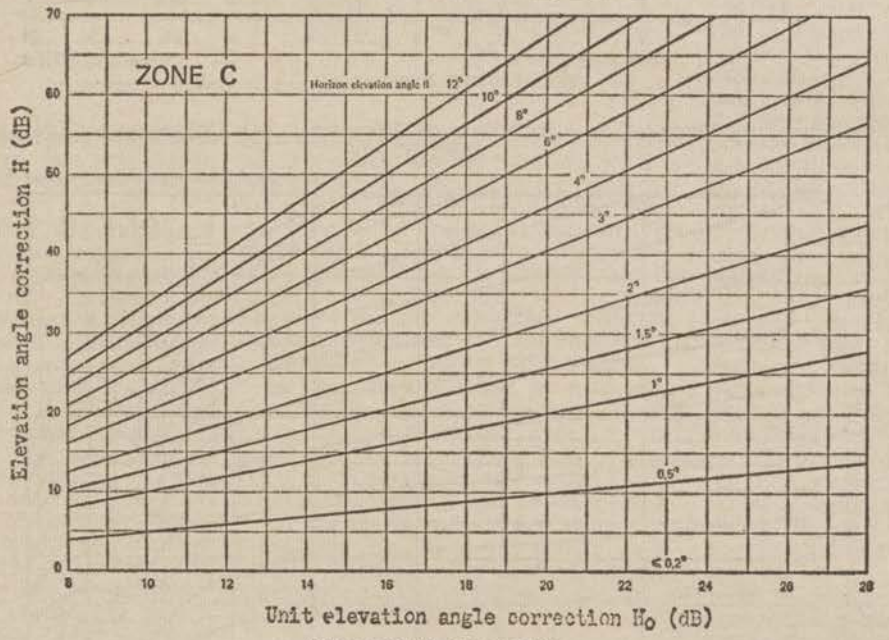
FCC § 25.253, FIGURE 5(a).

ELEVATION ANGLE CORRECTION, ZONE B



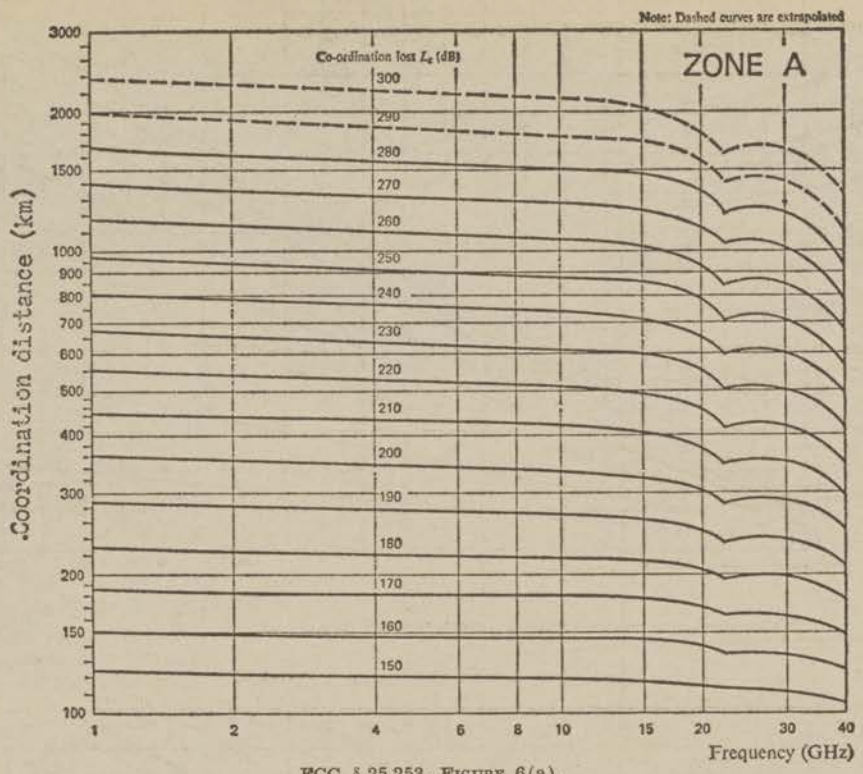
FCC § 25.253, FIGURE 5(b).

ELEVATION ANGLE CORRECTION, ZONE C



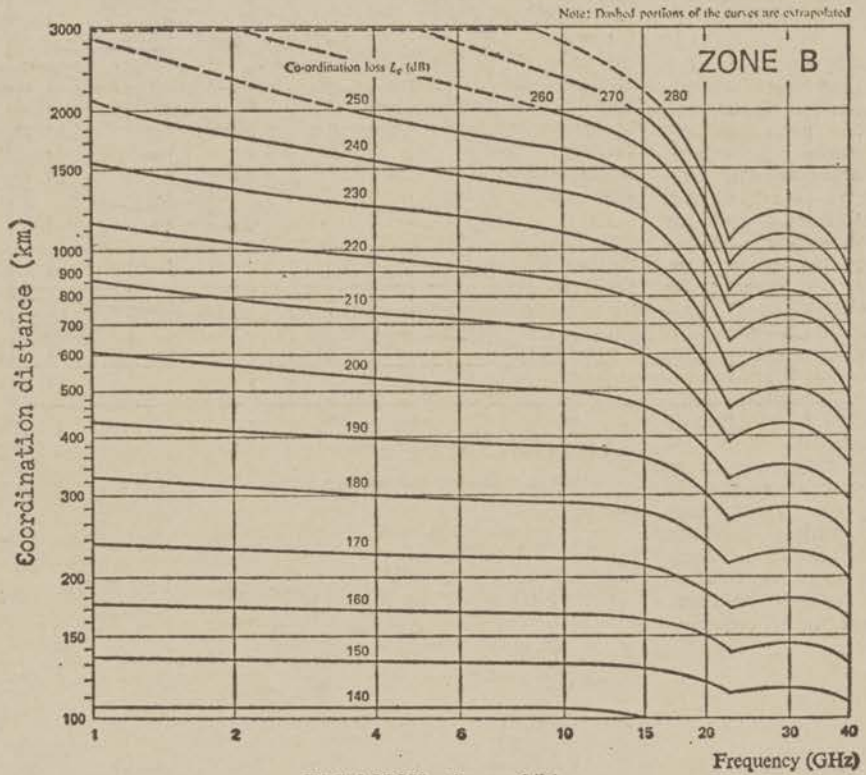
FCC § 25.253, FIGURE 5(c).

COORDINATION DISTANCE AS A FUNCTION OF FREQUENCY AND COORDINATION LOSS, ZONE A



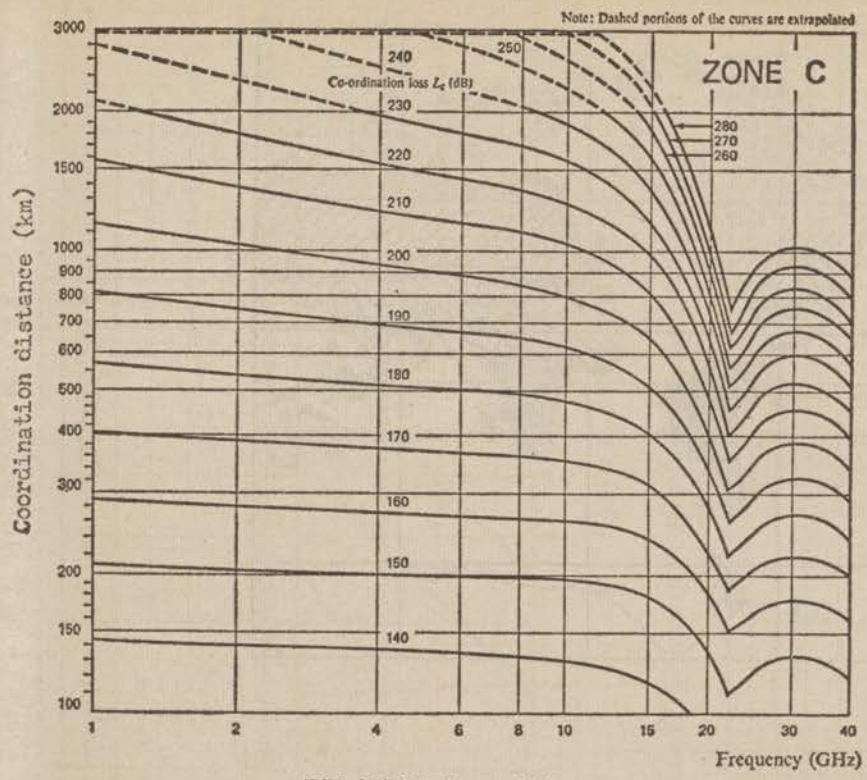
FCC § 25.253, FIGURE 6(a).

COORDINATION DISTANCE AS A FUNCTION OF FREQUENCY AND COORDINATION LOSS, ZONE B



FCC § 25.253, FIGURE 6(b).

COORDINATION DISTANCE AS A FUNCTION OF FREQUENCY AND COORDINATION LOSS, ZONE C



FCC § 25.253, FIGURE 6(c).

§ 25.254 Computation of coordination distance contours for propagation modes associated with precipitation scatter.

(a) For a given pointing azimuth and elevation angle of an earth station antenna, a rain scatter contour, calculated in accordance with the procedure set forth below, takes the form of a circle of radius d_{cr}, the rain scatter coordination distance, centered at a point offset from the earth staiton location by a distance D_r in the direction of azimuth of the main beam of the earth station antenna. This offset distance D_r is a function of both the rain scatter distance d_{cr} and the earth station antenna elevation angle E. In the case of an earth station designed for operation with communication-satellites located at any point along a specified portion of the geostationary arc, this functional dependence entails the generation of rains catter contours for each azimuth direction in which the earth station antenna may point. The effective rain scatter contour is then taken as the envelope defined by all these individual contours. It may be convenient to eliminate the need to consider multiple contours by taking an effective rain scatter contour as a circle centered at the earth station location with a radius equal to the sum of the rain scatter distance d_{cr} and the maximum offset distance D_r at the minimum elevation angle. Such a procedure is conservative, since the resulting contour will always be larger than necessary, but for earth stations having minimum elevation angles above about 20°, the increase in area inside the contour will be small.

(b) For the purposes of computing rain scatter coordination contours, the United States is divided into five rain climates. The appropriate rain climate for a given earth station location can be determined from figure 1 of this section.

(c) To determine the rain scatter coordination distance d_{cr}, it is first necessary to calculate the normalized rain scatter coordination loss $L_r(0.01)$ from the formula

$$L_r(0.01) = P_t + D_G - P_{max}(p) - F_r(p, f) - L_w$$

where

P_t = power (in dBW) available at the antenna input of the interfering station;

D_G = difference (in dB) between the maximum gain of the terrestrial station antenna in the frequency band under consideration and the value of 45 dBi. This value may be determined from the appropriate column of table 1 of § 25.252;

$P_{max}(p)$ = maximum permissible interference power (in dBW) to the interfered-with station not to be exceeded for all but the short-term percentage of the time p from § 25.252;

$F_r(p, f)$ = correction factor (in dB) to relate the effective short-term percentage of the time p to 0.01 percent (from figure 2);

f = frequency (in GHz);

L_w = receiving system transmission line loss (in dB).

This normalized rain scatter coordination loss $L_r(0.01)$ is then used with the appropriate figure 3 and the frequency f to determine the rain scatter coordination distance d_{cr}.

(d) The rain scatter coordination distance d_{cr} is then used together with the earth station antenna elevation angle ϵ with figure 4 to determine the offset distance D_r.

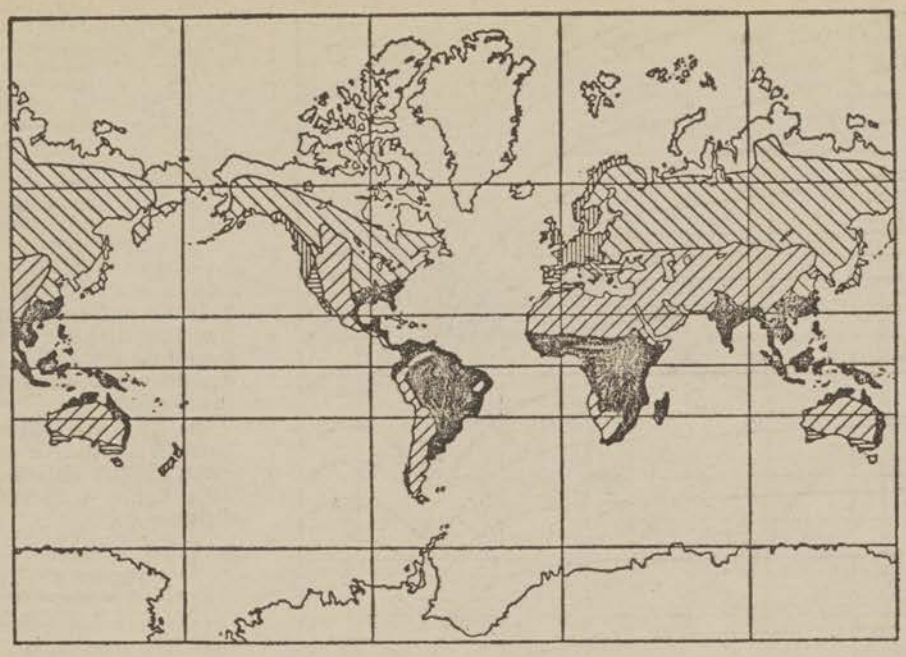
§ 25.255 Guidelines for performing interference analyses for near great circle propagation mechanisms.

(a) Once a coordination distance contour has been computed for a proposed earth station in accordance with § 25.253, it is necessary to determine the likelihood of harmful interference between the proposed earth station and each existing or proposed terrestrial station located within that contour sharing the same frequency band(s). Before performing the detailed interference analyses described in paragraphs (b) through (d) of this section, the earth station applicant may perform a preliminary interference analysis that will usually eliminate a significant number of terrestrial stations from further consideration. (This same type of preliminary analysis may also be employed by terrestrial station applicants effecting coordination with existing or proposed earth stations.) This preliminary interference analysis may take one of the following forms:

(1) A refinement of the coordination distance calculations of § 25.253 using the actual antenna gain of each terrestrial station in the direction of the earth station, instead of the maximum terrestrial antenna gain;

(2) A calculation of the interference margin along the lines described in paragraphs (b) through (d) of this section but employing standard CCIR propagation curves or ones derived from the propagation data of figures 4, 5, and 6 of § 25.253 to estimate basic transmission loss, instead of employing the detailed propagation analyses of the type of NBS Technote 101 (Revised);

RAIN CLIMATE ZONES OF THE WORLD

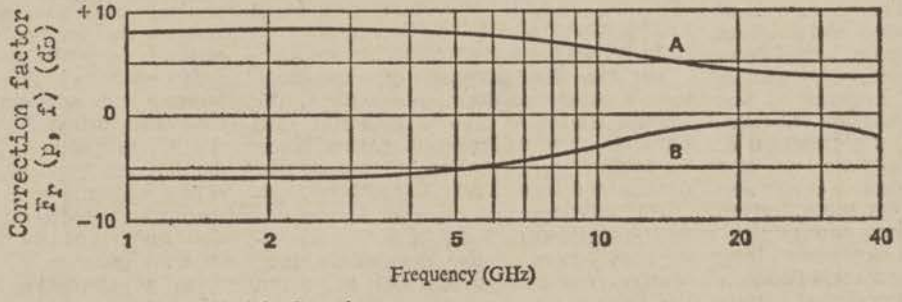


Zone 1
Zone 2
Zone 3
Zone 4
Zone 5

(Temporary figure pending availability of more detailed maps for the U.S.A.)

FCC § 25.254, FIGURE 1.

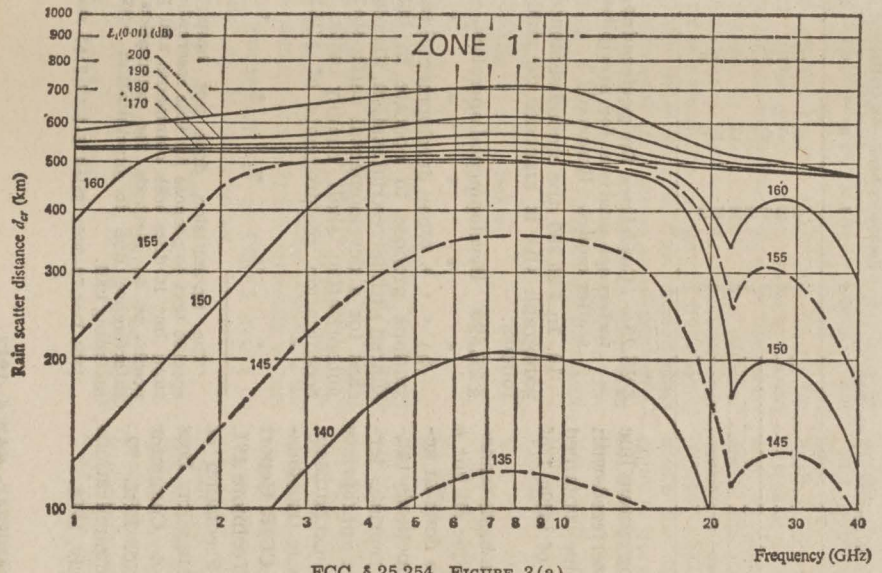
CORRECTION FACTOR TO RELATE THE EFFECTIVE PERCENTAGE OF TIME TO 0.01 PERCENT, AS A FUNCTION OF FREQUENCY FOR PROPAGATION MODES ASSOCIATED WITH PRECIPITATION SCATTER



A: Correction for 0·1% of the time
B: Correction for 0·001% of the time
} for all rain climate zones

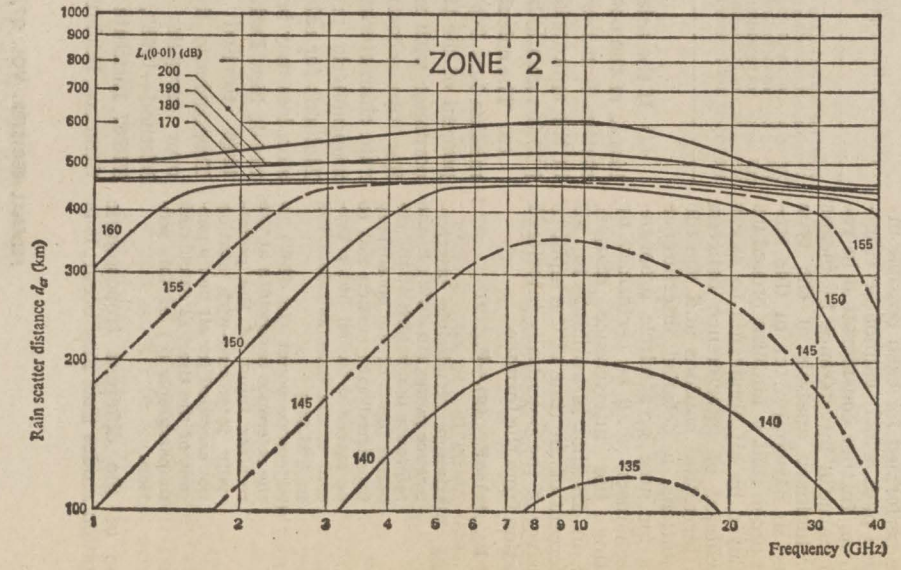
FCC § 25.254, FIGURE 2.

RAIN SCATTER DISTANCE AS A FUNCTION OF FREQUENCY AND NORMALIZED TRANSMISSION LOSS, RAIN CLIMATE 1



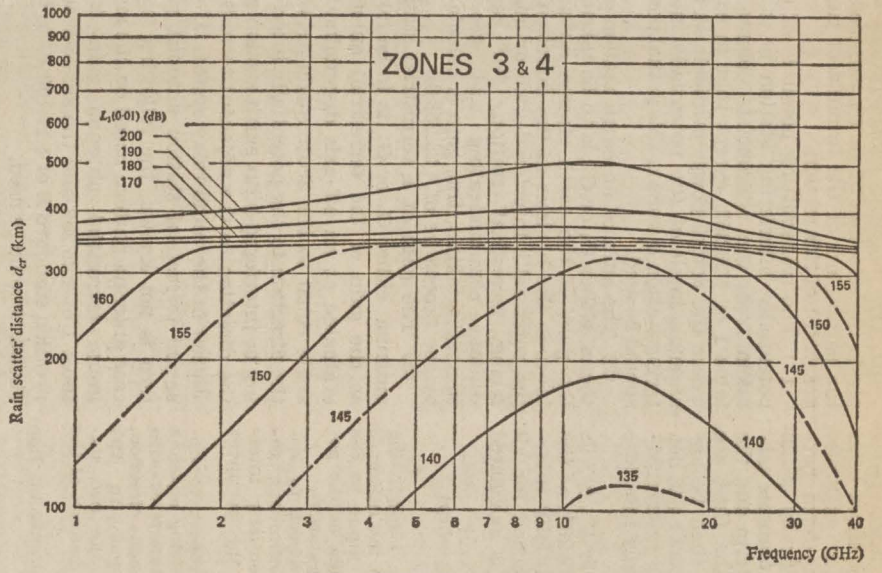
FCC § 25.254, FIGURE 3(a).

RAIN SCATTER DISTANCE AS A FUNCTION OF FREQUENCY AND NORMALIZED TRANSMISSION LOSS, RAIN CLIMATE 2



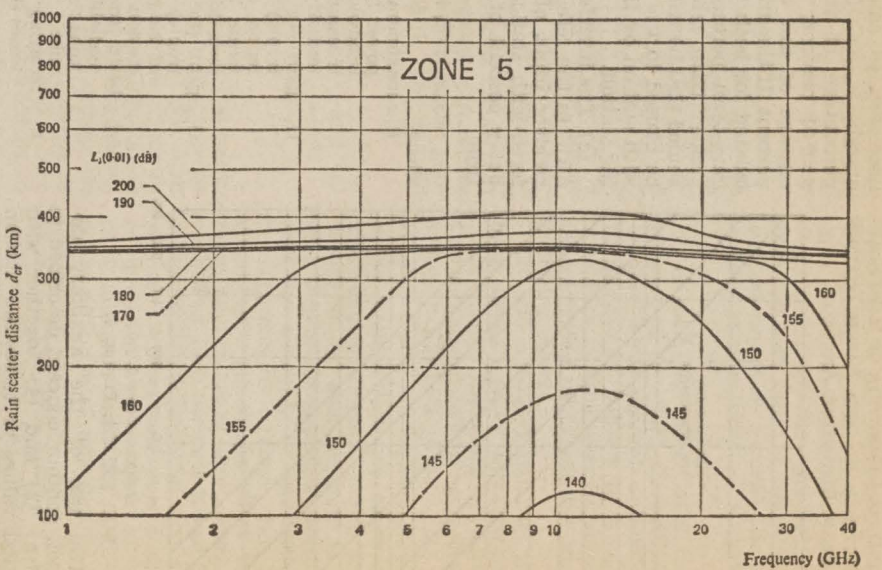
FCC § 25.254, FIGURE 3(b).

RAIN SCATTER DISTANCE AS A FUNCTION OF FREQUENCY AND NORMALIZED TRANSMISSION LOSS, RAIN CLIMATES 3 AND 4



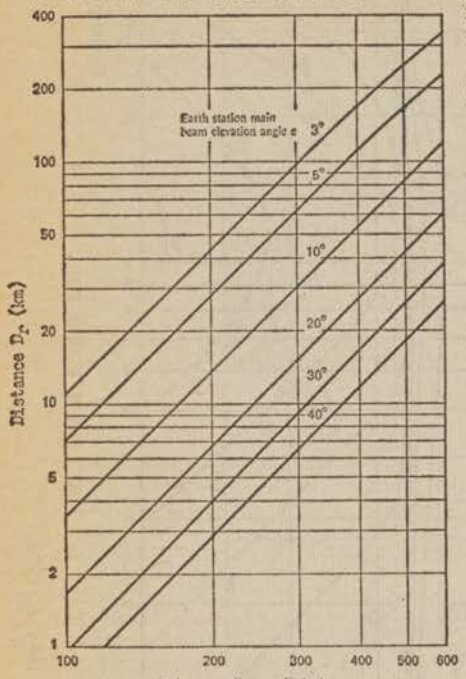
FCC § 25.254, FIGURE 3(c).

RAIN SCATTER DISTANCE AS A FUNCTION OF FREQUENCY AND NORMALIZED TRANSMISSION LOSS, RAIN CLIMATE 5



FCC § 25.254, FIGURE 3(d).

DISTANCE D_r AS A FUNCTION OF RAIN SCATTER DISTANCE d_{cr} AND EARTH STATION MAIN BEAM ELEVATION ANGLE e



FCC § 25.254, FIGURE 4.

(3) The use of the auxiliary coordination contour concept described in § 25.253(a) (3) and (4) together with the actual values of terrestrial station parameters.

(b) A detailed interference analysis must be performed for each possible interference path which cannot be eliminated from further consideration in regard to harmful interference by means of a preliminary analysis of the type described in paragraph (c) of this section. In order that a uniform procedure be employed by all applicants to assess the likelihood of interference between specific terrestrial stations and specific earth stations, a detailed interference analysis for near great-circle propagation mechanisms shall be performed by calculating the interference margin, $P_{mar}(p)$ in dB that is available for all but p percent of the time at the input to the receiver of the potentially interfered with station from the formula

$$P_{mar}(p) = P_{max}(p) - P_{rec}(p)$$

where

$P_{max}(p)$ = maximum permissible interference power (in dBW) in the reference bandwidth at the receiver input of the potentially interfered-with station not to be exceeded for all but p percent of the time, as calculated in § 25.252;

$P_{rec}(p)$ = interference power (in dBW) in the reference bandwidth at the receiver input of the potentially interfered-with station not exceeded for all but p percent of the time, as calculated in paragraph (c) of this section.

Because of the different tropospheric propagation modes that may occur, it is necessary to calculate an interference margin $P_{mar}(p)$ for both: a short-term percentage of the time, for example, p=0.01 percent; and a long-term percentage of the time, specifically p=20 percent. If the interference margins calculated for both the short-term and the long-term percentages of the time are greater than zero, it may then be assumed that harmful interference will not be caused to the potentially interfered-with station by the potentially interfering station.

(c) The interference power $P_{rec}(p)$ in dBW in the reference bandwidth at the receiver input of the potentially interfered-with station not exceeded for all but p percent of the time is calculated from

$$P_{rec}(p) = P_t + G_t + G_r - L_w - L(p)$$

where

P_t = maximum available transmitting power (in dBW) in the reference bandwidth at the input to the transmitting antenna of the potentially interfering station.

G_t = gain (in dB with respect to isotropic) of the transmitting antenna of the potentially interfering station in the pertinent direction,

G_r = gain (in dB with respect to isotropic) of the receiving antenna of the potentially interfered-with station in the pertinent direction,

$L(p)$ = basic transmission loss (in dB) available between the two stations for all but p percent of the time,

L_w = receiving system transmission line losses (in dB).

(d) The following considerations apply to the selection of values assigned to the parameters of the formula of paragraph (b) of this section.

(1) The transmitting power P_t of the potentially interfering station is to be taken from the appropriate column of table 1 of § 25.252, except that in cases where the actual power available at the antenna input of the potentially interfering station is known, this actual power should be used.

(2) The gain of an earth station antenna, either G_t or G_r, is to be taken as the gain of the earth station antenna towards the horizon in the direction of the potentially interfered-with or interfering terrestrial station. For earth stations communicating with geostationary satellites, this gain is calculated by the procedure of § 25.253(b).

(3) The gain of a terrestrial station antenna, either G_t or G_r, is to be taken as the gain of the terrestrial antenna evaluated at an off-axis discrimination angle equal to the acute angle between the direction to the potentially interfering or interfered-with earth station and the direction to the adjacent terrestrial station in the radio relay system. If the actual terrestrial station antenna pattern is not known, the following worst case antenna pattern based on the maximum terrestrial antenna gain from table 1 of § 25.252 and the sidelobe suppression standard B of § 21.108(c) of this chapter should be used.

Discrimination angle measured from center line of main lobe	Frequency band—dB (GHz)				
	2	4	6	7-8	11-15
0° up to, not including 5°	37	42	45	47	50
5° up to, not including 10°	17	22	25	27	30
10° up to, not including 15°	13	18	21	23	26
15° up to, not including 20°	9	14	17	19	22
20° up to, not including 30°	5	10	13	15	18
30° up to, not including 100°	5	10	10	12	15
100° up to, not including 180°	5	10	9	11	14

(4) If the actual receiving system line loss I_w of the potentially interfered-with station is unknown, the value contained in the appropriate column of table 1 of § 25.252 should be used.

(5) The calculation of the basic transmission loss $L(p)$ available for all but p percent of the time is to be done in accordance with recognized methods taking into account the appropriate terrain characteristics and the appropriate tropospheric propagation mechanisms. Methods for calculating basic transmission loss may be found in CCIR Report 244-2, New Delhi 1970, in Technote 101, 1966 (Revised) and in "Prediction of Tropospheric Radio Transmission Loss over Irregular Terrain—A Computer Method—1968", Report No. ERL 79-ITS67, Institute for Telecommunications Sciences, Boulder, Colo., July, 1968.

§ 25.256 Guidelines for performing interference analyses for precipitation scatter modes. [Reserved] [8]

10. In § 25.390, the second sentence of paragraph (h) is amended to read as follows:

§ 25.390 Developmental operation.

* * * * *

(h) * * * When developmental earth stations propose to operate in bands shared with terrestrial station, the applicant for a developmental earth station authorization shall comply with the coordination requirements of § 25.203. * * *

* * * * *

[8] The Commission does not have any specific text to propose for this reserved section: but it does seek comments and proposals as to methods for calculation of interference due to precipitation scatter, including hail.

[FR Doc.72-6661 Filed 5-5-72;8:45 am]

FEDERAL RESERVE SYSTEM

[12 CFR Parts 207, 220, 221]

[Regs. G, T, and U]

SECURITIES CREDIT TRANSACTIONS

Same-Day Substitutions

The Board of Governors proposes to amend Parts 207, 220, and 221 in order to require the deposit of additional margin in connection with purchases and sales of securities executed on the same day, in margin accounts whose net equity status is less than a percentage to be determined by the Board and published in the Supplements to the regulations.

1a. Section 207.1(j)(2) of Part 207, Securities Credit by Persons other than Banks, Brokers, or Dealers, would be amended as set forth below:

§ 207.1 General rule.

* * * * *

(j) *Withdrawals and substitutions of collateral.* * * *

(2) *Same-day substitution of collateral.* Except as prohibited by § 207.4(a)(2) in the case of a credit in which the equity ratio is equal to or exceeds the minimum equity ratio as prescribed in § 207.5 (the supplement to the regulation) a lender may permit a substitution of margin securities effected by a purchase and sale on orders executed within the same day: *Provided,* That (i) if the proceeds of the sale exceed the total cost of the purchase, the credit is reduced by at least an amount equal to the retention requirement in respect to the sale less the retention requirement in respect to the purchase, or (ii) if the total cost of the purchase exceeds the proceeds of the sale, the credit may be increased by an amount no greater than the maximum loan value of the securities purchased less the maximum loan value of the securities sold. If the maximum loan value of the collateral securing the credit has become less than the amount of the credit, the amount of the credit may nonetheless be increased if there is provided additional collateral having maximum loan value at least equal to the amount of increase, or the credit is extended pursuant to § 207.4(a).

b. Paragraph (k) of § 207.2 would be added as set forth below:

§ 207.2 Definitions.

* * * * *

(k) The term equity ratio means the fraction stated as a percentage in which the denominator is the current market value of the collateral having loan value in respect of the credit and the numerator is such current market value minus the amount of the credit currently owing.

c. Paragraph (f) of § 207.5 would be added as set forth below:

§ 207.5 Supplement.

* * * * *

(f) *Minimum equity ratio.* The minimum equity ratio of a credit subject to § 207.1 is 40 percent.

2a. Paragraph (i) of § 220.2 of Part 220, Credit by Brokers and Dealers, would be added as set forth below:

§ 220.2 Definitions.

* * * * *

(i) The term "equity ratio" means the fraction (stated as a percentage) in which the denominator is the current market value of the collateral having loan value in the customer's general account or special convertible security account and the numerator is the total of (1) such current market value, minus (2) the adjusted debit balance of such account, plus (3) the credit balance in any special miscellaneous account of the customer pursuant to section 220.4(f)(6) into which account are entered dividends and amounts withdrawn from the general account pursuant to section 220.3(b)(2).

* * * * *

b. Section 220.3 (b), (d)(1), and (g) would be amended as set forth below:

§ 220.3 General account.

* * * * *

(b) *General rule.* (1) (i) If the equity ratio in a general account, or special convertible security account, is less than the minimum equity ratio prescribed in § 220.8 (the supplement to Regulation T), a creditor shall not effect in such account any transaction which creates an excess of the adjusted debit balance of such account over the maximum loan value of the securities in such account, or increases any such excess, unless in connection therewith the creditor obtains, as promptly as possible and in any event before the expiration of 5 full business days following the date of such transaction, the deposit into such account of cash or securities in such amount that the cash deposited plus the loan value of the securities deposited equals or exceeds the excess so created or the increase so caused, but in no event need the deposit exceed the amount required to make the equity ratio in such account equal to the minimum equity ratio so prescribed. The required deposit may be reduced by the amount of cash or securities which otherwise could be withdrawn pursuant to the provisions of subparagraph (2) of this paragraph in connection with any other transactions in the account on the same day.

(ii) If the equity ratio in a general account or special convertible security account is equal to or more than the minimum equity ratio prescribed in § 220.8 (the supplement to Regulation T), or if the account is a special bond account subject to § 220.4(i), a creditor shall not effect for or with any customer in such account any transaction which, in combination with the other transactions effected in such account on the same day, creates an excess of the adjusted debit balance of such account over the maximum loan value of the securities in such account, or increases any such excess, unless in connection therewith the creditor obtains, as promptly as possible and in any event before the expiration of 5 full business days following the date of such transaction, the deposit into such account of cash or securities in such amount that the cash deposited plus the loan value of the securities deposited equals or exceeds the excess so created or the increased so caused.

* * * * *

(d) *Adjusted debit balance.* For the purpose of this part, the adjusted debit balance of a general account, special bond account subject to § 220.4(i), or special convertible security account shall be calculated by taking the sum of the following items:

(1) the net debit balance, if any, of such account (after the charging of all withdrawals, including withdrawals to the special miscellaneous account pursuant to § 220.4(f)(6));

* * * * *

(g) *Transactions on given day.* (1) The required deposit, under paragraph (b)(1)(i) of this section, in a general account or special convertible debt security account, in connection with transactions on a given day, shall be equal to the amount by which the maximum loan value of any securities purchased in such account is less than the retention requirement of any securities sold for such account on such day. Such computation may be made at the close of trading on such day and shall be made exclusive of any deposit of cash, deposit of securities, covering transactions or other liquidation that has been effected on such day, pursuant to the requirements of paragraph (b) or (e) of this section, in connection with a transaction on a previous day.

(2) For the purposes of paragraphs (b)(1)(ii) and (2) of this section, the question of whether or not an excess of the adjusted debit balance of a general account, special bond account, or special convertible security account over the maximum loan value of the securities in such account is created or increased on a given day shall be determined on the basis of all the transactions in the account on such day exclusive of any deposit of cash, deposit of securities, covering transactions, or other liquidation that has been effected on such day, pursuant to the requirements of paragraph (b) or (e) of this section, in connection with a transaction on a previous day.

(3) In any case in which an excess so created, or increase so caused, by transactions on a given day does not exceed $100, the creditor need not obtain the deposit specified therefor in paragraph (b)(1) of this section.

(4) Any transaction which serves to meet the requirements of paragraph (e) of this section or otherwise serves to permit any offsetting transaction in an account shall, to that extent, be unavailable to permit any other transaction in such account.

(5) For the purposes of this part (Regulation T), if a security has maximum loan value under paragraph (c)(1) of this section in a general account, a sale of the same security (even though not the same certificate) in such account

shall be deemed to be a long sale and shall not be deemed to be or treated as a short sale.

* * * * *

c. A new subparagraph (6) of § 220.4 (f) would be added as follows, and the present subparagraphs (6), (7), and (8) renumbered (7), (8), and (9) respectively:

§ 220.4 Special accounts.

* * * * *

(f) *Special miscellaneous account.* In a special miscellaneous account, a creditor may:

* * * * *

(6) Receive from or for any customer or pay out or deliver to any customer (subject to any other applicable provisions of law) any dividends withdrawn from a general account or special convertible debt security account pursuant to § 220.6(g)(2), any other withdrawals permitted to be made from such account pursuant to § 220.3(b)(2), and the amount of any deposit required pursuant to any rule of a national securities exchange or national securities association to which the creditor is subject, or customarily required by the creditor in connection with the maintenance of such general account or special convertible security account.

* * * * *

d. Paragraph (i) of § 220.8 (the supplement to Regulation T) would be added as follows:

§ 220.8 Supplement.

* * * * *

(i) *Minimum equity ratio.* The minimum equity ratio of a general account or special convertible security account subject to § 220.4(j) is 40 percent.

3a. Section 221.1(c) of Part 221, Credit by Banks for the Purpose of Purchasing or Carrying Margin Stock, would be amended as set forth below:

§ 221.1 General rule.

* * * * *

(c) *Same-day transactions.* (1) Except as provided in § 221.3(r)(1), a bank may in the case of a credit in which the equity ratio is equal to or exceeds the minimum equity ratio as prescribed in § 221.4 (the supplement to the regulation) permit a substitution of stock whether margin or nonmargin, effected by a purchase and sale on orders executed within the same day: *Provided*, That (i) if the proceeds of the sale exceed the total cost of the purchase, the credit is reduced by at least an amount equal to the "retention requirement" with respect to the sale less the "retention requirement" with respect to the purchase, or (ii) if the total cost of the purchase exceeds the proceeds of the sale, the credit may be increased by an amount no greater than the maximum loan value of the stock purchased less the maximum loan value of the stock sold. If the maximum loan value of the collateral securing the credit has become less than the amount of the credit, the amount of the credit may nonetheless be increased if there is provided additional collateral having maximum loan value at least equal to the amount of the increase.

(2) For the purpose of this paragraph, the term equity ratio means the fraction (stated as a percentage) in which the denominator is the current market value of the collateral having loan value in respect of the credit and the numerator is such current market value minus the amount of the credit currently owing.

* * * * *

b. Paragraph (f) of § 221.4 would be added as set forth below:

§ 221.4 Supplement.

* * * * *

(f) *Minimum equity ratio.* The minimum equity ratio of a credit subject to § 221.1 is 40 percent.

The purpose of the proposed change in Regulation T is to limit the "same-day" substitution privilege to margin accounts whose equity status is equal to or greater than that which the Board specifies from time to time in the light of its statutory responsibility to prevent the excessive use of credit to purchase or carry securities. Initially this figure would be set at 40 percent.

Under the "same-day" substitution rule, brokers or dealers subject to Regulation T (Part 220) are permitted to offset purchases and sales executed on a given day to determine the deposit which shall be required, or withdrawal which shall be permitted, of cash or securities in connection with such transactions. The practice of permitting same-day substitutions on this basis frequently results in low margin credit existing for substantial periods of time, in certain accounts.

Under the proposed rule, margin requirements will apply separately to each purchase, and the retention requirement to the proceeds of each sale, in an account whose equity status is below the ratio specified by the Board. The broker or dealer will be required to compute the account once only, however, at the close of the day's trading, as he does at present.

The computation will be made by applying the current margin requirement to the total cost of purchases for the day, and the retention requirement to the total proceeds of sales for such day. For example, under present margin requirements of 55 percent and retention requirement of 30 percent, if total purchases are $10,000, and total sales are also $10,000 in an account below the specified minimum equity ratio a margin deposit of $5,500 would be required with respect to the purchases, and $3,000 of the sales proceeds (100 percent minus 70 percent) could be credited against that deposit, leaving a balance due from the customer of $2,500 in cash (or securities with a current market value of $5,555). The additional deposit would never have to be more than enough to bring the net equity status of the account up to the minimum ratio specified by the Board, however.

In computing the equity ratio of an account to determine whether it meets the minimum equity ratio test, the amount which has been withdrawn and credited to a special miscellaneous account under § 220.4(f)(6) would be treated as if it had not been withdrawn from the general account or special convertible debt security account.

Clarifying changes would be made in §§ 220.3(d) and 220.4(f) to make it clear that amounts permitted to be withdrawn from a general account or special convertible debt security account must be withdrawn from such account before the net debit balance of the account is determined for the purpose of computing the adjusted debit balance of such account, and that only amounts permitted to be so withdrawn from such account, or which are required to be deposited pursuant to a rule of a national securities exchange or national securities association, or customary maintenance requirement of the creditor, may be credited to the special miscellaneous account for purposes of the preceding paragraph.

The companion changes proposed in Parts 207 and 221 (Regulations G and U) are to conform those regulations in order to eliminate the same day substitution rule as above described in regard to credits whose net equity ratio is less than the figure deemed appropriate by the Board.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 2, 1972. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information.

By order of the Board of Governors, April 28, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-6955 Filed 5-5-72;8:50 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

SPECIAL LIAISON REPRESENTATIVE

Delegation of Authority

APRIL 28, 1972.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 F.R. 13938).

This delegation is issued under the authority delegated to the Commissioner by the Secretary in section 25 of Secretarial Order 2508 (10 BIAM 2.1).

Section 5.4 of 10 BIAM was published on page 2676 of the February 27, 1969, FEDERAL REGISTER (34 F.R. 2676). The delegation of authority made in § 5.4 to the Special Liaison Representative, New York Field Office, is being extended to include issuing commitments of approval of mortgages and approving mortgages of leasehold interest of members of the Seneca Nation given as security for home purchase or home improvement loans made by any Federal agency.

Section 5.4 is amended to read as follows:

5.4 *Seneca Nation.* The Special Liaison Representative is authorized to approve leases of tribal lands to individual members of the Seneca Nation and to issue commitments of approval of mortgages and approve mortgages of leasehold interest of such members given as security for home purchase or home improvement loans with or without FHA or VA insurance when such loans are made by any of the following institutions:

A. Any National or State bank,

B. Any building and loan association operating under authority of the law of any State,

C. Any insurance company authorized by law to engage in making such loans in the State of New York, or

D. Any Federal agency.

The Special Liaison Representative is authorized to otherwise perform on behalf of the members of the Seneca Nation those functions of the Commissioner of Indian Affairs which are specifically outlined in the memorandum of understanding between the Commissioner of Indian Affairs and the Commissioner, Federal Housing Administration, dated March 30, 1962.

JOHN O. CROW,
Deputy Commissioner.

[FR Doc.72-6959 Filed 5-5-72;8:50 am]

Bonneville Power Administration

ASSISTANT CHIEF ENGINEER AND CHIEF, BRANCH OF MATERIALS AND PROCUREMENT

Redelegations of Authority

Redelegations of Authority published in the FEDERAL REGISTER on July 6, 1968 (33 F.R. 9784) and amended on September 13, 1968 (33 F.R. 12974), (February 21, 1969 (34 F.R. 2508), August 9, 1969 (34 F.R. 12955), September 18, 1969 (34 F.R. 14534), May 1, 1971 (36 F.R. 8266), June 8, 1971 (36 F.R. 11047), July 24, 1971 (36 F.R. 13799), and November 27, 1971 (36 F.R. 22689), are further amended by:

1. Section 10.4c(2) is revised as follows:

10.4 *Delegated authority—limitation.* (7-6-68)

* * * * *

c. (2) Contracts negotiated without advertising for research and development services to be rendered by any educational institution;

2. Section 10.9 is added as follows:

10.9 *Negotiated contracts, general.* Officials who are authorized to execute contracts for materials, equipment, and services (including construction and clearing) may negotiate for property and services (except as provided in section 10.4) within the scope of their general redelegations, and within the limitations prescribed by the Secretary of the Interior. Such authority to negotiate includes circumstances where laws or regulations applicable to the Administrator, and redelegable by him, exempt the contracts from advertising requirements, including those circumstances where prerequisite determinations to negotiate are made by the Administrator or higher authority.

3. Section 10.10 is revised as follows:

10.10 *Professional engineering and architectural contracts.* a. The Assistant Chief Engineer, Division of Engineering and Construction, may execute contracts for professional engineering and architectural services, pursuant to section 302(c) (4) and (10) of the Federal Property and Administrative Services Act of 1949, as amended, 41 U.S.C. 252, and the limitations prescribed by the Secretary of the Interior.

(205 DM 11.2)

b. (Redesignated.)

4. Section 10.11 is revised to read as follows:

10.11 *Construction and clearing contracts.* a. The Construction and Services Manager, Division of Engineering and Construction, may execute contracts and amendments to contracts for construction or clearing.

* * * * *

(205 DM 11.1, 26 F.R. 11748)

5. Section 10.12 is revised to read as follows:

10.12 *Materials, equipment, and other contracts.* a. The Chief, Branch of Materials and Procurement, may:

(1) Execute contracts, amendments to contracts, and procurement transactions for materials, equipment, and services, including the exchange or sale of personal property for replacement purposes;

(2) Execute contracts and amendments to contracts for the disposal of surplus property, except electric utility system real properties, for which the Administration is the authorized disposal agency under delegations heretofore or hereafter made pursuant to the provisions of the Federal Property and Administrative Services Act of 1949, 63 Stat. 378, as amended, 40 U.S.C. 471 to 492 (1970);

(3) Authorize the publication of advertisements, notices, or proposals, pursuant to section 3828 of the Revised Statutes, 16 Stat. 308, 44 U.S.C. 324 1970).

b. The Head of the Procurement Section may exercise the authority delegated to the Chief, Branch of Materials and Procurement, when the amount involved does not exceed $200,000.

c. The Purchasing Agents each may exercise the authority described in section 10.12a (1) and (3) when the amount involved does not exceed $2,500.

d. The Head of the Quality Control Unit and his designees may exercise the authority of the Contracting Officers for materials and equipment contracts in administering the technical provisions of the contracts during manufacturing and production. This authority includes the functions of (1) acceptance or rejection of materials or equipment; (2) interpretation of technical specifications; (3) approval of tests; (4) surveillance and review of factory operations.

e. The Head of the Receiving Inspection Unit and his designees may exercise the authority of the Contracting Officers for materials and equipment contracts in administering the technical provisions of the contracts at destination. This authority includes the (1) acceptance or rejection of materials or equipment; (2) approval of test results; and (3) determining corrections necessary to meet contract specifications or requirements.

f. The Head of the Contract Administration Unit and his designees may exercise the authority of the Contracting Officers for materials and equipment contracts in administering all functions of the contracts not redelegated under subsections 10.12d and 10.12e, except for (1) execution of supplemental agreements; (2) making final decisions under the "Disputes" clause of any contract; or (3) terminating the Contractor's right to proceed for any reason.

(205 DM 5.1; 205 DM 9.3; 205 DM 9.4; 205 DM 10, 28 F.R. 9884; 205 DM 11.1, 26 F.R. 11748; 365 DM 1)

Dated: April 5, 1972.

H. R. RICHMOND,
Administrator.

[FR Doc.72-6912 Filed 5-5-72;8:47 am]

Office of the Secretary

[INT FES 72-9]

DEEP GEOTHERMAL TEST WELL, GEOTHERMAL RESOURCE INVESTIGATIONS, IMPERIAL VALLEY, CALIFORNIA

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement on a proposed deep geothermal test well in Imperial Valley, California.

Copies are available for inspection at the following locations:

Office of Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343-4991.

Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colo. 80225, Telephone (303) 234-3007.

Office of the Regional Director, Bureau of Reclamation, Post Office Box 427, Boulder City, NV 89005, Telephone (702) 293-8560.

Southern California Planning Office, Bureau of Reclamation, Post Office Box 1303, San Bernardino, CA 92402, Telephone (714) 884-3448.

Single copies of the draft statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151. Please refer to the statement number above.

Dated: April 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-6960 Filed 5-5-72;8:50 am]

Southwestern Power Administration

ENVIRONMENTAL STATEMENTS

Issuances of Procedures Regarding Preparation

APRIL 14, 1972.

Notice is hereby given of the publication of procedures of the Southwestern Power Administration to implement the policy and directives of section 102(2)(c) of the National Environmental Policy Act of 1969 (Public Law 91-190, 83 Stat. 852, January 1, 1970); section 2(f) of Executive Order 11514 (March 5, 1970); the guidelines issued by the Council on Environmental Quality (36 F.R. 7724, April 23, 1971); Office of Management and Budget Bulletin No. 72-6 (September 14, 1971), and Department of the Interior Manual Chapter 516.

Set forth below are the Southwestern Power Administration procedures for the preparation of environmental statements.

PROCEDURES FOR THE PREPARATION OF ENVIRONMENTAL STATEMENTS

A. *Purpose.* These procedures are to implement the policy and directives of section 102(2)(c) of the National Environmental Policy Act of 1969 (Public Law 91-190, 83 Stat. 852, January 1, 1970), hereafter referred to as the Act; section 2(f) of Executive Order No. 11514 (March 5, 1970); 516 DM 2; and to provide guidance to SPA personnel in the preparation of environmental statements for SPA activities significantly affecting the quality of the human environment.

B. *Policy.* All activities, and proposed or recommended actions of SPA, will be assessed for their environmental impact. Environmental statements shall be submitted on all legislation or other major actions proposed which will have significant impacts on the quality of the environment. All draft and final statements shall be available to the public as provided by the Freedom of Information Act (5 U.S.C. section 552).

C. *Scope.* The provisions of this chapter shall apply to all SPA activities or actions which significantly affect the environment initiated after the effective date of the Act (January 1, 1970).

D. *Responsibilities.* 1. The Administrator shall designate those actions requiring environmental statements.

2. The Chief, Division of Power Facilities, shall be responsible for the preparation of the required environmental statements in accordance with DM 516.2.4G.1-3.

3. The SPA Environmental Liaison Officer shall transmit the proposed draft and final environmental statements to the Assistant Secretary—Water and Power Resources for submission to the Assistant Secretary—Program Policy and other agencies in accordance with DM 516.2.4G.4-8.

E. *Actions.* The following Bureau procedures are established to conform with the requirements of 516 DM 2, for each SPA action requiring the preparation of an environmental statement.

1. *General.* The statutory clause "major Federal actions significantly affecting the quality of the human environment" is to be construed with a view to the overall, cumulative impact of the action proposed, and of further actions contemplated. Such actions may be localized in their impact, but if the environment or its uniqueness may be significantly affected, the statement is to be prepared. Any proposed action that has an environmental impact likely to be highly controversial should be considered to require an environmental statement. The accumulative effect of each activity or action of one or more Government entities over a period of years should be considered in determining which activities require environmental statements and should follow the principles set forth in section 101(b) of the Act. Significant effects of those that markedly degrade or enhance the quality of the environment; curtail or extend the range of beneficial uses of the environment, and serve only short-term environment goals.

2. *Environmental statements.* In accordance with present policy, environmental statements will be prepared for new construction authorization for transmission lines and for annual transmission system operations and maintenance programs.

F. *Content of environmental statements.* Each environmental statement shall contain those items required by 516 DM 2.6.

G. *Coordination.* Working level consultations with affected local, State, and Federal agencies will be initiated early in the development of the proposal with draft environmental statements prepared and circulated at the time and in the manner outlined in 516 DM 2.7.

H. *Public participation and availability of statements.* 1. Affected local, State, and Federal agencies will be provided information sufficient for an understanding of the proposed activities or actions as well as alternative courses of action. Public hearings may be held to solicit the views of interested parties. Notice of such hearings shall include publication in the FEDERAL REGISTER no less than 30 days before the hearing date. If the magnitude of the environmental impact of the proposed action or activity does not warrant a public hearing, the publication of the statement of availability in the FEDERAL REGISTER will be deemed sufficient notice. Draft and environmental statements shall be made available for public inspection at: (a) Office of the Assistant Secretary—Water and Power Resources, Department of the Interior, (b) Southwestern Power Administration headquarters, (c) Southwestern Power Administration field offices, where appropriate, (d) State, regional, or metropolitan clearinghouses, where appropriate, (e) a local public meeting place, such as a county courthouse or public library in the immediate vicinity, where appropriate.

2. A complete record of all hearings, draft and final environmental statements, and all comments received shall be made available for public inspection at SPA headquarters.

3. Notices of availability of draft and final environmental statements will be made in the FEDERAL REGISTER in accordance with 516 DM 2.8F.

I. *Environmental statements.* Environmental statements shall be prepared and processed in accordance with 516 DM 2.9.

PETER C. KING,
Administrator.

MAY 2, 1972.

[FR Doc.72-6940 Filed 5-5-72;8:48 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt. 13]

SALES OF CERTAIN COMMODITIES

Monthly Sales List

The CCC Monthly Sales List for the fiscal year ending June 30, 1972 published in 36 F.R. 13044 is amended as follows:

1. Subsection (c) of section 1 entitled *General* is revised to read as follows: CCC will sell warehouse stocks of grains (execpt rice) and oilseeds (except peanuts) for deferred delivery up to 120 days from the date of sale. Prices of such sales

will be in accordance with the CCC Monthly Sales List in effect at the time of sale with interest beginning for the account of the buyer the day after the date of sale. Such sales made on an in store delivery basis will require storage to begin for the account of the buyer 10 days after the date of sale. Such sales made on an f.o.b. delivery basis will require storage for the account of the buyer beginning on the day after the date of sale. Storage charges will be in accordance with Uniform Grain Storage Agreement rates. Interest to date of payment will be at 6½ percent. No cash advance will be required from responsible buyers, but buyers will be required to furnish CCC an irrevocable letter of credit covering the purchase price plus estimated storage and interest to the end of the delivery period.

2. Section 32 entitled "Peanuts, Shelled or Farmers Stock-Restricted Use Sales" is amended by the deletion of the third sales item. The deleted provision (36 F.R. 17878) reads as follows:

3. Farmer Stock: Segregation 1 may be purchased and milled to produce U.S. No. 1 or better grade shelled peanuts, which may be exported. The balance of the kernels including any graded peanuts not exported must be crushed domestically. Segregation 2 and 3 peanuts may be purchased for domestic crushing only.

Effective date: 2:30 p.m., e.s.t., April 28, 1972.

Signed at Washington, D.C., on May 1, 1972.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.72-6946 Filed 5-5-72;8:48 am]

Forest Service

BRUSHLAND MANAGEMENT, CALIF.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Brushland Management on National Forest Lands in California, USDA–FS–DES(Adm) 72–33.

The environmental statement concerns a proposal to modify brushland where the potential exists for management and production of increased benefits. A new plant cover—usually grass or grass and forbs—will be established on selected sites within various brush or woodland associations.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 12th Street and Independence Avenue SW., Washington, DC 20250.

USDA, Forest Service, California Region, 630 Sansome Street, San Francisco, CA 94111.

All California National Forests, Forest Supervisor's Office.

A limited number of single copies are available upon request to Douglas R. Leisz, Regional Forester, U.S. Forest Service, 630 Sansome Street, San Francisco, CA 94111.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151, for $3 each. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Mr. Douglas Leisz, Regional Forester, U.S. Forest Service, 630 Sansome Street, San Francisco, CA 94111. Comments must be received within 50 days of the date of publication of this notice in order to be considered in the preparation of the final environmental statement.

ADRIAN M. GILBERT,
Acting Deputy Chief,
Forest Service.

MAY 2, 1972.

[FR Doc.72-6947 Filed 5-5-72;8:48 am]

SISKIYOU NATIONAL FOREST HERBICIDE PROGRAM

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Siskiyou National Forest Herbicide Program, Oregon, USDA–FS–FES(Adm) 72–19.

The environmental statement concerns the application of 2,4-D, 2,4,5-T or atrazine on 11,358 acres in 204 separate tracts on the Siskiyou National Forest to control certain types of vegetation.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 12th Street and Independence Avenue SW., Washington, DC 20250.

USDA, Forest Service, Pacific Northwest Region, 319 Southwest Pine Street, Portland, OR 97208.

Siskiyou National Forest, 1504 Northwest Sixth Street, Grants Pass, OR 97526.

A limited number of single copies are available upon request to R. A. Resler, Regional Forester, U.S. Forest Service, 319 Southwest Pine Street, Post Office Box 3623, Portland, OR 97208.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151, for $3 each. Please refer to the name and number of environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

This final environmental statement was filed with CEQ on April 21, 1972.

THOMAS C. NELSON,
Deputy Chief, Forest Service.

MAY 3, 1972.

[FR Doc.72-6973 Filed 5-5-72;8:52 am]

DEPARTMENT OF COMMERCE

Office of Import Programs

BOSTON UNIVERSITY ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Rotating Anode X-Ray Generator

The following is a consolidated decision on applications for duty-free entry of rotating anode X-ray generator 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. 72–00148–33–90000. Applicant: Boston University School of Medicine, 80 East Concord Street, Boston, MA 02118. Article: Rotating anode X-ray generator and attachment. Manufacturer: Elliott Automation Radar Systems, Ltd., United Kingdom. Intended use of article: The article is intended to be used in research revolving cancer cell and membrane structure studies. Application received by Commissioner of Customs: September 24, 1971. Advice submitted by Department of Health, Education, and Welfare on: March 17, 1972.

Docket No. 72–00052–65–90000. Applicant: Northwestern University, 619 Clark Street, Evanston, IL 60201. Article: Rotating anode X-ray generator, GX–6. Manufacturer: Elliott Automatic Radar Systems, Ltd., United Kingdom. Intended use of article: The article will be used for topographical studies of dislocation arrangements and contents in deformed metals; effects of high pressure in structure; and atomic arrangements in crystalline polymers DNA. Application received by Commissioner of Customs: July 26, 1971. Advice submitted by Department of Health, Education, and Welfare on: February 11, 1972.

Docket No. 71-00550-01-90000. Applicant: University of Pennsylvania, Department of Chemistry, E. F. Smith Chemistry Laboratories, 215 South 34th Street, Philadelphia, PA 19104. Article: Rotating anode X-ray generator and attachment, Model GX-6. Manufacturer: Elliott Automatic Radar Systems, Ltd., United Kingdom. Intended use of article: The article will be used to provide high intensity X-radiation for single crystal X-ray diffraction studies of proteins for teaching and research. Application received by Commissioner of Customs: May 17, 1971. Advice submitted by Department of Health, Education, and Welfare on: September 23, 1971.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Application 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 provides a very small focused spot and a rotating target for maximum X-ray power. These features permit the study of specimens that are subject to deterioration with time by minimizing the exposure period required to obtain a useful X-ray diffraction pattern. We are advised by the Department of Health, Education, and Welfare (HEW) in the respectively cited memoranda, that both of the pertinent characteristics described above are pertinent to the X-ray diffraction studies, involving materials which degrade rapidly, to be performed with each of the foreign articles to which the foregoing applications relate. HEW further advises that it knows of no comparable domestic instrument that provides both of the pertinent characteristics of the foreign articles to which the foregoing applications relate.

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.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-6963 Filed 5-5-72;8:51 am]

HOPE COLLEGE

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. 71-00333-00-54600. Applicant: Hope College, Holland, Mich. 49423. Article: Monocrystal of quartz. Manufacturer: Dr. Steeg & Reuter, West Germany. Intended use of article: The article will be used to construct a curved crystal diffractometer in the transmission geometry. This diffractometer will be used to detect changes in the charge distribution of high-Z elements by measuring the shift in the binding energy of K-shell electrons under change in the number of neutrons.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article meets the requirements for a crystal free from dislocation, linkage, or twinning; for a high surface polish and flatness; and for crystal orientation to the front face being within 2 minutes of specification. We are advised by the National Bureau of Standards in its memorandum dated February 25, 1972, that (1) the features of the article described above are pertinent to the applicant's intended use, (2) it has no knowledge of a domestic supplier willing and able to provide crystallographic orientation to better than ±5 minutes, and (3) it knows of no domestic manufacturer providing an equivalent scientific capability to the foreign article for the applicant's intended purposes.

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.72-6964 Filed 5-5-72;8:51 am]

MARY HITCHCOCK MEMORIAL HOSPITAL

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. 72-00222-33-43780. Applicant: Mary Hitchcock Memorial Hospital, Regional Cancer Research Center, 2 Maynard Street, Hanover, NH 03755. Article: 45 Mev. betatron. Manufacturer: Brown Boveri, Switzerland.

Intended use of article: The article is intended to be used for clinical electron beam research. Initial projects for investigation with the new betatron are as follows: (1) Determination of the physical characteristics of such a high energy electron beam, (2) investigation of modifications of the beam cause by inhomogeniety interfaces in the body, (3) development of computer programs for use in radiation dosimetry of electron beam, (4) studies into variations of relative biological effectiveness in depth in a high energy electron beam; and (5) randomized clinical trials testing the effectiveness of electrons as compared with X-rays in the treatment of cancer patients. The article will also be used for teaching the principles of electron beam therapy to both undergraduates and graduate students.

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 April 21, 1972, that the high energy of the beam provided by the foreign article is pertinent to the applicant's research and educational purposes. The foreign article provides beam energies to 45 million electron volts. HEW further advises that it knows of no domestic medical betatrons which provide beam energies exceeding 25 million electron volts.

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.72-6965 Filed 5-5-72;8:51 am]

SCOTT AND WHITE MEMORIAL HOSPITAL

Notice of Applications for Duty-Free Entry of Scientific Articles

The following notice application as published in Volume 36, Number 121 (page 11951) of the FEDERAL REGISTER (6-23-71) is hereby amended to read as follows:

Docket No. 71-00497-33-46040. Applicant: Scott and White Memorial Hospital, Temple, Tex. 76501. Article: Electron Microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used for studies of kidney tissue to determine the effects of antigen-antibody reactions, the localization of these changes into specific areas, and the early and long range effects of these reactions; for examination of small bowel biopsies in

cases of intestinal malabsorption; and thyroid tissue is being studied to ascertain the effect of radioactive chemicals on the morphology and physiology of the cells and the glands. The article is also intended to be used in a technical course given for undergraduate and graduate students to teach techniques in electron microscopy and also used in preparation of thesis material. Application received by Commissioner of Customs: April 13, 1971.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-6966 Filed 5-5-72;8:51 am]

PRESBYTERIAN MEDICAL CENTER ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the February 24, 1972, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 72-00279-33-43780. Applicant: The Presbyterian Medical Center, 1719 East 19th Avenue, Denver, CO 80218. Article: 45 MeV Betatron. Manufacturer: Brown-Boveri, Switzerland. Intended use of article: The article is intended to be used for the following projects:

(1) Determination of the physical characteristics of such a high energy electron beam.

(2) Investigation of modifications of the beam caused by inhomogeniety interfaces in the body.

(3) Development of computer programs for use in radiation dosimetry of electron beam.

(4) Studies into variations of relative biological effectiveness in depth in a high energy electron beam.

(5) Randomized clinical trials testing the effectiveness of electrons as compared with X-rays in the treatment of cancer patients.

The article will also be used for teaching the principles of electron beam therapy to radiotherapy resident physicians of the Rocky Mountain area. Application received by Commissioner of Customs: December 10, 1971.

Docket No. 72-00415-33-46500. Applicant: University of Southern California, School of Medicine, 2025 Zonal Avenue, Los Angeles, CA 90033. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in experiments to be conducted in an epidemiological survey of human milk pellets from lactating mothers whose mothers have or have had a history of mammary cancer. The objectives pursued in the course of the investigation are to reveal at the ultrastructural level the presence of "B" type particles in human milk pellets. Application received by Commissioner of Customs: March 1, 1972.

Docket No. 72-00417-33-46040. Applicant: University of Texas Medical Branch, Office of the Purchasing Agent, Administration Building, UMED 2-16148, Galveston, Tex. 77550. Article: Electron Microscope, Model EM 300. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used by qualified investigators for research on biogenic amines and synaptic interconnections in the nervous system. Application received by Commissioner of Customs: March 1, 1972.

Docket No. 72-00434-33-46040. Applicant: Utah State University, Logan, Utah 84321. Article: Electron Microscope, Model JEM 100B. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in the following studies:

a. A combined chemical and ultrastructural study of bovine, human and rabbit liver UDP-glucose pyrophosphorylase;

b. Investigation of the correlation between reovirus infectivity and removal of the outer coat with proteolytic enzymes;

c. Ultrastructural modifications in spermatid differentiation in specific male-sterile mutant stocks;

d. Ultrastructure changes in chromatin during spermatid differentiation; and

e. Ultrastructure of sporozoan parasites of cattle and other domestic animals.

Application received by Commissioner of Customs: March 9, 1972.

Docket No. 72-00418-00-46040. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Article: Image Intensifier for Electron Microscope. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is an accesory for an existing electron microscope being used for comparison of optical size with sedimentation constants of protein macro-molecules and enzymes. Application received by Commissioner of Customs: March 1, 1972.

Docket No. 72-00419-73-41895. Applicant: NASA-Manned Spacecraft Center, Houston, Tex. 77058. Article: Polished Lens Blanks. Manufacturer: Ohara Optical, Japan (10 lens blanks) Schott Glass, West Germany (35 lens blanks). Intended use of article: The article is intended to be used to make the lenses for Earth Terrain Cameras to be used in NASA's Skylab Program. The cameras will take pictures of those areas of the earth's surface that the other sensors in the experiment package are aimed at, thus providing pictures of those areas which can be used as baseline references. Such high-resolution pictures of these areas is an aid in the interpretation of the data from the other experimental equipment. Application received by Commissioner of Customs: March 1, 1972.

Docket No. 72-00422-91-35000. Applicant: University of Montana, Missoula, Mont. 59801. Article: Single Crystal Goniometer, Wooster type C S 25. Manufacturer: Crystal Structures Ltd., United Kingdom. Intended use of article: The article is intended to be used for instruction in the course, Geology 445 Crystallography and Analytical Mineralogy. The article will also be used for research, primarily for the X-ray study of silicate minerals, and for rapid alignment of single crystals for use on other types of X-ray goniometers. Application received by Commissioner of Customs: March 6, 1972.

Docket No. 72-00421-33-46040. Applicant: Harvard Medical School, 25 Shattuck Street, Boston, MA 02115. Article: Electron Microscope, Model JEM-100B. Manufacturer: JEOL, Ltd., Japan. Intended use of article: The article is intended to be used as the primary instrument for various studies by the Department of Anatomy. The materials to be examined will be biological specimens, ranging from microorganisms to man. Some of the studies to be undertaken are:

a. Fine structure of the parietal cell correlated with its secretory activity,

b. Study of gastric mucous biosynthesis and its role in the stomach,

c. Study of gastric mucosal architecture by freeze etch techniques, and

d. Comparative study of gastric mucosal fine structure of various mammalian and other vertebrate species.

Other studies in which the article will be used include:

1. Ultrastructural study of the testis,

2. Ultrastructural characterization of Rickettsia prowazeki in the intestinal epithelium of the body louse.

3. Studies on cell to cell associations and cell surfaces by electron microscopy after treatment with digestive enzymes,

4. Electron microscopy of sea urchin egg fertilization and early cleavage stages, and

5. Morphological aspects of fat and ferritin absorption in the intestinal epithelium of fish and some mammals.

Application received by Commissioner of Customs: March 1, 1972.

Docket No. 72-00425-33-02300. Applicant: The University of Michigan Medical School, Department of Pharmacology, M6322 Medical Science Building I, Re-

ceiving Dock No. 2, Ann Arbor, Mich. 48104. Article: Yanagita Restraining Harnesses. Manufacturer: O'Hara & Company, Ltd., Japan. Intended use of article: The article is intended to be used to restrain and protect indwelling, intravenous catheters in rhesus monkeys which administer drugs of abuse through the catheters. The experiments that will be conducted include studies of the self-administration of narcotics, barbiturates, and central nervous system stimulants by the monkey. Application received by Commissioner of Customs: March 6, 1972.

Docket No. 72-00426-65-01100. Applicant: North Carolina State University, Purchasing Department, Post Office Box 5935, Raleigh, NC 27607. Article: Warman Cyclosizer. Manufacturer: Warman Equipment (N.S.W.) Pty. Ltd. Intended use of article: The article is intended to be used in minerals research for separation of a particulate material into sized fractions which can be examined by optical microscopy, X-ray diffraction, and chemical analyses to determine mineral compositions. The article will also be used to determine the degree to which a desired mineral has been liberated from the other minerals present by the crushing and grinding operations. Furthermore the article will be valuable in mineral concentration efficiency studies. Application received by Commissioner of Customs: March 6, 1972.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-6967 Filed 5-5-72;8:51 am]

UNIVERSITY OF CONNECTICUT HEALTH CENTER

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. 71-00424-33-46040. Applicant: University of Connecticut Health Center, Route 4, Farmington, Conn. 06032. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use of article: The article will be used for research and diagnostic work involving human and animal tissues. In addition, isolated subcellular components, including purified proteins, nucleic acids and lipids will be studied. The projects concern the pathogenesis of human and animal disease processes, including inflammatory, degenerative and neoplastic conditions. A major portion of the research program will involve immunobiologic and immunopathologic investigation.

Comments: Comments have been received from the Forgflo Corp. (Forgflo), which state inter alia "The Forgflo Model EMU-4C is of equivalent scientific value to the instrument (foreign article) for which duty-free entry has been requested for the purposes stated in the application for which the instrument is intended to be used."

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 (October 22, 1970).

Reasons: The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated June 30, 1971, that the "best resolution (i.e., resolution limit or resolving power) available" can be used and is pertinent to the applicant's research on purified proteins, nucleic acids and lipids from both human and animal tissues. Resolving power bears an inverse relationship to its numerical rating in angstrom unit (Å), i.e., the lower the rating, the better the resolving power. The foreign article has a guaranteed resolving power of 3.5 Å. The Forgflo Model EMU-4C has a guaranteed resolving power of 5 Å. Forgflo comments that, "* * * the EMU-4 has routinely produced resolution far in excess to the 5 Å guarantee. * * * Our theoretical limit of resolution is 2.7 Å * * *" Forgflo's remarks underscore the fact that under certain conditions and with the appropriate specimen it is possible to exceed the guaranteed resolving power of an electron microscope. According to the manufacturer's literature, the theoretical resolving power of the foreign article (2.3 Å) has been attained in the past. In this connection § 701.11(a) of the regulations provides in pertinent part:

> The determination of scientific equivalency shall be based on a comparison of the pertinent specifications of the foreign instrument with similar pertinent specifications of the most closely comparable domestic instrument. The guaranteed specifications for the foreign article will be considered in the comparison * * *. Similarly, the guaranteed specifications for the most closely comparable domestic instrument will be considered * * *.

Accordingly, we find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-6969 Filed 5-5-72;8:51 am]

UNIVERSITY OF MARYLAND 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. 72-00118-33-46500. Applicant: University of Maryland, 31 South Greene Street, Baltimore, MD 21201. Article: Ultramicrotome, Model Om U2. Manufacturer: C. Reichert Optische, Werke A.G., Austria. Intended use of article: The article will be used in the research work and for training students and fellows in experimental pathology. The research involved includes: (1) Exploration of the reactions in the cytocavitary network which includes lysosomes; (2) investigation of the morphological changes and volumetric analysis of mitochondria; (3) investigation of alterations of transporting epithelium or changes in model systems of the ascites tumor cells as well as alterations of other tissue culture systems. Application received by Commissioner of Customs: August 31, 1971. Advice submitted by Department of Health, Education, and Welfare on: March 3, 1972.

Docket No. 72-00173-33-46500. Applicant: Temple University Medical School, Department of Medicine, 3401 North Broad Street, Philadelphia, PA 19104. Article: Ultramicrotome, Model "Om U2". Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article is intended to be used in preparing blood platelets and tissues containing blood vessels for electron microscopic study. The article will also be used by graduate students and postdoctoral fellows who are engaged in research in the field of thrombosis. Application received by Commissioner of Customs: October 5, 1971. Advice submitted by Department of Health, Education, and Welfare on: March 24, 1972.

Docket No. 72-00214-33-46500. Applicant: Stanford University, 820 Quarry Road, Palo Alto, CA 94304. Article: Ultramicrotome, Model "Om U2". Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The ultramicrotome is to be used to cut ultrathin sections of mammalian (excluding human) tissue culture cells for the study of their cell membranes. Application received by Commissioner of Customs: November 2, 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 0.5 to 20 millimeters per second. The most closely comparable domestic instrument is the Model MH–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 the geometry of the block. In connection with a prior application (Docket No. 69–00118–33–46500) which relates to the duty-free entry of an article 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] obvious factors as knife edge condition and angle) is adjusted to the characteristics of the material being sectioned." In connection with another prior case (Docket No. 69–00665–33–46500) relating to the duty-free entry of an article similar to those described above, HEW advised that "The range of cutting speeds and a capability for the higher cutting speeds is * * * a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with still another prior case (Docket No. 70–00077–33–46500) relating to the duty-free entry of an article similar 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 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.72–6968 Filed 5–5–72;8:51 am]

UNIVERSITY OF TENNESSEE

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. 72–00097–33–03400. Applicant: The University of Tennessee, Knoxville, Tenn. 37916. Article: Auditory training units, Suvag I and Suvag II. Manufacturer: Societe Sedi, France. Intended use of article: The article is intended to be used to habilitate and rehabilitate deaf children and adults.

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 February 25, 1972, that the foreign article provides a low frequency response and filter networks emphasizing specific frequency bands, which are pertinent to the applicant's intended use. HEW further advises that it knows of no comparable instrument scientifically equivalent to the article for this use.

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.72–6970 Filed 5–5–72;8:51 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D–72–174]

ASSISTANT SECRETARY AND DEPUTY ASSISTANT SECRETARY FOR HOUSING MANAGEMENT

Delegation of Authority

Section A9 of the Secretary's delegation of authority to the Assistant Secretary and Deputy Assistant Secretary for Housing Management published at 36 F.R. 5005, March 16, 1971, is revised to read as follows:

9. Section 106(a) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x), with respect to assistance to public and private organizations for the operation of housing for low or moderate income families under the National Housing Act or any other federally assisted program.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Effective date. This amendment to delegation of authority is effective as of May 5, 1972.

GEORGE ROMNEY,
Secretary of Housing
and Urban Development.

[FR Doc.72–6976 Filed 5–5–72;8:52 am]

[Docket No. D–72–173]

ASSISTANT SECRETARY AND DEPUTY ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT

Delegation of Authority

Section A6 of the Secretary's delegation of authority to the Assistant Secretary and Deputy Assistant Secretary for Housing Production and Mortgage Credit published at 36 F.R. 5006–5007, March 16, 1971, is revised to read as follows:

6. Sections 106(a) and 106(b) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x), as they relate to: (1) The provision of information and technical assistance with respect to the construction and rehabilitation by public bodies, nonprofit organizations or cooperative organizations of housing for low or moderate income families including assistance with respect to self-help and mutual self-help programs, and (2) loans to nonprofit organizations for necessary expenses, prior to construction, of planning and of obtaining financing for the rehabilitation or construction of housing for low or moderate income families under section 235 of the National Housing Act or any other federally assisted program.

Effective date. This amendment to delegation of authority is effective as of May 5, 1972.

GEORGE ROMNEY,
Secretary of Housing
and Urban Development.

[FR Doc.72–6975 Filed 5–5–72;8:52 am]

[Docket No. D–72–175]

DEPUTY ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND MANAGEMENT; AND DIRECTOR, OFFICE OF NEW COMMUNITIES DEVELOPMENT

Delegation of Authority To Act on Behalf of General Manager

The Deputy Assistant Secretary for Community Planning and Management, or in his absence, the Director of the

Office of New Communities Development is designated to serve as Acting General Manager during the absence of the General Manager, with all the powers, functions, and duties redelegated and assigned to the General Manager.

Effective date. This delegation of authority is effective as of February 16, 1972.

SAMUEL C. JACKSON,
General Manager,
Community Development Corporation.

[FR Doc.72-6977 Filed 5-5-72;8:52 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-348, 50-364]

ALABAMA POWER CO.

Notice of Availability of AEC Draft Detailed Statement on Environmental Considerations

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Atomic Energy Commission (the Commission) in 10 CFR Part 50, Appendix D, notice is hereby given that a draft detailed statement related to the proposed issuance of construction permits for the Joseph M. Farley Nuclear Plant, Units 1 and 2 located on the company's site in Houston County, Ala., on the west side of the Chattahoochee River located about 16½ miles east of Dothan, Ala., has been prepared and has been made available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the George S. Houston Memorial Library, 212 West Verdeshaw Street, Dothan, AL 36301, for inspection by members of the public during regular business hours. The draft detailed statement is also being made available to the public at the Alabama Development Office, State Office Building, Montgomery, Ala. 36104, and at the Southeast Alabama Regional Planning and Development Commission, Post Office Box 1460, Dothan, AL 36301.

A notice was published in the FEDERAL REGISTER on December 31, 1971 (36 F.R. 25437), concerning the availability of Alabama Power Co.'s Environmental Report and Supplemental Environmental Report dated December 23, 1971. The reports have been analyzed by the Commission's Division of Radiological and Environmental Protection in the preparation of the draft detailed statement.

Copies of the Commission's draft detailed statement on the environmental considerations may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Pursuant to sections A.6, A.7, and D of Appendix D to 10 CFR Part 50, interested persons may, within thirty (30) days from date of publication of this notice in the FEDERAL REGISTER, submit comments for the Commission's consideration on the draft detailed statement. Federal and State agencies are being provided with copies of the draft detailed statement (local agencies may obtain this document on request), and when comments thereon of the Federal, State, and local officials are received, they will be made available for public inspection at the above-designated locations. Comments on the draft detailed statement on environmental considerations from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 4th day of May 1972.

For the Atomic Energy Commission.

R. C. DEYOUNG,
Assistant Director for Pressurized Water Reactors, Directorate of Licensing.

[FR Doc.72-7009 Filed 5-5-72;8:53 am]

GENERAL MANAGER'S FINAL ENVIRONMENTAL STATEMENTS

Notice of Availability

Notice is hereby given that nine final environmental statements issued pursuant to the Atomic Energy Commission's implementation of section 102(2)(C) of the National Environmental Policy Act of 1969 are being placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545. The final statements are:

Land Acquisition, Rocky Flats Plant, Colo.
Contaminated Soil Removal Facility, Richland, Wash.
Radioactive Waste Evaporator and Auxiliaries, Richland, Wash.
Rover Fuels Processing Facility, NRTS, Idaho.
Radioactive Solid Waste Volume Reduction Facility, LASL, N. Mex.
Power Burst Facility, NRTS, Idaho.
Plutonium-238 Fuel Fabrication Facility, Savannah River, S.C.
Rio Blanco Gas Stimulation Project, Rio Blanco County, Colo.
Wagon Wheel Gas Stimulation Project, Sublette County, Wyo.

The statements will also be in the Commission's Idaho Operations Office, Post Office Box 2108, Idaho Falls, ID 83401; Oak Ridge Operations Office, Post Office Box E, Oak Ridge, TN 37830; San Francisco Operations Office, 2111 Bancroft Way, Berkeley, CA 94704; Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439, and the New York Public Document Room, 376 Hudson Street, New York, NY 10014.

The final environmental statements will be furnished upon request addressed to the Assistant General Manager for Environment and Safety, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Germantown, Md., this 2d day of May 1972.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary of the Commission.

[FR Doc.72-6924 Filed 5-5-72;8:48 am]

[Dockets Nos. 50-354, 50-355]

PUBLIC SERVICE ELECTRIC AND GAS CO.

Order Designating Commencement of Evidentiary Hearings

In the matter of Public Service Electric and Gas Co. (Newbold Island Nuclear Generating Station Units 1 and 2), Dockets Nos. 50-354, 50-355.

At a prehearing conference convened in this proceeding on April 27, 1972, inquiry was made by the Atomic Safety and Licensing Board respecting the readiness of the parties to proceed with presentation of evidence and after a determination made in reference to the convenience of the date, the Board announced that the evidentiary sessions in this proceeding would convene at 2 p.m. on Monday, June 12, 1972. The time of convening was determined partly to accommodate persons desiring to present statements by way of limited appearance, and thus the Board plans to extend the hours of that first day of the proceeding into the evening hours in order to permit those persons unable to attend during the daytime on June 12 to be present after the usual hours of sessions, which generally conclude at 5 p.m. or 6 p.m., after starting at 9 in the morning.

Wherefore, it is ordered, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, that the initial session of evidentiary hearings in this proceeding shall convene at 2 p.m. on Monday, June 12, 1972, in the Mercer Room of the Holiday Inn, 240 West State Street, Trenton, N.J.

Issued: May 2, 1972, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.72-6923 Filed 5-5-72;8:48 am]

[Docket No. 50-301]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Order Extending Facility Operating License Expiration Date

Wisconsin Electric Power Co. and Wisconsin Michigan Power Co. having filed a request dated April 11, 1972, for extension of the expiration date of Facility Operating License No. DPR-27 which authorizes fuel loading and subcritical testing and the possession of special nuclear and byproduct material for the

Point Beach Nuclear Plant, Unit No. 2, located in Manitowoc County, Wis.; and

Good cause having been shown in the application for this extension pursuant to Part 50 of the Commission's regulations in 10 CFR: *It is hereby ordered,* That the expiration date of Facility Operating License No. DPR–27 is extended from May 16, 1972, to November 16, 1972.

Dated at Bethesda, Md., this 28th day of April 1972.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.72–6906 Filed 5–5–72;8:46 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability

Environmental impact statements received by the Council on Environmental Quality, April 24–April 28, 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 25

Rogue River National Forest, Oreg., and Calif. Proposed implementation of the 10-year Timber Management Plan, which includes construction of access roads, and clearcutting and shelterwood cutting of trees. Siltation of streams because of surface erosion is expected. (ELR Order No. 4261, 26 pages) (NTIS Order No. PB–208 577–D)

Final, April 25

Siskiyou National Forest, Oreg., and Calif. Proposed application of the herbicides 2,4-D and 2,4,5-T or atrazine on 11,358 acres in 204 separate tracts. The intent of the action is to reduce vegetative competition to conifer crop trees. The visual impact of the treated tract will be undesirable for several years; temporary harmful effects to aquatic life may result; changes in wildlife habitat will occur, with big game browse area being reduced. Comments made by USDA (ARS), EPA, DOC (NOAA), State and local agencies, and concerned citizens. (ELR Order No. 4267, 56 pages) (NTIS Order No. PB–206 404–F)

SOIL CONSERVATION SERVICE

Final, April 25

Winters Creek Watershed, Scotts Bluff County, Nebr. Proposed conservation land treatment, and construction of one floodwater retarding structure and 7.2 miles of channel enlargement. Construction of the project will necessitate periodic inundation of 400 acres of grassland which is in the flood pool area; this land is presently considered to be wildlife habitat. Comments made by Army COE, EPA, HEW, DOI, and the Governor of Nebraska. (ELR Order No. 4266, 20 pages) (NTIS Order No. PB–208 584–F)

Final, April 26

Eden Watershed, Yazoo County, Miss. The watershed consists of 11,528 acres of delta land and 1,992 acres of bluff hill land. The project consists of conservation land treatment supplemented by one floodwater retarding structure, three grade stabilization and sediment control structures, 25 miles of stream channel enlargement, and 4 miles of new channel. Sixty-six acres will be committed to the project; water quality levels will be decreased because of turbidity. Comments made by Army COE, EPA, HEW, DOI, and State agencies. (ELR Order No. 4289, 32 pages) (NTIS Order No. PB–202 301–F)

ATOMIC ENERGY COMMISSION

Contact: For Nonregulator matters: Mr. Joseph J. DiNunno, Director, Office of Environmental Affairs, Washington, D.C. 20545, 202—973–5391. For regulatory matters: Mr. Christopher L. Henderson, Assistant Director of Regulation for Administration, Washington, D.C. 20545, 202—973–7531.

Draft, April 25

Highland Uranium Mill, Converse County, Wyo. Proposed issuance of an operating license to the Humble Oil and Refining Co. for the Highland Uranium Mill. The mill is a conventional acid-leach, solvent extraction uranium ore processing plant with a capacity of 2,000 tons of ore per day. The statement considers the impact of both mining and milling. Approximately 3,200 acres will be temporarily (12–14 years) used; 120 million cubic yards will be removed as overburden from 600 acres in open-pit mining operations; 500–1,500 g.p.m. of local ground water will be used in the processing and released back to the environment; stabilized tailings pile will cover 250 acres and consist of 11 million tons of tailings containing solid waste chemicals and low concentrations of radioactive uranium, with by-products; small quantities of chemicals and radioactive materials will be discharged to the environs. (ELR Order No. 4278, 41 pages) (NTIS Order No. PB–208 574–D)

Final, April 26

Radioactive Waste Evaporator and Auxiliaries, Hanford Plant, Benton County, Wash. Proposed construction of new facilities at Hanford to process liquid radioactive wastes into solid, retrievable, salt cake form. The three evaporators presently in use are considered to be of inadequate capacity. Approximately 1 billion gallons of cooling water per year will be released to a surface pond in the nearby desert. There a portion will evaporate and the remainder will percolate to ground water level. This water will contain no radioactivity. Radioactive effluents will be treated before being discharged to an enclosed trench. Comments made by USDA, DOC, DOD, EPA, HEW, and DOT. (ELR Order No. 4283, 96 pages) (NTIS Order No. PB–206 083–F)

Rover Fuels Processing Facility, National Reactor Testing Station, Idaho. Proposed modification of a portion of the existing Idaho Chemical Processing Plant to store and subsequently reclaim usable Rover fuels. Rover fuel, from the joint AEC–NASA nuclear rocket project, contains approximately 2,600 kg. of highly enriched uranium. The facility would take 1 acre of land; small quantities of radioactive fission products would be released; nonradioactive chemicals would also be released. Comments made by USDA, DOC, DOD, EPA, FPC, HEW, DOI, and DOT. (ELR Order No. 4284, 185 pages) (NTIS Order No. PB–205 780–F)

Rocky Flats Plant, Jefferson County, Colo. Proposed acquisition of 4,620 acres of additional land surrounding the 2,520 acres presently owned by the AEC. This would provide a 1 to 1.5 mile buffer zone around the 400-acre industralized area of the plant. The plant is a key facility for the fabrication of plutonium components for nuclear weapons. The land in question is presently utilized for grazing animals; it is on the verge, however, of being developed for residential and industrial uses. The purpose of the action is to minimize the types of problems which often arise from the proximity of industrial facilities to residential communities. The land would become a greenbelt area. Comments made by USDA, DOC, DOD, EPA, DOT, the State of Colorado, and concerned citizens. (ELR Order No. 4285, 46 pages) (NTIS Order No. PB–206 081–F)

Contaminated Soil Removal Facility, Hanford Plant, Benton County, Wash. Proposed construction of a facility which would remove plutonium from an existing closed trench (Z–9). The trench was used between 1955 and 1962 as a subsurface disposal facility for contaminated liquids from the Plutonium Finishing Plant at Hanford. It is estimated that 100 kilograms of plutonium are contained in 1,800 cubic feet of soil. High efficiency filters will allow only an insignificant amount of plutonium to be released to the air. Comments made by USDA, DOC, DOD, EPA, HEW, DOT, and the State of Washington. (ELR Order No. 4286, 85 pages) (NTIS Order No. PB–206 084–F)

Radioactive Solid Waste Volume Reduction Facility, Los Alamos County, N. Mex. Proposed construction of a demonstration facility for reduction of solid radioactive waste volumes. Sorting, compaction, and incineration procedures would be developed for low-level plutonium-contaminated wastes which are presently stored in enclosed trenches. A maximum of 10 grams of plutonium and one millicurie of mixed fission products would be allowed at the facility at one time. Combustibles will be handled; protective measures will therefore be taken to minimize the consequences of fire. Comments made by USDA, DOC, DOD, EPA, HEW, DOI, DOT. (ELR Order No. 4292, 85 pages) (NTIS Order No. PB–204 915–F)

Final, April 27

Power Burst Facility (PBF), National Reactor Testing Station, Idaho. Proposed use of an existing reactor in the AEC nuclear safety program. The PBF would be operated with a sudden increase in power level for a short period of time (burst of power) in order to subject test fuel elements to severe operating conditions. Radioactive waste systems have been modified to provide more control over effluent releases. Operation will commence this year. Comments made by USDA, DOC, EPA, HEW, DOI, and the State of Idaho. (ELR Order No. 4294, 121 pages) (NTIS Order No. PB–204 915–F)

Plutonium-238 Fuel Fabrication Facility, Savannah River Plant (SRP) Aiken and Barnwell Counties, S.C. Proposed construction of facilities for converting plutonium-238 oxide into compacted shapes for use as fuel in Radioisotope Thermoelectric Generators (RTG's). RTG's have been used to provide electrical power aboard communications and weather satellites, and on the surface of the

moon. Small (less than 0.01 of 1 percent of the Federal guidelines) releases of ^{238}Pu are unavoidable. Comments made by USDA, DOC, DOD, EPA, HEW, DOI, DOT, and the State of South Carolina. (ELR Order No. 4298, 78 pages) (NTIS Order No. PB–205 779–F)

DEPARTMENT OF DEFENSE

DEPARTMENT OF ARMY

Corps of Engineers

Contact: Colonel William L. Barnes, Executive Director of Civil Works, Attention: DAEN–CWZ–C, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, DC 20314, 202—693–7168.

Draft, April 21

Manasquan River, Monmouth County, N.J. Maintenance dredging of inlet channel, and maintenance of jetties and bulkheads. Dredged material will be deposited in the Atlantic Ocean. Temporary turbidity will disturb marine ecosystems. (ELR Order No. 4246, 12 pages) (NTIS Order No. PB–208 469–D)

Draft, April 24

Bowie Dam and Lake, Pascagoula River Basin, Miss. and Ala. The statement is a legislative action involving proposed construction, if authorized by Congress, of a multipurpose reservoir, for flood control, water supply, recreation, and fish and wildlife enhancement. An unspecified number of residences will be displaced. Approximately 5,500 acres will be inundated by the project; rare or endangered species for which this serves as habitat include the Bald Eagle, the Perigine Falcon, the Ivory-billed Woodpecker, Bachman's Warbler, and the American Alligator. (ELR Order No. 4247, 126 pages) (NTIS Order No. PB–208 468–D)

Cold Spring Inlet, Cape May County, N.J. Proposed dredging of channel and maintenance of jetties, with spoil being dumped in the Atlantic Ocean. Temporary turbirity will disturb marine ecosystems. (ELR Orier No. 4249, 12 pages) (NTIS Order No. PB–208 (466–D)

Draft, April 25

Santa Paula and Mud Creeks, Ventura County, Calif. Proposed construction of a debris basin and reinforced concrete channels on the two creeks. The purpose of the project is flood control. Some riparian vegetation would be eliminated. (ELR Order No. 4262, 13 pages) (NTIS Order No. PB–208 578–D)

Draft, April 26

Beach Erosion Project, Brevard County, Fla. Proposed partial restoration and periodic nourishment of 4.8 miles of shoreline, at 2 sites. A total of 1,591,00 cubic yards of material would be dredged from offshore for use at the sites. Dredging will temporarily degrade water quality, cause the beach to be closed for public use, and destroy benthic animals at dredging and deposit sites. (ELR Order No. 4280, 49 pages) (NTIS Order No. PB–208 552–D)

Small Boat Harbor, King Cove, Alaska. Proposed construction of a 1,250-foot long earthfilled dike and a 210-foot rock groin, and dredging of a 400-foot long channel and 11-acre anchorage basin. The project would provide protected mooring for resident and transient fishing vessels. Approximately 23.8 acres of marine and waterfowl habitat will be lost to the project (ELR Order No. 4287 26 pages) (NTIS Order No. PB–208 572–D)

Draft, April 27

Bal Harbour, Dade County, Fla. Proposed restoration of an 0.85-mile stretch of beach. Fill would be obtained from an ocean borrow pit 1.5 miles off shore. Approximately 1.8 million cubic yards would be dredged and filled. Marine life at both dredging and dumping sites will be disturbed and/or destroyed. (ELR Order No. 4296, 15 pages) (NTIS Order No. PB–208 575–D)

Ana Marie Key, Manatee County, Fla. Proposed construction of a beach erosion control project along the Gulf Shore of the Key. Revetment and groins will be constructed, and fill will be dredged and dumped, to provide 75 feet of additional beach at mean high water along 3.2 miles of shoreline. Temporary turbidity will disturb marine ecosystems. (ELR Order No. 4297, 40 pages) (NTIS Order No. PB–208 553–D)

Final, April 14

Western Unit Flood Protection Project, Billings, Mont. Proposed construction of a diversion project along the western edge of Billings in order to intercept flood flows from irrigation and drainage ditches and to direct these flows around developed areas. Sixty-six acres would be committed to the project. Comments made by USDA, EPA, DOI, and State agencies. (ELR Order No. 4205, 24 pages) (NTIS Order No. PB–204 575–F)

Final, April 24

Mud Mountain Dam, White River, King and Pierce Counties, Wash. The dam is an existing 700 feet long 425 feet high earth-core rockfill structure. The project would involve a program of lateral bracing and installation of abrasion-resistant steel liner, in order to reduce the frequency of repairs to a 9-foot outlet. Comments made by USDA, Bureau of Indian Affairs, EPA, NOAA, State and regional agencies and concerned citizens. (ELR Order No. 4251, 39 pages) (NTIS Order No. PB–200 931–F)

Portsmouth State Park, Ohio River, Ohio. Proposed construction of a small boat harbor to accommodate recreational boats. Changes in fish and wildlife habitat, removal of vegetation, increase in stream sediment load, and potential pollution from fuels and lubricants will result. Comments made by USCG, EPA, USDI, and State agencies. (ELR Order No. 4253, 32 pages) (NTIS Order No. PB–198 883–F)

Flat Rock and Valley View Creeks, Tulsa County, Okla. Proposed channelization of 7,400 feet of Flat Rock Creek and 4,500 feet of Valley View Creek. Rip-rap will be used along with concrete and stone lined banks; Valley View Creek will be concrete lined. One residence will be displaced and 38 acres lost to the project; several utilities will be replaced. Comments made by USDA, EPA, HUD, DOI, DOT, and concerned citizens. (ELR Order No. 4254, 27 pages) (NTIS Order No. PB–198 847–F)

Kingstree Branch Flood Control Project, Black River Basin, S.C. Proposed widening and deepening of an existing canal. Adjacent landowners will lose a portion of their properties to construction and right-of-way. Comments made by USDA, EPA, HUD, DOI, and State agencies. ELR Order No. 4255, 35 pages) (NTIS Order No. PB–206 101–F)

Scappoose Drainage District, Columbia River, Oreg. Proposed construction of 2 pumping stations, an interior sublevee, and other modifications to the existing levee system. Twelve acres will be lost to the project; a lowered water table will encourage urban land uses, which are not recommended for floodplain land. Comments made by USDA, EPA, DOI, NOAA, and one State agency. (ELR Order No. 4258, 89 pages) (NTIS Order No. PB–198 847–F)

FEDERAL POWER COMMISSION

Contact: Mr. Frederick H. Warren, Advisor on Environmental Quality, 441 G Street NW., Washington, DC 20426, 202—386–6084.

Draft, April 24

Project No. 2354, Tallulah and Tugalo Rivers, Ga., and S.C. Proposed approval of the Georgia Power Co.'s plans to develop recreation facilities at its Project No. 2354, a hydroelectric powerplant. Primary development would be at a 300-acre site near Tallulah Falls. (ELR Order No. 4257, 27 pages) (NTIS Order No. PB–208 576–D)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Rod Kerger, Acting Administrator, GSA–AD, Washington, D.C. 20405, 202—343–6077. Alternate: Mr. Aaron Woloshin, Director, Office of Environmental Affairs, GSA–AD, Washington, D.C. 20405, 202—343–4161.

Final, April 21

Fort Des Moines, Des Moines, Iowa. Proposed disposal by GSA of 198 acres of unimproved land. Approximately 95 acres would be assigned to HEW for conveyance to the city of Des Moines for police and fire department training programs; 103 acres would be assigned to the Bureau of Outdoor Recreation for conveyance to Polk County for park and recreation use. Comments made by Senator Miller, Congressman Smith, USDA, EPA, HEW, and local agencies. (ELR Order No. 4245, 22 pages) (NTIS Order No. PB–205 446–F)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202—343–3891.

Draft, April 26

Nueces River, Nueces and San Patricio Counties, Tex. Proposed construction of an earthfill dam and reservoir on the Nueces, 22 miles upstream from its mouth. The purposes of the project are water supply, recreation, and fish and wildlife enhancement. Approximately 150 families would be displaced; 31.340 acres of wildlife habitat and 21 miles of fish habitat would be inundated; the salinity of the Corpus Christi estuary would be increased; productive capacity and sport fishing potential of the estuary would be decreased; degradation of the estuarine environment and impairment of its values would occur. (ELR Order No. 4291, 47 pages) (NTIS Order No. PB–208 581–D)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director,[1] Office of Program Co-ordination, 400 Seventh Street SW., Washington, DC 20590, 202—462–4357.

FEDERAL AVIATION AGENCY

Final, April 21

Miller Field, Cherry County, Nebr. Proposed extension of one runway and overlay of two others; construction of a hangar, taxiway, and a segmented circle; runway marking, etc. Comments made by USDA, Army COE, EPA, HUD, and DOI. (ELR Order No. 4244, 29 pages) (NTIS Order No. PB–204 903–F)

[1] Mr. Convisser's office will refer you to the regional office from which the statement originated.

Final, April 26

Albany County Airport, Albany County, N.Y. Proposed extension (from 4,500 feet to 6,000 feet) of an existing runway. Six residences would be displaced by the action, which would also necessitate the acquisition of 29.5 acres of land. Comments made by USDA, Army COE, HUD, DOI, DOT, State, local, and regional agencies, and concerned citizens. (ELR Order No. 4290, 172 pages) (NTIS Order No. PB–204 026–F)

Final, April 27

Ashe County Airport, Ashe County, N.C. Proposed construction of a general utility airport which would accommodate all propeller driven aircraft of less than 12,500 pounds. Twenty-seven acres would be committed to the project. Comments made by USDA, EPA, DOT, State and local agencies. (ELR Order No. 4295, 26 pages) (NTIS Order No. PB–206 552–F)

FEDERAL HIGHWAY ADMINISTRATION

Draft, April 24

S–21, Greenville County, S.C. Proposed widening of S–21 (Rutherford Road) from the intersection of U.S. Routes 25 and 276 north for a total distance of 3.81 miles. Seventeen residences and six businesses would be displaced by the action. (ELR Order No. 4248, 13 pages) (NTIS Order No. PB–208 465–D)

F.A.S. Route S–1095, St. Joseph County, Ind. Proposed reconstruction of a portion of S–1095 at its intersections with six railroad lines; 68 residences and nine businesses would be displaced by the action. (ELR Order No. 4250, 24 pages) (NTIS Order No. PB–208 467–D)

Eighth Street, West Wyoming, Luzerne County, Pa. Proposed reconstruction of 3.2 miles of Eighth Street partially on a new location. Fifty-four families and 14 businesses would be displaced by the action. (ELR Order No. 4256, 40 pages) (NTIS Order No. PB–208 470–D)

Draft, April 25

U.S. 33 and U.S. 119, Pike and Letcher Counties, Ky. Proposed reconstruction of 10.49 miles of highway. Approximately 250 acres of land would be lost to the project and approximately 100 residences displaced. A 4(f) statement would be required as school land would be taken. (ELR Order No. 4265, 44 pages) (NTIS Order No. PB–208 579–D)

Draft, April 26

State Route 331, St. Joseph County, Ill. Proposed reconstruction of a segment of S.R. 331 at its intersection with a rail line. Twenty-nine residences, five businesses, and one church would be displaced by the action. (ELR Order No. 4281, 35 pages) (NTIS Order No. PB–208 573–D)

Draft, April 27

U.S. 98, Polk County, Fla. Proposed construction of a new bridge over Peace River and 1.5 miles of approaches on a realigned segment of U.S. 98. An unspecified amount of land will be committed to the project. A 4(f) statement will be prepared as some land involved is city-owned. (ELR Order No. 4293, 33 pages) (NTIS Order No. PB–208 582–D)

Final, April 25

State Highway 154, Harrison County, Tex. Proposed reconstruction of 11.7 miles of S.H. 154; 5.6 miles would be on new location. Forty residences and two businesses would be displaced by the action. Comments made by USDA, Army COE, EPA, HEW, DOT, State, local, and regional agencies. (ELR Order No. 4260, 41 pages) (NTIS Order No. PB–202 598–F)

State Route 9, Dutchess County, N.Y. Proposed construction of 1.7 miles of S.R. 9, from two and four lanes to six lanes. Fishkill Creek would be relocated and channelized. A 4(f) statement is required as a historical site (Van Wyck Wharton House) would be affected by the project. Comments made by USDA, FPC, and DOI. (ELR Order No. 4263, 35 pages) (NTIS Order No. PB–200 035–F)

Alternate U.S. 19, Pinellas County, Fla. Proposed construction of 1.2 miles of multilane highway. An unspecified amount of land would be committed to the project. Comments made by USDA, Army COE, EPA, and State agencies. (ELR Order No. 4264, 47 pages) (NTIS Order No. PB–202 170–F)

State Route 36, Marion County, Mo. Proposed relocation and reconstruction of 4.8 miles of S.R. 36. Approximately 170 acres would be committed to the project. Comments made by USDA, EPA, HEW, and DOI. (ELR Order No. 4268, 19 pages) (NTIS Order No. PB–203 754–F)

U.S. 9W, Albany County, N.Y. Proposed reconstruction of the Dibbs Bridge and its approaches, on U.S. 9W. Comments made by USDA, AEC, EPA, FPC, DOT, State and local agencies. (ELR Order No. 4269, 25 pages) (NTIS Order No. PB–199 246–F)

Project S–0525(5), Wasilla, Alaska. Proposed reconstruction of 10.2 miles of existing roadway, providing it with a gravel surface and separate bicycle path. Comments made by USDA, EPA, DOI, and State agencies. (ELR Order No. 4270, 46 pages) (NTIS Order No. PB–202 795–F)

Project F–208(33), U.S. 431, Etowak County, Ala. Proposed construction of 1.2 miles of new four-lane highway, beginning at the end of existing U.S. 431. Sixteen acres of land would be committed to the project; 37 families would be displaced. Comments made by USDA, Army COE, EPA, HUD, DOI, DOT, State, local, and regional agencies. (ELR Order No. 4271, 48 pages) (NTIS Order No. PB–208 583–F)

U.S. 41, Marquette County, Mich. Proposed reconstruction (widening) of 4.3 miles of U.S. 41. Two residences would be displaced by the action. Comments made by USDA, Army COE, USCG, EPA, HUD, DOI, DOT, and State agencies. (ELR Order No. 4272, 46 pages) (NTIS Order No. PB–204 840–F)

F.A.S. Route 1462, Waukesha County, Wis. Proposed construction of 4 new miles of two-lane F.A.S. Route 1462. The facility will ultimately be rebuilt to four-lanes. The Fox River will be crossed by the project; an unspecified amount of land will be committed to the action. Comments made by USDA, EPA, HUD, DOI, and State agencies. (ELR Order No. 4273, 34 pages) (NTIS Order No. PB–200 394–F)

Final, April 30

Project I–759–7(1), Etowak County, Ala. Proposed construction of I–759, the Gadsen Spur, beginning at I–59 and extending 4.57 miles to U.S. 411. The project is intended to serve as a bypass around the Gadsen business district. Forty-six residences and two businesses would be displaced by the action. Comments made by USDA, Army COE, EPA, DOI, Navy, DOT, and State agencies. (ELR Order No. 4274, 44 pages) (NTIS Order No. PB–208 580–F)

Final, April 25

KY 16 (F.A.S. 277) Boone County, Ky. Proposed construction of 1.04 miles of KY16, a four-lane highway, to connect I–75 and U.S. 25. Nineteen acres would be committed to the project; 4 residences would be displaced. Comments made by DOT and State agencies. (ELR Order No. 4275, 22 pages) (NTIS Order No. PB–199 629–F)

State Route 101, Thurston County, Wash. Proposed construction of an interchange on S.R. 101. Comments made by USDA, DOC, EPA, DOI, State, local, and regional agencies. (ELR Order No. 4276, 43 pages) (NTIS Order No. PB–204 258–F)

U.S. 64, Edgecombe County, N.C. Proposed construction of 13 miles of new two-lane highway. Fourteen families would be displaced and 580 acres committed to the project. Comments made by USDA, Army COE, GSA, HUD, DOI, State and regional agencies. (ELR Order No. 4277, 43 pages) (NTIS Order No. PB–201 845–F)

State Route 90, King County, Wash. Proposed reconstruction of 5 miles of S.R. 90, from three to seven lanes of interstate standards. Approximately 153 acres would be committed to the project; an unspecified number of residences would be displaced; 1.3 million board feet of timber would be removed from the hillside site; scarring and potential erosion problems along the north side of the upper Snoqualmie River Valley would result. A 4(f) statement is required as the project would affect campgrounds. Comments made by USDA, EPA, HUD, DOI, DOT, and State agencies. (ELR Order No. 4279, 123 pages) (NTIS Order No. PB–206 869–F)

Final, April 28

F.A.S. Route 257, La Salle County, Ill. Proposed reconstruction of 10 miles of F.A.S. Route 257. An unspecified amount of land will be required for additional right-of-way; approximately 130, 100-year-old sugar maple trees, which line the road south of Harding, will be lost to the project. Comments made by USDA, AEC, EPA, and DOI. (ELR Order No. 4309, 18 pages) (NTIS Order No. PB–203 479–F)

I–69 and I–96, Clinton and Eaton Counties, Mich. Proposed construction of approximately 21 miles of I–69, a six-lane highway, to connect with I–96. An unspecified number of residences and amount of land will be committed to the project, depending upon the route taken. Comments made by USDA, Army COE, EPA, HUD, DOI, State and local agencies. (ELR Order No. 4310, 76 pages) (NTIS Order No. PB–203 107–F)

Project S–49 ( ), KY–70, Hopkins County, Ky. Proposed reconstruction of 0.7 mile of Arch Street in the city of Madisonville. KY–70 traffic through the city would then be routed to Arch Street. Seven residences and one business would be displaced by the action. Comments made by USDA, EPA, State and local agencies (ELR Order No. 4311, 22 pages) (NTIS Order No. PB–202 595–F)

U.S. 259, Morris County, Tex. Proposed reconstruction, from 2 to 4 lanes, of 2.15 miles of U.S. 259. One business would be displaced by the action. Comments made by USDA, Army COE, HEW, and DOT. (ELR Order No. 4312, 26 pages) (NTIS Order No. PB–202 315–F)

I–35, Lyon County, Kans. Proposed construction of 10.6 miles of I–35, a 4-lane divided highway with a depressed median and full access control. Approximately 550 acres of land would be committed to the project and 14 farm ponds filled. Comments made by USDA, Army COE, EPA, HEW, DOI, and State agencies. (ELR Order No. 4313, 41 pages) (NTIS Order No. PB–200 772–F)

Project S–1135(2), S.R. 292, Dona Ana County, N. Mex. Proposed reconstruction of 1.1 miles of S.R. 292, part of which is located in the city of Las Cruces. Two residences would be displaced by the project. Comments made by USDA, Army COE, EPA, HUD, DOI, DOT, State and local agencies. (ELR Order No. 4314, 31 pages) (NTIS Order No. PB–204 843–F)

State Route AC, Buchanan County, Mo. Proposed construction of 1.9 miles of new, 2-lane highway east of St. Joseph. Twenty-four people would be displaced and 50 acres, some of which is wildlife habitat, would be taken by the project. Comments made by USDA, EPA, HEW, HUD, DOI, DOT, and State agencies. (ELR Order No. 4315, 26 pages) (NTIS Order No. PB–205 350–F)

Project S 0016(34), El Paso County, Colo. Proposed construction of 3 miles of new 4-lane highway, built to expressway standards. Four residences would be displaced by the action. Comments made by USDA, DOT, and State agencies. (ELR Order No. 4316, 82 pages) (NTIS Order No. PB–203 617–F)

State Highway 138, San Bernardino County, Calif. Proposed construction of 3.9 miles of new 4-lane S.H. 138, much of it parallel to an existing route. Several sites of potential archeological importance would be damaged by the project. Comments made by USDA, EPA, HEW, HUD, DOI, DOT, and State agencies. (ELR Order No. 4317, 85 pages) (NTIS Order No. PB–200 022–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,

Ohio River Toll Bridge, Cabell County, W. Va., and Lawrence County, Ohio. Proposed approval of plans for a high level toll bridge across the Ohio River, from West Virginia State Route 108. Twenty-five residences and six businesses will be displaced by the project. A 4(f) statement will be filed as public land would be taken by the project. (ELR Order No. 4252, 51 pages) (NTIS Order No. PB–208 472–D)

Draft, April 26

Edisto River, Colleton County, S.C. Proposed approval of location and plans for a pipeline bridge across the river. The purpose of the bridge is to carry fossil fuel ash from a steam electrical generating plant to settling basins on the opposite side of the river. Both are properties of the South Carolina Electric and Gas Co. Approximately 400 acres of the Company's land would be committed to the action; some of this is wildlife habitat. (ELR Order No. 4288, 15 pages) (NTIS Order No. PB–208 551–D)

BRIAN P. JENNY,
Acting General Counsel.

[FR Doc.72–6974 Filed 5–5–72;8:52 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PROVISIONAL 706 AGENCIES

Pursuant to § 1601.12(d)(1) of Title 29 as amended and issued contemporaneously with this notice in the FEDERAL REGISTER (page 9214), the Equal Employment Opportunity Commission (hereinafter referred to as the Commission) has designated effective as of the date of this notice and until July 1, 1973, the agencies listed in Chart I below as Provisional 706 Agencies for the purposes of receiving the referenced types of charges deferred by the Commission, pursuant to section 706 (c) and (d) of title VII of the Civil Rights Act of 1964 as amended.

The designations reflected herein were officially adopted by the Commission on April 17, 1972, and supercede all earlier determinations. The Commission may, from time to time, amend the designations listed herein by subsequent public notice.

I—PROVISIONAL 706 AGENCIES

State	Provisional 706 Agency relationships			No Provisional 706 Agency relationship	Comments:
	State FEP law appears to provide enforceable sanctions against discrimination on account of race, color, religion, and national origin, and charges alleging violations on these grounds will be deferred to the agency listed below	State FEP law also appears to bar sex discrimination	State FEP law appears to provide enforceable sanctions against discrimination by State or local governments, government agencies, and political subdivisions	State has failed to enact legislation with enforceable sanctions against any practice prohibited by title VII	
A	B	C	D	E	F
Alabama				X	
Alaska	Commission for Human Rights.	X	X		
Arizona				See chart II	
Arkansas				Chart II	
California	Fair Employment Practices Commission.	X	X		
Colorado	Civil Rights Commission.	X	X		
Connecticut	Commission on Human Rights and Opportunities.	X	X		
Delaware	Department of Labor.				All charges will be deferred for 120 days until July 15, 1972.
District of Columbia.	Office of Human Rights.	X	X		
Florida				X	
Georgia				See chart II	
Hawaii	Department of Labor and Industrial Relations.	X			
Idaho	Commission on Human Rights.	X	X		
Illinois	Fair Employment Practices Commission.	X	X		Charges alleging sex discrimination will be deferred for 120 days until Aug. 27, 1972.
Indiana	Civil Rights Commission.	X	X		Charges alleging sex discrimination will be deferred for 120 days until Sept. 3, 1972.
Iowa	Civil Rights Commission.	X	X		

I—PROVISIONAL 706 AGENCIES—Continued

State	Provisional 706 Agency relationships			No Provisional 706 Agency relationship	Comments.
	State FEP law appears to provide enforceable sanctions against discrimination on account of race, color, religion, and national origin, and charges alleging violations on these grounds will be deferred to the agency listed below	State FEP law also appears to bar sex discrimination	State FEP law appears to provide enforceable sanctions against discrimination by State or local governments, government agencies, and political subdivisions	State has failed to enact legislation with enforceable sanctions against any practice prohibited by title VII	
A	B	C	D	E	F
Kansas	Commission on Civil Rights.	See chart II.	X		When a charge is received alleging violations of jurisdictional areas covered by both the Commissioner of Labor and the Commission on Civil Rights a copy of the charge will be deferred to the Commission on Civil Rights and an information copy of the charge will be forwarded to the Labor Commissioner's office and each agency will be notified of the action taken with respect to the other.
Kentucky	Commission on Human Rights.		X		
Louisiana				X	
Maine	Human Rights Commission after July 1, 1972.			See chart II.	Maine has passed a new FEP statute with enforceable sanctions effective July 1, 1972; for 1 yr. following that date, the EEOC will defer all appropriate charges for 120 days until the expiration date of the Provisional 706 Agency designation.
Maryland	Commission on Human Relations.	X	X		
Massachusetts	Commission Against Discrimination.	X	X		
Michigan	Civil Rights Commission.	X	X		
Minnesota	Department of Human Rights.	X	X		
Mississippi				X	
Missouri	Commission on Human Rights.	X	X		
Montana				See chart II.	
Nebraska	Equal Employment Opportunity Commission.	X	X		
Nevada	Commission on Equal Rights of Citizens.	Commissioner of Labor (but see comments).	X		Although the Commissioner of labor is responsible for processing complaints alleging sex discrimination by agreement among the EEOC and the 2 Nevada agencies, all complaints will be deferred to the Commission on Equal Rights of Citizens, which will transfer appropriate charge to the Commissioner of Labor.

I—PROVISIONAL 706 AGENCIES—Continued

State	Provisional 706 Agency relationships: State FEP law appears to provide enforceable sanctions against discrimination on account of race, color, religion, and national origin, and charges alleging violations on these grounds will be deferred to the agency listed below	Provisional 706 Agency relationships: State FEP law also appears to bar sex discrimination	Provisional 706 Agency relationships: State FEP law appears to provide enforceable sanctions against discrimination by State or local governments, government agencies, and political subdivisions	No Provisional 706 Agency relationship: State has failed to enact legislation with enforceable sanctions against any practice prohibited by title VII	Comments.
A	B	C	D	E	F
New Hampshire.	Commission for Human Rights.	X	X		Charges alleging sex discrimination will be deferred for 120 days until Sept. 5, 1972.
New Jersey	Division on Civil Rights, Department of Law and Public Safety.	X	X		Charges alleging sex discrimination will be deferred for 120 days until Sept. 5, 1972.
New Mexico	Human Rights Commission.	X	X		
New York	Division of Human Rights.	X	X		
North Carolina.				X	
North Dakota				See chart II	
Ohio	Civil Rights Commission.	Dayton Human Relations Council (only those violations which occur within city limits).	X		
Oklahoma	Human Rights Commission.	X	X		
Oregon	Bureau of Labor	X	X		
Pennsylvania	Human Relations Commission.	X	X		
Puerto Rico	Department of Labor.		X		
Rhode Island	Commission for Human Rights.	X			Charges alleging sex discrimination will be deferred for 120 days until May 13, 1972.
South Carolina.				X	
South Dakota				See chart II	
Tennessee				X	
Texas				X	
Utah	Industrial Commission.	X	X		
Vermont				See chart II	
Virginia				X	
Virgin Islands	Commissioner of Public Safety.	Department of Labor.			
Washington	Human Rights Commission.	X	X		Charges alleging sex discrimination will be deferred for 120 days until July 1, 1972.
West Virginia	Human Rights Commission.	X	X		Charges alleging sex discrimination will be deferred for 120 days until June 3, 1972.
Wisconsin	Department of Industry, Labor and Human Relations.	X	X		
Wyoming	Fair Employment Commission.	X	X		

Effective date. This notice shall be effective upon publication in the FEDERAL REGISTER (5–6–72).

Signed at Washington, D.C., this 28th day of April 1972.

WILLIAM H. BROWN III,
Chairman.

[FR Doc.72-6843 Filed 5-5-72;8:45 am]

PROVISIONAL NOTICE AGENCIES

Pursuant to § 1601.12(d)(2) of Title 29 as amended and issued contemporaneously with this notice in the FEDERAL REGISTER (page 9214), the Equal Employment Opportunity Commission (hereinafter referred to as the Commission) has designated effective the date of this no-

tice and until July 1, 1973, the agencies and persons listed in Chart II below as Provisional Notice Agencies. With respect to the referenced types of charges, the Commission will (1) note receipt of said charge and serve notice upon the respondent or respondents, (2) schedule the charge for investigation, and (3) inform the agency or person indicated in this chart of the receipt of the charge.

The designations reflected herein were officially adopted by the Commission on April 17, 1972, and supersede all earlier determinations. The Commission may, from time to time, amend the designations listed herein by subsequent public notice.

II—PROVISIONAL NOTICE AGENCIES

State	State law prohibits discrimination on account of race, color, religion, and national origin, and charges alleging violations on these grounds will be forwarded to the agency listed below	State law bars sex discrimination	State has enacted a (sex) equal pay statute and agency (or title of person) listed below will be forwarded charges filed alleging violations on those grounds	State FEP law appears to prohibit discrimination by State or local governments, government agencies, and political subdivisions
A	B	C	D	E
Arkansas			Commissioner of Labor.	
Arizona	Civil Rights Commission.	X		X.
Georgia			Commissioner of Labor.	
Kansas		Commissioner of Labor.	Commissioner of Labor.	
Kentucky			Commissioner of Labor.	
Maine	Commission of Labor and Industry (but see chart I for action after July 1, 1972).			
Montana	Attorney General	X		X.
North Dakota			Commissioner of Agriculture and Labor.	
Ohio			Director of Industrial Relations.	
South Dakota			Department of Labor and Management Relation.	
Vermont	Attorney General	X		

Effective date. This notice shall be effective upon publication in the FEDERAL REGISTER (5–6–72).

Signed at Washington, D.C., this 28th day of April 1972.

WILLIAM H. BROWN III,
Chairman.

[FR Doc.72–6842 Filed 5–5–72;8:45 am]

FEDERAL MARITIME COMMISSION

AMERICAN EXPORT ISBRANDTSEN LINES, INC., ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

American Export Isbrandtsen Lines, Inc.
American Mail Line, Ltd.
American President Lines, Ltd.
Barber Lines A/S.
Blue Sea Line.
Compania Peruana de Vapores.
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Knutsen Line.
Lykes Bros. Steamship Company, Inc.
Maritime Company of the Philippines.
Mitsui O.S.K. Lines, Ltd.
A. P. Moller-Maersk Line.
Nippon Yusen Kaisha.
Pacific Far East Line, Inc.
Sea-Land Service, Inc.
Seatrain Pacific, S.A.
Showa Shipping Co., Ltd.
States Steamship Company.
Transportacion Maritima Mexicana, S.A.
United Philippines Lines, Inc.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.

Notice of agreement filed by:

Mr. D. G. Aldridge, Executive Vice President, United States Lines, Inc., 1 Broadway, New York, NY 10004.

Agreement No. 9981 is a discussion agreement between above-listed common carriers by water operating between ports in the Far East and ports in the United States.

The parties agree to exchange information and to cooperate in developing information relating to (1) cargo movements, the seasonality and other fluctuations of traffic flows, and related data bearing on the level and frequency of common carrier steamship services required by shippers; (2) cost of service, rates, rules, and tariffs; and (3) practices in connection with the receipt and delivery of cargo, including interchange with connecting land carriers.

Nothing in the arrangement authorizes the parties to carry out any agreement which may be reached except upon prior filing with and approval by the Federal Maritime Commission or obligates any carrier to exchange the above-described information or limits the carrier in making changes in its present rates, rules, and practices. Any common carrier offering a service between the United States and the Far East may become a party to the agreement and may participate in the discussions.

Dated: May 2, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–6907 Filed 5–5–72;8:46 am]

BISCAYNE STEVEDORING CO. ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Wesley W. Kurtz, Assistant to the President, Eller & Co., Port Everglades Station, Fort Lauderdale, Fla. 33316.

Agreement No. T–2629, between Biscayne Stevedoring Co.; Canadian Gulf Line of Florida, Inc.; Coordinated Caribbean Transport; Eller & Co., Inc.; Harrington & Co., Inc.; Shaw Co. (a division of Luckenbach Shipping Co.); Marine Terminals, Inc.; Strachan Shipping Co.; Carl Matusek, Inc.; and Gulfstream Shipping Corp., provides for the creation of an association to be known as Miami Freight Handers (MFH) to govern the parties' operations at Miami, Fla. The agreement provides for the parties to: (1) Agree upon and establish rates and charges for freight handling and all services, facilities, rates, and charges incidental thereto; (2) agree upon and establish tariffs, tariff amendments, and supplements; (3) keep such records and statistics as may be required by the parties or deemed helpful to their interest. Miami Freight Handlers will file with the Commission all tariffs, rates, charges, classifications, rules, regulations, and changes thereto adopted pursuant to the agreement. Changes in the MFH tariff will not become effective until after 30 days' notice to the public, unless good cause exists for a change on shorter notice. Admission to the MFH is open to any company engaged in maritime freight handling upon a majority vote of the members of the MFH.

Dated: May 2, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-6908 Filed 5-5-72;8:46 am]

MARYLAND PORT ADMINISTRATION AND CONSOLIDATED AGENCIES, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Philip G. Kraemer, Director of Transportation, Maryland Port Administration, Pier 2, Pratt Street, Baltimore, MD 21202.

Agreement No. T–2630, between the Maryland Port Administration (Administration) and Consolidated Agencies, Inc. (Consolidated), provides for the 1-year use of portions of Transit Shed 2 and preferential berthing rights at Dundalk, Md. Consolidated will pay the Administration $100,000 annually as rental for the premises plus all taxes and assessments arising out of its operations as well as all taxes on improvements placed on premises by Consolidated. The Administration will be entitled to the prevailing tariff charges in connection with the premises, except that no demurrage will be assessed on cargo held within the leased area.

Dated: May 3, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-6971 Filed 5-5-72;8:52 am]

UNITED KINGDOM/UNITED STATES PACIFIC FREIGHT ASSOCIATION

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

M. J. Parke, Secretary, United Kingdom/United States Pacific Freight Association, Albion House, 34/35 Leadenhall Street, London EC3A 1AR, England.

Agreement No. 3357–7 enlarges the geographic scope of the basic agreement to include inland points in the United Kingdom.

Dated: March 2, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-6909 Filed 5-5-72;8:46 am]

[Docket No. 72–16]

ROBERTO DE MENA

Order To Show Cause

On November 6, 1968, Roberto de Mena, Chamber of Commerce Building, Room 613, 141 Northeast 3 Avenue, Miami, FL 33101, was issued an independent ocean freight forwarder license FMC No. 1223. The approval of the license was made pursuant to section 44(b) of the Shipping Act, 1916, which provides for the issuance of a forwarder's license to an applicant found to be "fit, willing and able" properly to carry on the business of forwarding.

There is reason to believe the licensee is not presently performing as a freight forwarder, thereby ceasing to be "willing" to carry on the business of forwarding.

Section 510.9(d) of General Order 4 provides that if there is a change of circumstances whereby the licensee no longer qualifies as an independent ocean freight forwarder, the license may be revoked, suspended or modified after notice and hearing.

Moreover, the Commission by letters dated July 22, 1971, August 23, 1971, and February 29, 1972, requested Roberto de Mena to furnish certain information to it. Roberto de Mena failed to respond to these requests, in violation of § 510.9(b) which provides that a license may be revoked, suspended, or modified after notice and hearing for failure to respond to any lawful inquiries of the Commission.

There is also reason to believe that Roberto de Mena's business address and employment is now different from that set forth in his application Form FMC–18 "Application for a License as an Independent Ocean Freight Forwarder." Section 510.5(c) of General Order 4 provides in pertinent part that licensees "shall submit to the Commission each change of business address and any other changes in the facts called for in Form FMC–18 within 30 days after such changes occur, and any other additional information required by the Commission."

Roberto de Mena was notified by certified letter dated February 29, 1972, of the requirements of General Order 4 and the penalties provided thereunder for failure to comply therewith. There has

been no attempt at compliance by the licensee.

Therefore, it is ordered, That pursuant to section 44 and section 22 of the Shipping Act, 1916, Roberto de Mena is hereby made a respondent in this proceeding and is directed to show cause why he should not have his license as an independent ocean freight forwarder revoked because of a change in circumstances whereby he no longer qualifies as an independent ocean freight forwarder as provided by § 510.9(d), of General Order 4, and for his failure to comply with §§ 510.5(c) and 510.9(b) of General Order 4.

It is further ordered, That this proceeding shall be limited to the submission of affidavits of fact and memorandum of law, replies, and oral argument. Should any party feel that an evidentiary hearing be required, that party may accompany such a request for hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such proof cannot be submitted through affidavit. Request for hearing shall be filed on or before May 26, 1972. Affidavits of fact and memorandum of law shall be filed by respondent and served upon all parties no later than the close of business May 26, 1972. Reply affidavits and memorandum shall be filed by the Commission's Bureau of Hearing Counsel and Intervenors, if any, no later than the close of business June 12, 1972. Oral argument will be scheduled at a later date if requested and/or deemed necessary by the Commission.

It is further ordered, That a notice of order be published in the FEDERAL REGISTER and that a copy thereof be served upon respondent.

It is further ordered, That persons other than those already party to this proceeding who desire to become parties to this proceeding and to participate therein, shall file a petition to intervene pursuant to Rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72).

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and 15 copies as well as being mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.72-6910 Filed 5-5-72;8:46 am]

FEDERAL POWER COMMISSION

[RP 72-106 etc.]

ALGONQUIN GAS TRANSMISSION CO.

Order Accepting Tracking Increases for Filing, Permitting Interventions, Allowing Proposed Revised Tariff Sheets To Become Effective and Consolidating Proceedings

APRIL 28, 1972.

On March 30, 1972, and April 3, 1972, Algonquin Gas Transmission Co. (Algonquin) tendered for filing revised tariff sheets[1] to track increases in purchased gas cost from Algonquin's sole supplier, Texas Eastern Transmission Corp. (Tetco).

A summary of Algonquin's proposals is as follows:

Docket No.	Amount	Proposed effective date
RP72-106	$332,157	Apr. 1, 1972
RP72-108	24,954	Apr. 3, 1972
RP72-112	37,432	Apr. 17, 1972
RP72-114	136,703	May 1, 1972

Algonquin requests waiver of the 30-day notice requirement of the Commission's regulations so that the increased rates may become effective on the dates indicated above or such other dates as the underlying increased rates of Tetco become effective.

In support of these filings, Algonquin refers to the data which it submitted in support of its rate increase filing in Docket No. RP72-110, and states that there has been no material change in facilities, sales volumes, or cost of service other than cost of gas since its filing in Docket No. RP72-110.

Boston Gas, et al., filed timely joint petitions to intervene in opposition to the proposed increases in these dockets on March 9, March 21, and April 17, 1972.

In view of the fact that the purpose of Algonquin's filings is to track rates increases of its sole supplier we will accept Algonquin's revised tariff sheets for filing. The tariff sheets in Dockets Nos. RP72-106, RP72-112, and RP72-114 shall become effective on April 1, April 17, and May 1, 1972, respectively. The tariff sheets in Docket No. RP72-108 shall become effective after a 1-day suspension on April 4, 1972, the date Tetco's rate increase which is subject to a 1-day suspension was permitted to become effective. Dockets Nos. RP72-106, RP72-108, RP72-112, and RP72-114 will be consolidated and the subject revised tariff sheets, subject to adjustment to reflect flow-through of supplier refunds and rate reductions.

Commission finds:

(1) It is appropriate and in the public interest for the proceedings in Dockets Nos. RP72-106, RP72-108, RP72-112, and RP72-114 to be consolidated.

(2) It is necessary and proper in the public interest to permit Algonquin to track the subject filed increases in its cost of purchased gas.

(3) The participation in these proceedings of the above-named petitioners may be in the public interest.

The Commission orders:

(A) The proceedings in Dockets Nos. RP72-106, RP72-108, RP72-112, and RP-72-114 are hereby consolidated.

(B) Algonquin is permitted to place into effect the subject revised tariff sheets in Dockets Nos. RP72-106, RP72-108, RP72-112, and RP72-114 on April 1, April 4, April 17, and May 1, 1972, respectively. The subject revised tariff sheets are subject to revision to reflect flow-through of supplier's refunds and rate reductions.

(C) The above-named petitioners are hereby permitted to intervene in these proceedings, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in the respective petitions to intervene: *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they, or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(D) Pursuant to § 2.59(c) of the Commission's rules of practice and procedure, Algonquin shall promptly serve copies of its filings upon all intervenors listed above, unless such service has already been effected pursuant to Part 154 of the regulations under the Natural Gas Act.

The rate increases allowed to become effective by this order merely passes on increases from Algonquin's gas supplier and are incremental increases over and above the level of rates of which the justness and reasonableness has not yet been determined by the Commission. Therefore the Commission at this time is unable to make the appropriate certification with regard to this increase under § 300.16(e) of the Price Commission's regulations.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-6926 Filed 5-5-72;8:49 am]

[1] See Appendix A, which is filed as part of the original document.

[Docket No. RP72-113]

COLORADO INTERSTATE GAS CO.

Order Accepting for Filing and Suspending Proposed Revised Tariff Sheets Containing a Purchase Gas Adjustment Provision, and Providing for Hearing and Hearing Procedures

APRIL 28, 1972.

On March 31, 1972, Colorado Interstate Gas Co. (CIG) tendered for filing revised tariff sheets[1] which provide for a general increase in rates (except for peaking service) to become effective on May 1, 1972, of $10.8 million or 12.5 percent per year over the settlement rates proposed in CIG's prior rate case, Docket No. RP72-4, and $7.4 million in excess of the rates being collected subject to refund in that docket.

The proposed revised tariff sheets contain a purchase gas adjustment clause. CIG requests waiver of § 154.38(d)(3) of the Commission's regulations to permit the filing of this provision. The request for waiver is now moot in view of the Commission's rule making Order No. 452, issued April 14, 1972, in Docket No. R-406, in which we amended § 154.38(d)

[1] Original Sheets Nos. 34C, 34D, 34E, 34F; First Revised Sheets Nos. 3A, 3B, and 34B to CIG's FPC Gas Tariff, First Revised Vol. No. 1.

of the regulations to permit the filing of purchase gas adjustment (PGA) clauses. In accordance with recent Commission orders accepting purchase gas adjustment provisions for filing with suspension thereof [2] we will accept CIG's filing with the purchase gas adjustment provision, subject however to such modification thereof as is necessary to conform such provision to the requirements of Order No. 452 prior to the time it becomes effective after the suspension hereinafter ordered.

CIG also requests waiver of § 154.63(e)(2)(ii) of the Commission's regulations to the extent required to permit the cost of the facilities for which authorization is pending in Docket No. CP72-170 to be reflected in the proposed rates. CIG tendered data purporting to show that whether or not the cost of such facilities are reflected in the rates it would still have a jurisdictional revenue deficiency of $10.8 million based upon the settlement rates proposed in Docket No. RP72-4. Under these circumstances we believe it is reasonable and appropriate to grant the requested waiver.

CIG avers that the major reasons for the proposed rate increase are increases in (1) cost of gas supply; (2) taxes; (3) operation and maintenance expenses; (4) cost of capital; (5) advance payments for potential gas supplies; and (6) increase in rate base. A rate of return of 9 percent is requested.

Review of CIG's rate filing indicates that certain issues are raised which require development in an evidentiary hearing. The proposed increases in rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the rates and charges contained in CIG's FPC Gas Tariff as proposed to be amended in this docket, and that the tendered tariff sheets be suspended as hereinafter ordered.

The Commission orders:

(A) CIG's revised tariff sheets, tendered for filing on March 31, 1972, are accepted for filing subject to such modification as is necessary to conform the purchase gas adjustment provision contained therein to the requirements of Order No. 452 in Docket No. R-406 prior to the time those sheets are made effective under the Natural Gas Act, after the suspension ordered herein.

(B) Section 154.63(e)(2)(ii) of the Commission's regulations under the Natural Gas Act is waived to the extent necessary to permit the filing of CIG's revised tariff sheets containing proposed increased rates which reflect the cost of facilities for which authorization is pending in Docket No. CP72-170.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held commencing with a prehearing conference on October 10, 1972, at 10 a.m., e.d.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning the lawfulness of the proposed changes.

(D) Pending such hearing and decision thereon, CIG's proposed revised tariff sheets are hereby suspended and the use thereof is deferred until October 1, 1972, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(E) At the prehearing conference on October 10, 1972, CIG's prepared testimony (Statement P) together with its entire rate filing shall be admitted to the record as its complete case-in-chief subject to appropriate motions, if any, by parties to the proceeding. All parties will be expected to come to this conference prepared to effectuate provisions of §§ 1.18 and 2.50 of the Commission's rules of practice and procedure.

(F) On or before September 22, 1972, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of any or all intervenors shall be served on or before October 6, 1972. Any rebuttal evidence by CIG shall be served on or before October 20, 1972. Cross-examination on the evidence filed will commence on November 7, 1972.

(G) A Presiding Examiner to be designated by the Chief Examiner for that purpose (See Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

This order does not relieve CIG of any responsibility imposed by, and is expressly subject to the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended) including such amendments as this Commission may require.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.72-6927 Filed 5-5-72;8:49 am]

[2] Order issued Feb. 11, 1972, in Docket No. RP72-98; order issued Mar. 31, 1972, in Docket No. RP72-110.

[Docket No. CP72-248]

NORTHERN NATURAL GAS CO.

Notice of Application

MAY 1, 1972.

Take notice that on April 17, 1972, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP72-248 an application pursuant to sections 7 (c) and (b) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and for permission and approval to abandon and relocate certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to construct and operate certain compressor facilities on its Hugoton Gathering System in southwest Kansas to provide for the transportation of additional gas volumes available to it from the Kansas Hugoton Field and also to provide a general reduction of its gathering line pressures to offset declining field pressures. Applicant states that the Kansas Corporation Commission's Hugoton Proration Schedule, which became effective October 1, 1971, has resulted in a direct increase of 39,750 Mcf of gas per day available to it from the Kansas Hugoton Field. Further, Applicant states that the Kansas Corporation Commission has recently assigned allowables for production from the Council Grove Formation in the Hugoton Field and Applicant expects, during 1972, to receive 3,750 Mcf of gas per day from the Council Grove development. Applicant also states that many of the wells attached to its Hugoton System are reaching the point where its gathering line pressure will exceed 90 percent of the shut-in pressure thus subjecting them to penalties in the form of reduced allowables under the basic proration order for the Kansas Hugoton Field. In order to provide the capacity necessary to transport the increased volumes from the Hugoton Field and reduce its gathering line pressures applicant requests authorization to construct and operate the following facilities:

1—600 horsepower compressor unit at Tate, Kans.
1—2,000 horsepower compressor unit at Sublette, Kans.
1—3,500 horsepower compressor unit at Fowler, Kans.
1—1,800 horsepower compressor unit at Hugoton, Kans.
3.2 miles of 24-inch loopline at Hugoton-Sublette, Kans.

Applicant estimates that the cost of the proposed facilities is $3,413,000, which it intends to finance from cash on hand.

Applicant requests permission and approval to abandon and relocate one 1,800 horsepower compressor unit from its Andrews, Tex., compressor station. Applicant indicates that an excess of 5,389 horsepower now exists at the unit's present location. Applicant states that through reinstallation of this unit at its Hugoton, Kans., compressor station it can realize a savings of approximately $175,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 22, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be

taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-6928 Filed 5-5-72;8:49 am]

[Docket No. CP72-251]

NORTHERN NATURAL GAS CO.

Notice of Application

MAY 1, 1972.

Take notice that on April 24, 1972, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP72-251 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 natural gas facilities and to inject natural gas into a proposed storage field, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to install two 1,000-horsepower compressor units, 6.7 miles of 8-inch lateral pipeline connecting the proposed Dallas Center Storage Field with applicant's transmission line and 12.8 miles of various diameter pipeline in the storage field, all of which would be located in Dallas County, Iowa. Applicant states that these facilities would be used to inject up to 6,000,000 Mcf of gas into the storage field. Applicant asserts that this initial gas injection testing is necessary to the development of this storage field and will provide data required to ascertain the gas storage capabilities of the field. Applicant states the facilities are estimated to cost $1,973,000, which would be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-6930 Filed 5-5-72;8:49 am]

[Docket No. RP70-29, etc.]

TEXAS EASTERN TRANSMISSION CORP.

Order Consolidating Issues for Decision, and Suspending Proposed Revised Tariff Sheets

APRIL 28, 1972.

Texas Eastern Transmission Corp. (Texas Eastern) on February 18, 1972, tendered for filing 38 revised tariff sheets reflecting a proposed increase in rates and charges to become effective on April 3, 1972,[1] pursuant to Article V of the stipulation and agreement dated January 21, 1971, approved by Commission order issued March 24, 1971, in these proceedings.

The increase in rates is proposed to reflect the inclusion in rate base of a $1,806,900 advance payment to its subsidiary, Texas Eastern Gas Supply Co. (Supply Co.), under an agreement dated August 5, 1971, under which Texas Eastern agreed to advance funds to Supply Co. equal to amounts advanced by the latter to Mobil Oil Canada, Ltd. (Mobil), pursuant to a memorandum of agreement, dated September 22, 1970. The agreement with Mobil provides for exploratory drilling Offshore Nova Scotia, Canada.

In support of its rate filing, Texas Eastern requests incorporation by reference of the data and material submitted in connection with its rate filing of August 13, 1971, which was suspended by Commission order issued February 4, 1972, in these proceedings. The company also requests waiver of compliance with Part 154 of the Commission's regulations.

On March 29, 1972, Texas Eastern tendered for filing 38 revised tariff sheets, submitted as substitute sheets for the 38 sheets tendered for filing on February 18, 1972. The substitute tariff sheets are proposed to include a reduction in the rate levels to reflect a reduction on April 1, 1972, in the cost of gas purchased from Texas Gas Transmission Corp. as a result of a settlement approved by Commission order of March 17, 1972, in Docket No. RP72-45. In support of the substitute tariff sheets, the company submitted revisions to the computations submitted on February 18 and stated that all other provisions of the earlier filing remain unchanged.

Pursuant to the Commission's order of February 4, 1972, hearings were held on March 21 and 22, 1972, with respect to the initial advance payment of $7.2 million to Supply Co. included in the August 13, 1971, rate filing. The issues raised by Commission staff and other parties, objecting to the August 13 rate filing, are now before the Presiding Examiner for initial decision. It appears that the proposed increase in rates and charges included in the February 18 rate filing, as amended on March 29, are based upon substantially the same supporting data and material as the rates included in the August 13 rate filing, and thus raise issues common to both filings. Accordingly, the Commission's findings in the February 4 order are equally applicable to the instant filing. Moreover, in view of the fact that issues related to the August 13 filing have already been tried, there appears to be no need for hearings with respect to the February 18 and March 29 filings. Therefore, it is reasonable and proper to consolidate the issues for decision as provided herein.

The Commission finds:

It is necessary and proper in the enforcement of the provisions of the Natural Gas Act that:

(1) The Commission provide for hearing concerning the lawfulness of the rates and charges contained in Texas Eastern's FPC Gas Tariff as proposed to be amended by the rate filings of February 18 and March 29, 1972;

(2) The revised tariff sheets filed on March 29, 1972, proposed in substitution for the tariff sheets listed in Appendix A, be suspended and the use thereof be deferred as herein provided; and

(3) The issues involved with respect to the advance payment reflected in the rates and charges thus suspended be consolidated for decision with the rate filing of August 13, 1971.

[1] The revised tariff sheets to be included in Texas Eastern's FPC Gas Tariff, Second Revised Vol. No. 1, are listed on Appendix A hereto, filed as part of the original.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing is provided, as prescribed herein, concerning the lawfulness of the rates and charges contained in Texas Eastern's FPC Gas Tariff, as proposed to be amended by its rate filing on February 18, amended on March 29, 1972.

(B) Pending such hearing and decision thereon Texas Eastern's proposed revised tariff sheets tendered February 18 as amended by substitute tariff sheets on March 29, 1972, are suspended and the use thereof is deferred until April 4, 1972.

(C) The provisions of § 154.67 of the regulations under the Natural Gas Act are waived in order to allow Texas Eastern's proposed increased rates to become effective as of April 4, 1972, upon the filing of the appropriate motion under section 4(e) of the Act.

(D) Texas Eastern shall file the agreement and undertaking required by § 154.67(d) of the regulations within 15 days from the date of this order.

(E) The Presiding Examiner shall accept the rate filings of February 18 and March 29, 1972, in these proceedings subject to all appropriate motions of any parties, customers or interested State Commissions.

(F) The issues involved with respect to Texas Eastern's rate filings submitted on February 18, as amended on March 29, 1972, are consolidated with its filing on August 13, 1971, for purposes of decision.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-6933 Filed 5-5-72;8:49 am]

[Docket No. DA-608-Idaho]

WITHDRAWAL OF CERTAIN PROJECT AND POWER SITE LANDS IN IDAHO

Determination for Highway Right-of-Way

APRIL 26, 1972.

Lands withdrawn in Project No. 2273 and Power Site Reserve No. 8, Docket No. DA-608-Idaho, Idaho Department of Highways.

Application [I-4477 (Idaho)] was filed by the State of Idaho, Department of Highways for a highway right-of-way under the provisions of the Federal Aid Highway Act of August 27, 1958 (23 U.S.C. 317), affecting the following described lands of the United States withdrawn for power purposes, thereby requiring Commission consideration under Section 24 of the Federal Power Act.

BOISE MERIDIAN, IDAHO

T. 28 N., R. 1 E.,
Sec. 26, lots 1 and 3.

The lands lie along the right bank of the Salmon River and are withdrawn in Power Site Reserve No. 8 dated July 2, 1910, and pursuant to the filing on August 22, 1960, of an amended application for license for Project No. 2273.

The proposed highway right-of-way will be used for the improvement of existing U.S. Highway No. 95.

The plan of development for Project No. 2273 (Nez Perce) proposed a dam which would raise the water surface to an elevation of 1,490 feet. Flowage to this elevation would affect portions of the subject tracts. However, the project, as proposed, was in conflict with the plan of development for Project No. 2243 (High Mountain Sheep) and the application for Nez Perce was denied. Power development affecting the lower Salmon River is opposed by several conservation groups. Such development is not considered imminent. Interm use of the lands for highway purposes is in the public interest.

The Commission determines: The power value of the subject lands will not be injured or destroyed by the use thereof for the proposed highway right of way as applied for subject to the provisions of section 24 of the Federal Power Act.

By the Commission.

[SEAL] KENNETH. F. PLUMB, *Secretary.*

[FR Doc.72-6929 Filed 5-5-72;8:49 am]

FEDERAL RESERVE SYSTEM

JACOB SCHMIDT CO. AND AMERICAN BANCORPORATION, INC.

Order Approving Acquisition of Bank

Jacob Schmidt Co. and American Bancorporation, Inc., both of St. Paul, Minn. (hereinafter jointly referred to as Applicant), are bank holding companies within the meaning of the Bank Holding Company Act and have applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) for American Bancorporation to acquire 100 percent of the voting shares (less directors' qualifying shares) of American State Bank of Moorhead, Moorhead, Minn (Bank). Jacob Schmidt Co., which owns 57.8 percent of American Bancorporation, Inc.'s outstanding voting stock, would acquire indirect control of Bank.

Notice of receipt of the applications has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the applications and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

Applicant controls three banks with aggregate deposits of $207 million, representing 2.2 percent of the total commercial bank deposits in the State, and is the fourth largest banking organization and bank holding company in Minnesota.[1] Applicant's acquisition of Bank ($22 million in deposits) would increase Applicant's share of deposits in the State by 0.2 percentage points, without changing its ranking within the State.

Bank is the fifth largest of the 22 banking organizations in the Fargo, N. Dak.-Moorhead, Minn., SMSA, the relevant banking market, and controls 6.9 percent of deposits in that market. The three largest banks in the market are subsidiaries of Northwest Bancorporation and First Bank System, Inc., the two largest banking organizations in Minnesota and North Dakota, and control 31.5 and 16.1 percent of market deposits, respectively. Applicant's subsidiary located closest to Bank is approximately 240 miles distant; it appears that consummation of the transaction would not eliminate existing competition. On the facts of record, notably, the distances involved, the number of banks in the intervening areas between Bank and Applicant's subsidiaries, and Minnesota's prohibitive branching law, there appears little likelihood that significant competition between Bank and Applicant would develop in the future. On the other hand, approval may strengthen competition by introducing a new banking organization into the market. The Board concludes, therefore, that consummation of the proposed acquisition would not adversely affect competition in any relevant area.

Bank appears to be satisfactorily serving the financial needs of the community; however, affiliation with Applicant would allow Bank to expand the services it now offers to the community to include trust and estate planning, consumer installment financing, real estate and mobile home financing, financial counseling, and farm management services. Affiliation with Applicant would increase the lending capability of Bank through participation arrangements with Applicant's present subsidiary banks. Considerations relating to the convenience and needs of the communities to be served lend weight for approval.

Considerations relating to financial and managerial resources and future prospects as they relate to Applicant, its subsidiary banks, and Bank are regarded as generally satisfactory. Management expertise to be made available to Bank by Applicant lends weight toward approval of the applications. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the applications should be approved.

On the basis of the record, the applications are approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the date of this Order or (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority.

[1] Banking data are as of June 30, 1971, and reflect holding company formations and acquisitions approved through Mar. 31, 1972.

By order of the Board of Governors,[2] April 28, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-6911 Filed 5-5-72;8:46 am]

BANK SECURITIES, INC.

Acquisition of Banks

Bank Securities, Inc., Alamogordo, N. Mex., has applied in two separate applications for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) as follows:

(1) To acquire 61.5 percent or more of the voting shares of Bank of Santa Fe, Santa Fe, N. Mex.; and

(2) To acquire 68.8 percent or more of the voting shares of The American National Bank, Silver City, N. Mex. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the applications should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 26, 1972.

Board of Governors of the Federal Reserve System, May 2, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-6956 Filed 5-5-72;8:50 am]

MARINE BANCORPORATION

Order Approving Retention of Coast Mortgage Company

Marine Bancorporation, Seattle, Wash., a bank holding company within the meaning of the Bank Holding Company Act of 1956, has applied for the Board's approval under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y to retain all of the voting shares of Coast Mortgage Co., Seattle, Wash.[1] Notice of the application affording opportunity for interested persons to submit comments and views was duly published. The time for filing comments and views has expired and all received have been considered, including those presented orally and in writing in connection with a Board hearing on November 8, 1971, pertaining to mortgage banking in general, and this application in particular.

Applicant owns The National Bank of Commerce of Seattle (Bank), whose deposits of $1.2 billion represent 20.4 percent of the total commercial bank deposits in the State of Washington.[2] Bank is engaged in the business of making mortgage loans for its own account. In 1970, it originated 2.3 percent of all real estate mortgages in those service areas[3] in which its subsidiary, Coast Mortgage Co., also competes.

Coast Mortgage Co. operates a mortgage banking business in western Washington. It accounted for 5.8 percent of all mortgage loan originations during 1970 in the seven counties in which it competes with Bank. On the basis of its mortgage servicing portfolio of $547 million, Coast Mortgage Co. is the 33d largest mortgage banking company in the country.[4] Its mortgage servicing portfolio has increased 20 percent since 1968, the last full year of its operation as an independent mortgage company.

The Board has considered a report of the Department of Justice which concluded that the acquisition was anticompetitive and that applicant had not demonstrated public benefits sufficient to satisfy the standards under section 4(c)(8) of the Act. The Department recommended that Coast "either be reconstituted as an independent competitor or sold to a bank holding company not currently engaged in mortgage origination in the areas served by Coast." Applicant was given an opportunity to reply and did so. Applicant's response asserts that there is no existing competition between Bank and Coast and that the public benefits resulting from the acquisition have been produced and demonstrated by almost 3 years of actual operation.

The Board regards the standards under section 4(c)(8) for retention of shares to be the same as the standards for a proposed acquisition. At the time of the acquisition, both Coast Mortgage Co. and Bank were engaged in the business of mortgage loan originations, and there was existing competition between the two institutions to the extent that their markets overlapped. The elimination of this competition constitutes an adverse effect as contemplated under section 4(c)(8) of the Act and standing alone, would require denial of the instant application.

The major area affected by the acquisition is Seattle and its environs, the economic center of western Washington and the largest city in the State. At the time of the acquisition, and to a greater extent thereafter, the economy of the area was depressed. A reasonable expectation of the affiliation, and the proven fact, was that applicant would improve Coast's ability to accept from financially distressed builders and other mortgage debtors land and improvements for orderly liquidation, thereby preventing foreclosure, forced sales and deficiency judgments which would, in most cases, have resulted in financial disaster to the mortgage debtors. Another reasonable expectation, and proven fact, was that the affiliation would also improve the ability of Coast to expand the scope of its mortgage lending and expand its services into new lines, such as college housing and public housing projects for minority, elderly, and low-income groups. The Board concludes that these potential public benefits outweighed the adverse effect in competition resulting from the affiliation at the time of the acquisition.

The Board's review of the record of the affiliation indicates that the potential benefits have continued to outweigh such adverse effect. The Board believes that the affiliation is sufficiently likely to continue to produce public benefits in the foreseeable future so that, on balance, divestiture would be contrary to the public interest.

In addition to its mortgage loan activity, Coast has been engaged in both insurance and land development activities. However, applicant has withdrawn from the proposal those aspects of the application relating to insurance, indicating an intent to file a new application for permission to engage in insurance activities. Applicant has committed itself to refrain from any future land development activities and, with respect to those land developments in which it presently has an interest, to dispose of same at the earliest practical time, and keep the Board advised of progress with respect thereto.

Based on the record herein,[5] the application is approved on condition that applicant terminates its current land development activities at the earliest practical time and undertakes no new project in this line of activity. This approval is subject further to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[6] April 17, 1972, released May 1, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-6957 Filed 5-5-72;8:50 am]

MARINE BANCORPORATION

Order Denying Acquisition of Far West Securities Co.

Marine Bancorporation, Seattle, Wash., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and

[2] Voting for this action: Chairman Burns and Governors Robertson, Daane and Sheehan. Absent and not voting: Governors Mitchell, Maisel and Brimmer.

[1] Such shares were purchased by Marine Bancorporation in March 1969, and, under the provisions of section 4(a)(2) of the Act, may not be retained beyond December 31, 1980, without Board approval.

[2] Deposit data as of June 30, 1971.

[3] Approximated by the county boundaries of King, Grays Harbor, Whatcom, Snohomish, Kitsap, Thurston, and Clark Counties in the State of Washington.

[4] Data as of June 30, 1971.

[5] Dissenting statement of Governors Robertson and Sheehan filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Seattle branch of the Federal Reserve Bank of San Francisco.

[6] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel and Brimmer. Voting against this action: Governors Robertson and Sheehan.

§ 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of Far West Securities Co., Spokane, Wash. (Far West). Notice of the application, affording opportunity for interested persons to submit comments and views, has been duly published (36 F.R. 23651). The time for filing comments and views has expired, and all received have been considered.

Applicant controls the National Bank of Commerce (Bank), Seattle, the second largest bank in Washington. As of June 30, 1971, Bank's total deposits of $1.2 billion represented 20.4 percent of all commercial bank deposits in the State. In Spokane County, Bank operates two branches which originated approximately $435,000 in mortgage loans in 1970. Applicant also controls Coast Mortgage Co.[1] (Coast), the 33d largest mortgage banking firm in the Nation, with a mortgage servicing portfolio of $547 million.[2] Coast presently operates 12 offices located in western Washington, including offices in the first, third, and fourth largest cities in the State. Coast has no office in Spokane, the second largest city in Washington.

Far West operates two offices in Spokane County (the relevant market). Far West is the 15th largest mortgage banking firm in the State and the second largest in the relevant market, based on originations. In 1970, Far West originated approximately $17 million in mortgage loans, constituting 9 percent of the total volume of mortgages recorded by institutions in Spokane County. As of December 31, 1970, Far West serviced a mortgage loan portfolio of approximately $30 million.

Bank is not a significant source of mortgage funds in the Spokane market. Its two branches in Spokane County originate approximately 0.002 percent of the total mortgage loans filed in that County.[3] Coast operates only in western Washington and originates no mortgages in the Spokane market. Consummation of the proposed acquisition therefore would appear not to foreclose any existing competition.

Bank is prohibited by the "home office protection" provisions of Washington branching law from opening a branch office in the city of Spokane. Nevertheless, there are other avenues of entry into the Spokane mortgage market open to applicant. Coast possesses both the resources and the incentive to enter this market de novo. Its operation of offices in three of the four largest cities in the State make it a likely candidate for entry into Spokane, the second largest city in the State. Moreover, Coast's expertise and access to institutional investors would enable applicant to surmount whatever barriers other bank holding companies might encounter in entering the Spokane mortgage market de novo. Such entry by Coast is preferable to its acquisition of the second largest mortgage originator in Spokane. To the extent that consummation of the proposed acquisition would eliminate the likelihood of de novo entry by Coast, the acquisition would have an adverse effect on potential competition.

The Board concludes that the public benefits to be derived from the proposed acquisition do not outweigh the probable adverse effects indicated above. Applicant claims that it can provide Far West with larger lines of credit that would enable Far West to bid competitively on larger loans and on specialized loans involving housing for disadvantaged groups. While the acquisition of a mortgage company by a bank holding company could have the effect of strengthening the company in certain markets, it appears certain that such increased ability and service, if it came from a bank holding company not now competing or not likely to compete in the market, would have a substantially more desirable impact on the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has concluded that the public interest factors the Board is required to consider under section 4(c)(8) are not favorable to the requested determination and do not outweigh possible adverse effects, and that the request should be denied. Accordingly, the application is hereby denied.

By order of the Board of Governors,[4] April 17, 1972, released May 1, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-6958 Filed 5-5-72;8:50 am]

[1] The Board has approved the application of Marine Bancorporation to retain its ownership of shares of Coast Mortgage Co. in a separate order also dated Apr. 17, 1972.

[2] Servicing portfolio as of June 30, 1971.

[3] Data as of Dec. 31, 1970.

[4] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer, and Sheehan.

FEDERAL TRADE COMMISSION

CIGARETTE TESTING RESULTS

Correction

In F.R. Doc. 72-5926 appearing at page 7834 in the issue for Thursday, April 20, 1972, the entries under "TPM dry" and "Nicotine" for Chesterfield, King size, filter, menthol, should be "18" and "1.2", respectively. A previous correction for these entries, appearing at page 8412 of the Wednesday, April 26, 1972, issue, was incorrect and should be disregarded.

NATIONAL CAPITAL PLANNING COMMISSION

[NCPC File No. 0735]

PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY IN THE NATIONAL CAPITAL REGION

Proposed Amendments to Policies and Procedures

The Commission's policies and procedures for protection and enhancement of environmental quality in the National Capital Region appear in the FEDERAL REGISTER at 36 F.R. 23706-23709, 37 F.R. 3010, and 37 F.R. 4936. The Commission will consider the proposed amendment set out below at its meeting on June 1, 1972. Interested parties are requested to submit their views in writing to the Commission within fifteen (15) days from the filing date of this notice in the FEDERAL REGISTER, addressed to:

Ben Reifel, Chairman, National Capital Planning Commission, Washington, D.C. 20576.

The proposed amendment is as follows: Add a new section to read as follows:

4. FEDERALLY ASSISTED URBAN RENEWAL PROJECTS IN THE DISTRICT OF COLUMBIA

With respect to federally assisted urban renewal projects in the District of Columbia for which the Commission has adopted and urban renewal plan, or a modification thereof, the Executive Director shall determine, in consultation with the Department of Housing and Urban Development, whether such urban renewal plan, or modification thereof, is a major action, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and the Council on Environmental Quality's guidelines for statements on major proposed actions affecting the environment, for which an environmental statement is required.

If he determines that the urban renewal plan, or modification thereof, is a major action, the Executive Director shall prepare and circulate a draft environmental statement for such urban renewal plan, or modification thereof, and shall require that comments thereon be transmitted to the Department of Housing and Urban Development, which will prepare and publish the final environmental statement.

I, Daniel H. Shear, Secretary to the Commission, hereby certify that the foregoing is a true copy of amendments to policies and procedures for protection and enhancement of environmental quality in the National Capital Region.

DANIEL H. SHEAR,
Secretary to the Commission.

MAY 4, 1972.

[FR Doc.72-7033 Filed 5-5-72;8:53 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30 (Revision 13) Amdt. 13]

ASSOCIATE ADMINISTRATOR FOR FINANCIAL ASSISTANCE

Delegation of Authority To Conduct Program Activities in the Field Offices

Delegation of Authority No. 30 (Revision 13) (36 F.R. 5881), as amended (36 F.R. 7625, 36 F.R. 11129, 36 F.R. 13713, 36 F.R. 14712, 36 F.R. 15769, 36 F.R. 22876, 36 F.R. 23421, 36 F.R. 25194, 37 F.R. 2615, 37 F.R. 3581, 37 F.R. 4939, and 37 F.R. 5984), is hereby further amended to reflect the transfer of authority to execute contracts under the 406 program from the Associate Admin-

istrator for Procurement and Management Assistance to the Associate Administrator for Financial Assistance.

Part IV, section C, paragraph 1 is revised to read as follows:

1. Management Authority. To take all necessary actions in connection with the administration and management of contracts executed by the Associate Administrator for Financial Assistance under the authority granted in section 406 of the Economic Opportunity Act of 1964, as amended, except changes, amendments, modifications, or termination of the original contract:

* * * * *

Effective date: April 27, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-6916 Filed 5-5-72;8:47 am]

[Delegation of Authority No. 4 (Revision 2) Amdt. 6]

ASSOCIATE ADMINISTRATOR FOR FINANCIAL ASSISTANCE

Delegation on Financial Assistance

Delegation of Authority No. 4 (Revision 2) (35 F.R. 13234), as amended (35 F.R. 16759, 36 F.R. 653, 36 F.R. 8537, 36 F.R. 11491, 36 F.R. 12258), is hereby further amended to effect the transfer of authority to execute contracts under certain authority granted in section 406 of the Economic Opportunity Act of 1964, as amended, from the Associate Administrator for Procurement and Management Assistance to the Associate Administrator for Financial Assistance.

Item P is added to read as follows:

P. To execute grants, agreements, and contracts providing financial assistance to public or private organizations to pay all or part of the costs of the following kinds of projects designed to provide technical and management assistance to individuals or enterprises eligible for assistance under section 402 of the Economic Opportunity Act of 1964, as amended, with special attention to small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals:

a. Planning and research, including feasibility studies and market research;

b. The identification and development of new business opportunities;

c. The establishment and strengthening of business service agencies, including trade associations and cooperatives;

d. The encouragement of the placement of subcontracts by major businesses with small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals, including the provision of inventives and assistance to such major businesses so that they will aid in the training and upgrading of potential subcontractors or other small business concerns;

e. The furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing businesses, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

Effective date: April 27, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-6915 Filed 5-5-72;8:47 am]

[Delegation of Authority No. 5-B, Revision 1]

ASSOCIATE ADMINISTRATOR FOR PROCUREMENT AND MANAGEMENT ASSISTANCE

Rescission of Delegation of Authority To Provide Financial Assistance

Regarding section 406 of the Economic Opportunity Act of 1964, as amended.

Delegation of Authority No. 5-B (Revision 1) (34 F.R. 781) is hereby rescinded in its entirety without prejudice to any prior actions taken thereunder.

The authority to provide financial assistance under the section 406 program has been transferred to the Associate Administrator for Financial Assistance.

Effective date: April 27, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-6913 Filed 5-5-72;8:47 am]

[Delegation of Authority No. 5-B.1 (Revision 1)]

DIRECTOR, OFFICE OF MANAGEMENT ASSISTANCE AND CHIEF, MANAGEMENT CONTRACTS DIVISION

Rescission of Delegation of Authority To Provide Financial Assistance

Regarding section 406 of the Economic Opportunity Act of 1964, as amended.

Delegation of Authority No. 5-B.1 (Revision 1) (35 F.R. 14241) is hereby rescinded in its entirety without prejudice to any prior actions taken thereunder.

The authority to provide financial assistance under the 406 program has been transferred to the Associate Administrator for Financial Assistance.

Effective date: April 27, 1972.

MARSHALL J. PARKER,
Associate Administrator for Procurement and Management Assistance.

]FR Doc.72-6914 Filed 5-5-72;8:47 am[

[License No. 04/05-0101]

ASSOCIATED BUSINESS INVESTMENT CORP.

Notice of Application for Transfer of Control of a Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.701 of the SBA rules and regulations governing small business investment companies (13 CFR 107.701 (1971)), for transfer of control of Associated Business Investment Corp. (the SBIC), Suite 735, Bank for Savings Building, Birmingham, Ala. 35203, a Federal licensee under the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C., 661 et seq.).

The SBIC was licensed on March 22, 1972. Its present paid-in capital and paid-in surplus is $276,965. The SBIC presently has 55,393 of issued and outstanding stock owned by 79 stockholders.

The SBIC's proposed new stockholders and their percentage holdings will be:

George Little, 3530 Belle Meade Way, Birmingham, AL 35233, 70 percent.
Macon Gravlee, Box 310, Fayette, AL 35555, 15 percent.
Dewey H. Thornton, Post Office Box 9570, Birmingham, AL 35215, 10 percent.
Bobby G. Purvis, 2404 Sceptor Lane, Birmingham, AL 35226, 5 percent.

Matters involved in SBA's consideration of the proposed transaction include the general business reputation of the new principal stockholders as well as the probability of the SBIC's successful operation, including such factors as adequate profitability and financial soundness in accordance with the Act and the regulations.

Prior to taking final action on the application, consideration will be given to any comments pertaining to the proposed transaction which are submitted, in writing, to the Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416, within fifteen (15) days from the date of publication of this notice.

A copy of this notice will be published by the proposed transferees in a newspaper of general circulation in Birmingham, Ala.

Dated: April 24, 1972.

CLAUDE ALEXANDER,
Associate Administrator for Operations and Investment.

[FR Doc.72-6917 Filed 5-5-72;8:47 am]

TARIFF COMMISSION

[AA1921-91]

ASBESTOS CEMENT PIPE FROM JAPAN

Determination of Injury

On February 2, 1972, the Tariff Commission received advice from the Treas-

ury Department that asbestos cement pipe from Japan is being, and is 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. AA1921–91 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 March 21 and 22, 1972. Notice of the investigation and hearing was published in the FEDERAL REGISTER of February 9, 1972 (37 F.R. 2908).

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 2 to 2[2] that an industry in the United States is being injured by reason of the importation of asbestos cement pipe from Japan, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS FOR AFFIRMATIVE 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.

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 the Treasury determined is being, or is likely to be, sold at less than fair value.

In the instant investigation we find that both conditions are met. We have, therefore, made an affirmative determination.

Sales at less than fair value. U.S. imports of asbestos cement pipe from Japan in recent years have entered the United States at west coast ports and have been sold almost entirely in the area west of the Rockies, termed hereinafter the "west coast" market. All the asbestos cement pipe imported from Japan has consisted of pressure pipe, which is the type of asbestos cement pipe used for water supply systems.

The Treasury Department examined records covering all the shipments of Japanese asbestos cement pipe to the United States during a 7-month period in the last half of 1970 and early 1971. The Treasury determined that nearly all of the asbestos cement pipe shipped to the United States was sold at less than fair value, i.e., the purchase price of pipe for export to the United States was lower than the price of corresponding pipe sold in the Japanese home market. Although the less-than-fair-value margins (the amount by which the purchase price for export to the United States was lower than the home market price) varied from size to size of pipe and from supplier to supplier, it was generally substantial, averaging 20 percent of the home market price.

The industry. We have concluded that the industry in this case consists of the facilities in the United States for the production of asbestos cement pipe. Currently such pipe is manufactured domestically by four companies in 14 plants. In our view, therefore, the facilities in those 14 plants for the production of asbestos cement pipe constitute the domestic industry.

Two issues in the instant case raise questions whether we should in some fashion segment the domestic industry in order to determine whether there is injury. First, as indicated above, the imports of asbestos cement pipe sold at less than fair value consist entirely of pressure pipe. Any segmentation of the industry to isolate facilities in which pressure pipe is produced, however, would be wholly artificial. Both pressure and nonpressure asbestos cement pipe are made in the same plants on the same machines. The only difference in the two types of pipe is that the ratio of asbestos to cement is greater for pressure pipe than for nonpressure pipe. Consequently, we have weighed the effects of sales of asbestos cement pressure pipe at less than fair value in all the domestic facilities for the production of asbestos cement pipe. Second, virtually all the imports of asbestos cement pipe from Japan has been sold in the United States in the west coast market. Four of the 14 domestic plants in which asbestos cement pipe is produced are situated there. These plants supply almost all of the domestic pipe being sold in the west coast market, and little of their output is marketed elsewhere. It follows that a national industry may be injured if injury is experienced in a portion of its market. Such injury might occur if the only sales lost consisted of certain products or if sales in a particular regional market were lost. Both events took place in the instant case when significant sales of Japanese asbestos cement pressure pipe occurred at less than fair value in the west coast market.

Market penetration. U.S. imports of asbestos cement pipe from Japan, nearly all of which in a recent period were found to have been sold at less than fair value, have supplied a small part of the total U.S. market for such pipe but a more significant part of the west coast market. In 1970 and 1971 Japan supplied 2 to 3 percent of total U.S. consumption of asbestos cement pipe but 6 to 7 percent of consumption of asbestos cement pipe in the west coast market. During the same period Japan supplied 4 to 5 percent of total U.S. consumption of asbestos cement pressure pipe but 10 to 13 percent of consumption of asbestos cement pressure pipe in the west coast market. While the market penetration thus attained by Japanese asbestos cement pipe on a national basis might be regarded as minimal, the market penetration achieved by Japanese pipe on the west coast indicates significant displacement of domestic pipe and considerable loss of sales by the domestic producers supplying that area. Such effects in the west coast market, which is an important part of the total market served by the domestic producers, signify injury to the domestic industry under the terms of the antidumping statute.

Some have suggested that the sales of pipe from Japan at less than fair value have not been injurious to the domestic industry because imports of asbestos cement pipe from Japan have declined in recent years. Such a diminution of imports, however, is no assurance that injury is not taking place. The volume of Japanese pipe entering the United States in 1971 captured 6 percent of the west coast market, clearly a large enough penetration to have had marked impact on the operation of the domestic industry.

Price effects. Asbestos cement pipe is sold by both domestic producers and importers primarily through direct sales to contractors and developers for installation in public and private water and sewerage systems. Some is sold through distributors, but that channel of distribution is far less important than the direct sales. Virtually all of the sales to contractors and developers are made after either public or private bidding. Domestic and imported pipe are similar products, having met the required specifications. Therefore, price is the most important factor influencing sales, and the lowest bid will in most instances determine which firm gets the business.

In recent years, when asbestos cement pipe from Japan was sold at less than fair value, Japanese pressure pipe sold in the west coast market at prices well below those of the corresponding domestic product. For 8-inch, class 150 pressure pipe, for example, the selling prices of Japanese pipe on the west coast averaged about 10 percent below those of domestic pipe in 1970–71. The margins of underselling differed somewhat from area to area, being smallest in Washington and Oregon and largest in Arizona (where it reached nearly 20 percent). With such price differences, the contract was awarded to the Japanese pipe in

[1] Notice of the Treasury Department's determination of sales at less than fair value and the reasons therefor were published in the FEDERAL REGISTER of Feb. 3, 1972 (37 F.R. 2600).

[2] Commissioners Leonard and Young determined in the affirmative and Chairman Bedell and Commissioner Moore determined in the negative. Pursuant to sec. 201(a) of the Antidumping Act, 1921, as amended, the Commission is deemed to have made an affirmative determination when the Commissioners voting are equally divided. Vice Chairman Parker and Commissioner Sutton did not participate in the determination.

practically every case whenever the importer entered the bidding.

The extensive degree of underselling by Japanese pipe on the west coast was made possible by the substantial less-than-fair-value margin on such pipe. For the type of pipe mentioned above (8-inch, class 150), Japanese pipe typically undersold domestic pipe in the southern California market by about 25 cents per linear foot in 1971. This competitive price advantage was approximately equivalent to the amount by which the price of the Japanese pipe when sold for export to the United States was less than the price of equivalent pipe sold in the Japanse market. Without the substantial advantage accorded by the sales at less than fair value, the Japanese firm could not have sold such significant quantities of asbestos cement pipe in the U.S. market.

Generally, the two domestic firms producing asbestos cement pipe on the west coast chose not to meet the lower prices of Japanese pipe. Indeed, the prices charged by the domestic producers in that area were increased moderately in the period from 1969 through early 1972. Rather than meet the prices, an action which is likely to have seriously depressed prices and profits in their entire west coast market, the producers chose to lose those contracts on which the importers bid at lower prices. The indication of injury in these cases then was, not depressed prices of the domestic producers, but their lost sales.

In recent years, the domestic industry has experienced healthy profits from their west coast operations. However, during this period, the west coast facilities of the industry have operated well under their capacity. It is almost certain that had additional production and sales occurred, profits would have been even higher. Nevertheless, regardless of the profit experience of the industry, there is sufficient evidence of injury—as detailed before—to the domestic industry from imports at less than fair value.

Conclusion. We have determined that an industry in the United States is being injured because of the extent of market penetration by asbestos cement pipe from Japan sold at less than fair value in the west coast market of the United States, with a resultant loss of sales and profits.

STATEMENT OF REASONS FOR NEGATIVE DETERMINATION OF CHAIRMAN BEDELL AND CHAIRMAN MOORE

In our opinion an industry in the United States is not being injured nor is likely to be injured, nor is prevented from being established, by reason of imports of asbestos cement pipe from Japan found by the Assistant Secretary of the Treasury to be, or likely to be, sold at less than fair value (LTFV). Evidence developed during the Commission's investigation shows that if, indeed, the U.S. industry has experienced any difficulty from LTFV imports from Japan, such injury is inconsequential and therefore should be classified as de minimis.

Domestic industry. In making our determinations in this investigation, we have considered the relevant industry to consist of the facilities in the United States producing asbestos cement pipe. Asbestos cement pipe is being produced by four firms at 14 establishments throughout the entire United States. These facilities produce all types of asbestos cement pipe including water pressure pipe.

Conditions of competition. Asbestos cement pipe is manufactured domestically in almost every geographic region of the country. However, imported pipe from Japan is sold mostly in the west coast area: California, Arizona, and the Northwest States. We agree that this market area is the only geographic region in the United States where Japanese sales at LTFV have had any impact.

Market penetration. Market penetration by Japanese imports in the national market reached a peak of 3 percent in 1969 and decreased steadily through 1971 to 2.1 percent.

Market penetration by imports of asbestos cement pipe from Japan in the west coast market area reached a high of 27,303 short tons in 1969. In 1970, the year in which the Treasury Department found LTFV sales, such imports had declined to 21,142 short tons in this market area. In 1971, imports of asbestos cement pipe further declined to 17,188 short tons on the west coast.

Based on the trend of imports outlined above, it is clear that LTFV sales of asbestos cement pipe imported from Japan is not resulting in these imports receiving a greater share of the U.S. market in the west coast area. In fact, the opposite result occurred; namely, market penetration by such imports decreased sharply in 1970 and 1971.

Domestic consumption, shipments, and sales. Total domestic consumption of all asbestos cement pipe rose steadily every year from 1967 through 1971 except for a decline in 1970. Consumption of pressure pipe in the west coast market also showed a steady rise in these years with the exception of 1970.

It is abundantly clear from the facts developed by the Commission that the Japanese sales at LTFV had only a minimal effect on the national market. Evidence available to the Commission shows that the domestic producers prospered both nationally and on the west coast. The west coast market has long been a major market area when viewed as a percentage of total shipments by U.S. producers. This percentage averaged 29.4 during 1967–69 compared with 36.1 during 1970–71 (the years in which LTFV imports were determined). The increasing importance of the west coast market when viewed as a percentage of total shipments by the domestic producers demonstrate that any adverse effect from Japanese LTFV competition in this area was minimal. Japanese import competition is concentrated in the pressure pipe categories; however, sales by domestic producers of such pressure pipe in the west coast area showed the same trends as all asbestos cement pipe. Despite Japanese competition from pipe sold at LTFV, the domestic producers have prospered in this market.

The value of sales of all asbestos cement pipe on the west coast have increased in every year from 1967 to 1971. The percentage of increase of sales in this market area remained high throughout these years. Even in 1970, the year the Treasury Department found LTFV sales, the domestic industry experienced a 3 percent increase in sales in the west coast market.

Profitability of U.S. industry. Profit-and-loss data provided by the domestic producers reveals that profits rose continually from 1967 through 1971 from their west coast operations. The ratio of net operating profit to net sales also increased from 1967 through 1970 in this market area. Information furnished the Commission reveals that the domestic industry enjoyed extremely high profits in the market area where they were meeting their most severe competition from the LTFV imports.

Likelihood of future injury. Imports of asbestos cement pipe by Japan have declined sharply since the peak year in 1969. One of the two Japanese companies exporting to the United States has dropped out of this market entirely. The remaining Japanese producer has announced that owing to changes in its plant it will limit its exports in the coming year to 9,600 metric tons (10,634 short tons), which is 56 percent lower than the average annual U.S. imports from Japan in 1969–70. The present trend in the volume of imports shows clearly that the Japanese exporters do not have the intent or capacity to cause future injury to an industry in the United States due to LTFV imports.

Pricing practices. The domestic producers sell asbestos cement pipe from a published price list with varying discounts. Published prices in the west coast market area showed steady increases from 1969 through 1972. The published prices in the west coast area remained as high as national prices in areas which were not in competition with LTFV imports from Japan. We conclude that the LTFV imports had no effect on pricing in the regional markets or on the national market.

Summary and conclusion. In view of the absence of price depression or of any evidence of price suppression, the limited distribution of imported Japanese pipe by size, market and sales channels, the growth in sales and profits of the U.S. asbestos cement pipe industry, and the fact that the market penetration of LTFV imports is so inconsequential as to be de minimis; we conclude that an industry in the United States is not being injured, nor is likely to be injured, nor is prevented from being established, by reason of the importation of asbestos cement pipe sold in the United States at less than fair value.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-6922 Filed 5-5-72;8:48 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

MAY 3, 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 115841 Sub 411, Colonial Refrigerated Transportation, Inc., MC 117883 Sub 159, Subler Transfer, Inc., and MC 119619 Sub 43, Distributors Service Co., now being assigned hearing July 17, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 41432 Sub 117, East Texas MTR. FRT. Lines, Inc. now being assigned hearing July 17, 1972, at Atlanta, Ga. in a hearing room later to be designated.

MC 40978 Sub 18, Chair City Motor Express Co., now being assigned hearing July 17, 1972, MC 60014, Sub 27, Aero Trucking, Inc., now being assigned hearing July 18, 1972, MC 119619 Sub 47, Distributors Service Co., now being assigned hearing July 12, 1972, MC 119974 Sub 37, L. C. L. Transit Co., now being assigned hearing July 10, 1972, and MC 135487 Sub 1, Hulcher Emergency R.R. Service, Inc., now being assigned Hearing July 19, 1972, at Chicago, Ill., in a hearing room later to be designated.

MC 136163, Jerome Kelly, Jr., doing business as Jerome Kelly & Son, now assigned May 22, 1972, at Washington, D.C., hearing postponed to June 5, 1972, will be held in the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 121060 Sub 8, Arrow Truck Lines, Inc., continued to June 26, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 119619 Sub 44, Distributors Service Co., now assigned May 8, 1972, at New York, N.Y., will be held in U.S. Custom Courtroom No. 4, 1 Federal Plaza.

MC 30844 Sub 380, Kroblin Refrigerated Xpress, Inc., now assigned May 25, 1972, at Washington, D.C., hearing canceled and application dismissed.

MC 136139, Viken Bus Charter Service, Inc., now assigned June 5, 1972, at Indianapolis, Ind., postponed to June 19, 1972, in hearing room to be later designated.

MC 117574 Sub 217, Daily Express, Inc., and MC 112304 Sub 52, Ace Doran Hauling & Rigging Co., now being assigned hearing May 16, 1972, in Room 255, 85 Marconi Boulevard, Columbus, Ohio.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-6985 Filed 5-5-72;8:52 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 3, 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. 42417—*Chlorine to Port St. Joe, Fla.* Filed by M. B. Hart, Jr., agent (No. A6307), for interested rail carriers. Rates on chlorine, in tank carloads, as described in the application, from Geismar and Baton Rouge, La., to Port St. Joe, Fla.

Grounds for relief—Market competition.

Tariff—Supplement 226 to Southern Freight Association, agent, tariff ICC S-699. Rates are published to become effective on June 8, 1972.

FSA No. 42418—*Vegetable oils and related articles between IC stations in Louisiana in southwestern territory and Clarksville and Nashville, Tenn., on the LN.* Filed by Southwestern Freight Bureau, agent (No. B-315), for interested rail carriers. Rates on vegetable oils and related articles, in tank carloads, as described in the application, between IC stations in Louisiana in southwestern territory, on the one hand, and Clarksville and Nashville, Tenn., on the LN, on the other.

Grounds for relief—Carrier competition.

Tariff—Supplement 246 to Southwestern Freight Bureau, agent, tariff ICC 4691. Rates are published to become effective on June 10, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-6984 Filed 5-5-72;8:52 am]

[Notice 56]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. 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-35445. By order of April 24, 1972, the Motor Carrier Board approved the lease to Roy M. Ballard, doing business as Ballard Trucking, Paris, Tex., of certificate of registration No. MC-99850 (Sub-No. 2), issued September 8, 1964, to Dallas Thompson, Arlington, Tex., and subsequently transferred to Texas Steel Culvert Co., Inc., evidencing a right to engage in transportation in interstate commerce as described in specialized motor carrier's permanent certificate of convenience and necessity No. 7094, dated December 12, 1960, issued by the Railroad Commission of Texas. M. Ward Bailey, Continental Life Building, Fort Worth, Tex. 76102, attorney for applicants.

No. MC-FC-73359. By order of April 24, 1972, the Motor Carrier Board approved the transfer to Texas Steel Culvert Co., Inc., Arlington, Tex., of certificate of registration No. MC-99850 (Sub-No. 2), issued September 8, 1964, to Dallas Thompson, Arlington, Tex., evidencing a right to engage in transportation in interstate commerce corresponding in scope to specialized motor carrier's permanent certificate of convenience and necessity No. 7094 issued by the Railroad Commission of Texas. M. Ward Bailey, 2412 Continental Life Building, Fort Worth, Tex. 76102, attorney for applicants.

No. MC-FC-73494. By order of April 28, 1972, the Motor Carrier Board approved the transfer to Maurice H. Eversgerd, doing business as Eversgerd Truck Service, Germantown, Ill., of certificate No. MC-90779 issued April 7, 1971, to Leona Anna Eversgerd and Maurice H. Eversgerd, doing business as Eversgerd Truck Service, Germantown, Ill., authorizing the transportation of: General commodities and certain specified commodities, between St. Louis, Mo., and Germantown, Ill.

No. MC-FC-73590. By order of April 25, 1972, the Motor Carrier Board approved the transfer to R. Ayer Tonge, doing business as Owens Bros. Transfer Co., Carnelian Bay, Calif., of the operating rights in certificate No. MC-129523 issued March 13, 1969, to Roeder S. Stinson, doing business as Owens Bros. Transfer Co., Carnelian Bay, Calif., authorizing the transportation of household goods, as defined by the Commission, between points within 5 miles of the following route: Beginning at junction Nevada Highway 28 and the boundary line of Douglas-Ormsby Counties, Nev., and extending along California Highway 28 to junction California Highway 267, thence along California Highway 267 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction California Highway 89, and thence along California Highway 89 to Emerald Bay, Calif. W. S. Pilling, 21st Floor, Shell Building, 100 Bush Street, San Francisco, CA 94104, attorney for applicants.

No. MC-FC-73637. By order of April 25, 1972, the Motor Carrier Board approved the transfer to Bost Truck Service, Inc., Murphysboro, Ill., of the operating rights set forth in certificate No. MC-36854, issued December 13, 1966, to Ray W. Ward, doing business as Ward Warehouse and Distribution Co., Murphysboro, Ill., authorizing the trans-

portation of: General commodities, with the usual exceptions, between Murphysboro, Ill., and St. Louis, Mo., serving all intermediate points south of Belleville, Ill., and all off-route points in St. Louis County, Mo., which are located in the St. Louis, Mo.-East St. Louis, Ill., commercial zone as defined by the Commission; milk and cream, from Belleville, Ill., to St. Louis, Mo., serving all intermediate points; and all off-route points in St. Louis County, Mo. R. W. Burgess, 8514 Midland Boulevard, St. Louis, MO 63114.

No. MC–FC–73672. By order of April 25, 1972, the Motor Carrier Board approved the transfer to Film and Package Delivery, Inc., Cleveland, Ohio, of certificate of registration No. MC–120290 (Sub-No. 1) issued to Richard L. Gross, doing business as L. C. Gross Co., Cleveland, Ohio, evidencing a right to engage in interstate or foreign commerce in the transportation of: Property, between specified points and areas solely within the State of Ohio. James R. Stiverson, attorney, 50 West Broad Street, Columbus, OH 43215.

No. MC–FC–73675. By order of April 26, 1972, the Motor Carrier Board approved the transfer to Freightways Express, Inc., Memphis, Tenn., of the operating rights set forth in certificate No. MC–30808, issued April 5, 1972, to Fastway, Inc., Memphis, Tenn., authorizing the transportation of: General commodities, with the usual exceptions, between Holly Springs, Miss., and Memphis, Tenn., serving all intermediate points in Mississippi; and charcoal furnaces, from Holly Springs, Miss., to points in Mississippi and Tennessee within 250 miles of Holly Springs. James N. Clay III, 2700 Sterick Building, Memphis, Tenn. 38103, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–6981 Filed 5–5–72;8:52 am]

[Notice 63]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 2, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 20587 (Sub-No. 3 TA), filed April 20, 1972. Applicant: GORDON C. GRAVES, doing business as GORDON C. GRAVES TRUCKING CO., Box 152, Ulysses, PA 16948. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed additives, and feed ingredients*, from Erwins, N.Y., to Ulysses and Knoxville, Pa., for 150 days. Supporting shipper: Agway Inc., Feed Division, 560 Delaware Avenue, Post Office Box 128, Buffalo, NY 14240. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 52579 (Sub-No. 132 TA), filed April 19, 1972. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, NJ 07094. Applicant's representative: W. Abel (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, loose, on hangers, from Little Rock, Ark., Dresden, Greenfield, Rutherford, and Trenton, Tenn., Brownsville and Morgantown, Ky., to Columbus, Ohio, and from Rutherford, and Trenton, Tenn., and Brownsville and Morgantown, Ky., to Chicago, Ill., for 180 days. Supporting shipper: Sears, Roebuck and Co., Post Office Box 5208, Chicago, IL 60680. Send protests to: District Supervisor, Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 59150 (Sub-No. 65 TA), filed April 19, 1972. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Post Office Box 38047, Jacksonville, FL 32202. Applicant's representative: Martin Sack, Jr., Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products, asbestos products, and building materials* (except commodities in bulk), from the plantsite and warehouse facilities of National Gypsum Co., at Westwego and New Orleans, La., to Mobile, Ala., and points within the commercial zone thereof as defined by the Commission, and points in Mississippi on and south of U.S. Highway 80. Supporting shipper: Gold Bond Building Products, Division of National Gypsum Co., 325 Delaware Avenue, Buffalo, NY 14202. Send protests to: District Supervisor, G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 108121 (Sub No. 10 TA), filed April 20, 1972. Applicant: TRANSPORT STORAGE AND DISTRIBUTING CO., Post Office Box 570, 321 Third Avenue, Renton, WA 98055. Applicant's representative: Joseph O. Earp, 411 Lyon Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New automobiles and light duty trucks*, in secondary movements, via truckaway service, (1) from Portland, Oreg., to points in Washington (except Seattle), and to points in Oregon, Idaho, and Montana, (2) from Seattle, Wash., to points in Oregon (except Portland), and to points in Idaho and Montana, and (3) from Tacoma, Wash., to points in Washington, Oregon, Idaho, and Montana, for 180 days. Supporters: There are approximately 15 statements of support attached to the application which may be examined here at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 111729 (Sub-No. 342 TA), filed April 20, 1972. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, and audit and accounting media of all kinds*, between Toledo, Ohio, and Ann Arbor, Mich.; (2) *microbiological media* in culture tubes and plates, and *related documents and records*, between Columbus, Ind., on the one hand, and, on the other, Chicago, Ill., Dayton and Cincinnati, Ohio, and Louisville and Owensboro, Ky.; (3) *pharmaceuticals, prescription medications, and business papers, records, and accounting media*, between Silver Spring, Md., on the one hand, and, on the other, Norfolk, Richmond, and Winchester, Va.; (4) *exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies, and advertising material moving therewith* (excluding motion picture film used primarily for commercial theater and television exhibition), (a) between Roanoke, Va., on the one hand, and, on the other, points in North Carolina, eastern Kentucky, eastern Tennessee, and West Virginia; (b) between Kingston, N.Y., on the one hand, and, on the other, Niagara Falls, N.Y., Chicopee, North Adams, Northampton, and Springfield, Mass., East Haven Elmwood, Torrington, and Wallingford, Conn.; and (c) between Augusta, Ga., and Columbia, S.C., for 180 days. Supporting shippers: Washington Distributors, Inc., 3115 Frenchmens Road, Toledo, OH 43607; Columbus Biologicals, Inc., 1634 Gladstone Avenue, Columbus, IN 47201; Accredited Surgical Co., 8705

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

Colesville Road, Silver Spring, MD 20901; Roanoke Photo Finishing Co., Second Street and Luck Avenue, Roanoke, VA 24005; Ideal Camera Corp., 609–611 Broadway, Kingston, NY 12401. Colorcraft of Augusta, Inc., 626 30th Street, Post Office Box 917, Augusta, GA 30902. Send protests to: Thomas W. Hopp, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

No. MC 117589 (Sub-No. 20 TA), filed April 21, 1972. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 2535 Airport Way South, Seattle, WA 98431. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Specialty meat items* requiring temperature control, *salads, dips, dressings, and table sauces* requiring temperature control, from Beaverton, Oreg., and Tacoma, Wash., to Nampa, Boise, and Caldwell, Idaho; Salt Lake City, Utah; and Denver, Colorado Springs, Pueblo, and Greeley, Colo., for 180 days. Supporting shippers: Mrs. J's Food Products Co., 6221 Valley Avenue East, Tacoma, WA 98424; Reser's Fine Foods, Inc., Post Office Box 8, Beaverton, OR 97005. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 119631 (Sub-No. 17 TA), filed April 21, 1972. Applicant: DEIOMA TRUCKING CO., Post Office Box 915, Mount Union Station, Alliance, OH 44601. Applicant's representative: Lawrence E. Lindeman, Suite 1032, Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete panel*, from Fairfield (Butler County), Ohio, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and Washington, D.C., for 180 days. Supporting shipper: Modulars, Inc., Post Office Box 216, Hamilton, OH 45012. Send protests to: Frank L. Calvary, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 255 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 119777 (Sub-No. 241 TA), filed April 18, 1972. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Box L, Madisonville, KY 42431. Applicant's representative: Louis J. Amato (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commercial laundry and dry cleaning equipment and parts, attachments, and accessories therefor*, from the plantsite of Huebsch Originators, American Laundry and Machine Industries, Madisonville, Ky., to points in Tennessee, Florida, Georgia, Alabama, Mississippi, Arkansas, North Carolina, Missouri, Kansas, Nebraska, Indiana, Illinois, Ohio, Virginia, West Virginia, Oklahoma, and Wisconsin, for 180 days. Supporting shippers: Mr. Charles P. Oxford, Plant Manager, Huebsch Originators, American Laundry and Machine Industries (division of McGraw Edison), U.S. Highway 41–A, Madisonville, Ky. 42431. Send protests to: Wayne L. Merilatt, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 120906 (Sub-No. 7 TA), filed April 19, 1972. Applicant: SPECIAL SERVICE DELIVERY, INC., 828 Prouty Avenue, Toledo, OH 43609. Applicant's representative: Paul F. Beery, Suite 1650, 88 Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, and commodities in bulk) between the Toledo Municipal Airport located in Lake Township, Wood County, Ohio, and the Toledo Express Airport located in Swanton Township, Lucas County, Ohio, on the one hand, and, on the other, points in Ohio, restricted to the transportation of property having prior or subsequent movement by air, for 180 days. Supporting shippers: RCA Electronic Components, Fostoria Road, Findlay, Ohio 45840; Allegheny Airlines, Greater Pittsburgh Airport, Pittsburgh, Pa. 15231; Buckeye Air Freight, division of Buckeye Air Service, Inc., 613 Oberlin Road, Elyria, OH 44035; Adjusto Equipment Co., 20163 Haskins Road, Bowling Green, OH 43402; Terry Industries of Ohio, Inc., Post Office Box 668, Edgerton, OH 43517; the Aro Corp., 1 Aro Center, Bryan, OH 43506. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 534 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 120978 (Sub-No. 4 TA), filed April 19, 1972. Applicant: REINHART MAYER, doing business as MAYER TRUCK LINE, 1203 South Riverside Drive, Jamestown, ND 58401. Applicant's representative: Gene P. Johnson, 514 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural dump wagons, and parts and accessories* for agricultural dump wagons, from Richardton, N. Dak., to points in Nebraska, Kansas, Oklahoma, Montana, Idaho, South Dakota, Colorado, Wyoming, Minnesota, and Iowa; and *materials and supplies* used in the manufacture of agricultural dump wagons, from Columbus, Nebr., Minneapolis and St. Paul, Minn., Wichita, Kans., and points in Illinois to Richardton, N. Dak. for 180 days. Supporting shipper: Richardton Machine & Manufacturing Co., Inc., Richardton, N. Dak. 58652. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, ND 58102.

No. MC 124652 (Sub-No. 9 TA), filed April 20, 1972. Applicant: JULIAN F. DUNCAN, doing business as DUNCAN TRANSFER, P.O. Box 1, Riverton, VA 22651. Applicant's representative: Daniel B. Johnson, Perpetual Building, Washington, D.C. 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Masonry cement and mortar cement*, from Riverton, Va., to points in Michigan, Indiana, Kentucky, Georgia, Florida, Massachusetts, and Rhode Island; and (2) *materials, equipment, and supplies* used in the manufacture of masonry cement and mortar cement, from points in New York, Ohio, South Carolina, Tennessee, Connecticut, Rhode Island, Michigan, Indiana, Kentucky, Georgia, Florida, and Massachusetts to Riverton, Va., restricted to a service to be performed under a continuing contract or contracts with Riverton Corp., Riverton, Va., for 180 days. Supporting shipper: Riverton Corp., Riverton, Va. 22651. Send protests to: District Supervisor Robert D. Caldwell, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 136515 (Sub-No. 1 TA), filed April 13, 1972. Applicant: LAKESIDE HAULING & RIGGING, INC., 3600 Lakeside Avenue, Cleveland, OH 44114. Applicant's representative: James G. Keck (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum lubricating oil*, in shuttle tanks *and grease* in quarter drums, from Cleveland, Ohio, to Ecorse, Mich., *and refused, damaged shipments, and empty containers on return*, for 180 days. Supporting shipper: Premier Industrial Corp., 4415 Euclid Avenue, Cleveland, OH 44103. Send protests to: G. J. Baccei, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 136563 (Sub-No. 1 TA), filed April 17, 1972. Applicant: YOUNGER VAN LINES, INC., 402 30th Street, Galveston, TX 77550. Applicant's representative: Maurice Martin (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, materials and supplies, including tools*, used in the construction and maintenance of telephone system and communication, between Galveston, Tex., on the one hand, and, on the other, points in Brazoria, Galveston, and Matagorda Counties, Tex., for 180 days. Supporting shipper: Western Electric, D. L. Hansen, resident transportation manager, 1111 Woods Mill Road, Ballwin, MO 63011. Send protests to: District Supervisor John C. Redus, Bureau of Operations, Interstate Commerce Commission, Post Office Box 61212, Houston, TX 77061.

No. MC 136578 (Sub-No. 1 TA), filed April 12, 1972. Applicant: DONALD

TOBENER, doing business as GOLDEN GATE TRUCKING, Mailing: Post Office Box 2285, South San Francisco, CA 94080, Pier 42, San Francisco, CA. Applicant's representative: Eldon M. Johnson, 105 Montgomery Street, Suite 1100, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* in containers, except classes A and B explosives, uncrated household goods or petroleum and petroleum products in bulk, between points in the commercial zone of San Francisco, Calif., as determined by 49 CFR section 1048.101, restricted to shipments having an immediate prior or subsequent movement by a water carrier, and restricted to shipments that do not fall within the exemption of section 202 (c) (2) or exception section 203(B) (8) of the Interstate Commerce Act, for 180 days. Supporting shipper: American President Lines, International Building, 601 California Street, San Francisco, CA 94108. Send protests to: Claud W. Reeves, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 94102, San Francisco, CA 94102.

No. MC 136588 (Sub-No. 1 TA), filed April 17, 1972. Applicant: HUNTER TRANSFER & STORAGE CO., INC., 600 West Broad Street, Texarkana, TX 75501. Applicant's representative: Jack E. Trigg (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, material, and supplies, including tools* used in the construction and maintenance of telephone system and communications, between Bowie County and points in the counties of Bowie, Red River, Morris, and Cass, Tex., for 180 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: Western Electric Co., Inc., 1111 Woods Mill Road, Baldwin, MO 63011. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 136601 (Sub-No. 1 TA), filed April 14, 1972. Applicant: RAYMOND F. MAYS, doing business as RAYMOND F. MAYS & SON, Box 237, Blue Ridge, VA 24064. Applicant's representative: H. Cameron Rollins, 321 East Center Street, Kingsport, TN 37660. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick, cinder blocks, concrete blocks, clay products, shale and shale products, concrete and concrete products, and mortar mixes*, between Glasgow, Va., on the one hand, and, on the other, points in Maryland, North Carolina, Tennessee, Kentucky, and West Virginia, for 180 days. Supporting shipper: General Shale Products Corp., Johnson City, Tenn. 37601. Send protests to: Clatin M. Harman, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 215 Campbell Avenue SW., Roanoke, VA 24011.

No. MC 136623 (Sub-No. 1 TA), filed April 14, 1972. Applicant: ROBERT A. ADES, doing business as ADES TRANSPORT COMPANY, 8110 Southwest 72d Avenue, South Miami, FL 33143. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Baggage, trunks, and duffelbags*, from points in Massachusetts, Connecticut, New York, New Jersey, Rhode Island, Ohio, Michigan, Delaware, Pennsylvania, and Maryland, to summer camps located throughout New Hampshire, Maine, and Massachusetts; and return movement from destination points to origin points, for 180 days. Supporting shippers: Robin Hood for Boys, Center Ossipee, N.H.; Hiawatha for Girls, Kezar Falls, Maine; Kear-Sarge, Elkins, N.H.; and Camp Cedar, Casco, Maine 04015. Send protests to: District Supervisor, Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

No. MC 136629 TA, filed April 17, 1972. Applicant: LUNN-BRUNO TRUCKING, INC., Margaretville, N.Y. 12455. Applicant's representative: Julius Braun, Port Administration Building, Albany, N.Y. 12203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prefabricated houses*, in bundles with all component parts, from points in Delaware County, N.Y., to points in Connecticut , Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Vermont, and Virginia; (2) rough lumber, from points in Delaware County, N.Y., to Great Barrington, Mass.; (3) *dressed lumber*, from Great Barrington, Mass., to points in Delawer County, N.Y.; and (4) *wood chips*, from points in Delaware County, N.Y., to points in New Jersey, for 180 days. Supporting shippers: Alta Industries, Holcottville, N.Y.; Fairbairn Lumber Corp., Margaretville, N.Y. Send protests to: Joseph M. Barnini, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y. 12207.

No. MC 136631 TA, filed April 19, 1972. Applicant: LEO THOMAS SWINEY, Box 207, Owaneco, IL 62555. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dressed beeves and beef offal*, in mechanically refrigerated vehicles, from Taylorville, Ill., to points in Arkansas, Indiana, Iowa, Kentucky, Michigan, Missouri, Mississippi, Minnesota, Ohio, Tennessee, and Wisconsin, for the account of Joseph McCabe doing business as McCabe Packing Plant, Taylorvile, Ill. Supporting shipper: Joseph McCabe, doing business as McCabe Packing Plant, Box No. 9, Taylorville, IL 62568. Send protests to: Harold C. Jolliff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 325 West Abrams Street, Room 476, Springfield, IL 62704.

No. MC 136634 (Sub-No. 1 TA), filed April 18, 1972. Applicant: ROCKY FORD MOVING VANS, INC., 510 South Big Spring, Post Office Box 11, Midland, TX 79704. Applicant's representative: Howard Ford (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, material, and supplies, including tools* used in the construction and maintenance of telephone systems and communications, between (1) points in Ector County, Tex., and points in Ector, Gaines, Andrews, Winkler, Crane, Upton, Pecos, Terrell, Brewster, Presidio, Jeff Davis, Culberson, Reeves, Hudspeth, Ware, and Loving Counties, Tex.; and (2) points in Midland County, Tex., and points in Midland, Howard, Reagan, Glasscock, Crockett, Irion, Martin, and Sterling Counties, Tex., for 180 days. Supporting shipper: D. L. Hansen, Resident Transportation Manager, Southwestern Region of Western Electric Co., Inc., 1111 Woods Mill Road, Ballwin, Mo. 63011. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 136638 TA, filed April 18, 1972. Applicant: WILLIE HARRIS WOLFE, dong business as FRANK WOLDE'S BONDED WAREHOUSE, Post Office Box 473, 3102 Henry Street, Greenville, TX 75401. Applicant's representative: Ford Molen (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, material, and supplies, including tools* used in the construction and maintenance of telephone system and communications, between points in Hunt County, Tex., and points in the counties of Hunt, Lamar, Fannin, Collin, Delta, Hopkins, Rains, Rockwell, Grayson, Cooke, and Denton, Tex., for 180 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: Western Electric Co., 1111 Woods Mills Road, Ballwin, MO 63011. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 136640 TA, filed April 19, 1972. Applicant: R. ALLEN TRANSPORT, Post Office Box 321, Pocomoke City, MD 21851. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and agricultural commodities* exempt from economic regulation under section 203(b)(6) of the Act, when transported in mixed loads with cheese, from the plantsite of Cuba Cheese & Trading Co., Inc., at Cuba, N.Y., to Baltimore, Md., Carthage, Mo., Detroit, Mich., Rochester, Minn., Moonachie, N.J., Cleveland, Newberry, Solon, and Wapakoneta, Ohio, Clearfield, Pittsburg, Harrisburg, and Hershey, Pa., Chicago, Ill., Green Bay, Monroe, Plym-

outh, Spencer, and Spruce, Wis., and the New York, N.Y., commercial zone, as defined by the Commission, restricted to traffic originating at the plantsite of Cuba Cheese & Trading Co., Inc., at Cuba, N.Y., for 180 days. Supporting shipper: Cuba Cheese & Trading Co., Inc., 47 Genesee Street, Cuba, NY 14727. Send protests to: District Supervisor Robert D. Caldwell, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 136643 TA, filed April 20, 1972. Applicant: JENI TRUCKING, INC., 228–06, 147th Avenue, Rosedale, NY 11422. Applicant's representative: William D. Traub, 10 East 40th Street, New York, NY 10016. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, home appliances, and entertainment units*, such as televisions, radios, stereo equipment, between the facilities of Piser's Furniture Galleries, Inc., at White Plains, N.Y., on the one hand, and, on the other, retail customers of this shipper located in Fairfield, New Haven, and Litchfield Counties, Conn., and Bergen, Essex, Hudson, Passaic, Union, Morris, and Sussex Counties, N.J., for 180 days. Supporting shipper: Piser's Furniture Galleries, Inc., 111 South Kensico Avenue, White Plains, NY. Send protests to: Marvin Kampel, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

MOTOR CARRIERS OF PASSENGERS

No. MC 107450 (Sub-No. 2 TA), filed April 14, 1972. Applicant: METROPOLITAN COACH CORP., 1621 North 28th Street, Richmond, VA 23223. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Washington, DC. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in round-trip charter operations, beginning and ending at points within 15 miles of Richmond, Va., including Richmond, and extending to points in South Carolina, Georgia, and Florida, for 180 days. Supported by: There are approximately 10 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10–502 Federal Building, Richmond, Va. 23240.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-6983 Filed 5-5-72;8:52 am]

[Notice 56-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 3, 1972.

Application filed for temporary authority under section 210(a)(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-73698. By application filed April 28, 1972, WORLD FREIGHT CARRIERS CORP., 844 Union Street, West Springfield, MA 01089, seeks temporary authority to lease the operating rights of FILLMORE FREIGHT LINES, INC., 166 Northern Avenue, Boston, MA 02210, under section 210a(b). The transfer to WORLD FREIGHT CARRIERS CORP., of the operating rights of FILLMORE FREIGHT LINES, INC., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-6982 Filed 5-5-72;8:52 am]

CUMULATIVE LIST OF PARTS AFFECTED—MAY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during May.

3 CFR

	Page
PROCLAMATIONS:	
3044 (see EO 11669)	9013
4126	8857
4127	8937
4128	9009
4129	9011
4130	9199
EXECUTIVE ORDER:	
11669	9013
PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:	
Memorandum of April 19, 1972	9101

5 CFR

	Page
213	8939, 9015
PROPOSED RULES:	
2411	9138
2470	9141
2471	9141

6 CFR

	Page
101	8939
300	8941, 9120
PROPOSED RULES:	
401	8951

7 CFR

	Page
47	9201
68	8859
301	8860
722	9202
729	8860
811	8861
907	9015, 9204
908	9015
910	9204
916	8862
917	9205
953	9119
1205	9016
1421	8863, 9016
1890t	9206
PROPOSED RULES:	
52	9128
760	9224
910	9042
987	8952
1030	9128
1127	9042

9 CFR

	Page
11	9018
71	8864
76	8864, 9103
82	8943
92	9019

10 CFR

	Page
30	9207
150	9207
170	8943
PROPOSED RULES:	
140	9227

12 CFR

	Page
225	9022
528	8865
PROPOSED RULES:	
207	9243
220	9243
221	9243
225	9044
330	8888
721	8952

13 CFR

	Page
107	8865
121	9104

14 CFR

	Page
39	8866, 9209
71	8944, 9022, 9104, 9105, 9210
73	8867
75	9022
95	8944, 9023
97	9209
208	8947
214	8948
287	8948

LIST OF FEDERAL REGISTER PAGES AND DATES—MAY

Pages	*Date*
8853–8929	May 2
8931–9002	3
9003–9093	4
9095–9191	5
9193–9303	6

federal register

SATURDAY, MAY 6, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 89

PART II

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

■

INCOME TAX AND ESTATE AND GIFT TAXES

Notice of Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Deductions Allowable to Certain Membership Organizations

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by June 7, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.-601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by June 7, 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 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 conform the Income Tax Regulations (26 CFR Part 1) to section 121(b)(3) of the Tax Reform Act of 1969 (83 Stat. 540), relating to deductions incurred by certain membership organizations in transactions with members, such regulations are amended as follows:

PARAGRAPH 1. Section 1.162–1 is amended by revising subparagraph (2) of paragraph (b) and by adding a new subparagraph (6) at the end of amended paragraph (b). These amended and added provisions read as follows:

§ 1.162–1 Business expenses.

* * * * *

(b) *Cross references.* * * *

(2) For items not deductible, see sections 261–279, inclusive, and the regulations thereunder.

* * * * *

(6) For expenditures related to activities not engaged in for profit, see section 183 and the regulations thereunder.

PAR. 2. New §§ 1.277, 1.277–1, 1.277–2 and 1.277–3 are added immediately following § 1.276–1 and read as follows:

§ 1.277 Statutory provisions; deductions incurred by certain membership organizations in transactions with members.

SEC. 277. *Deductions incurred by certain membership organizations in transactions with members*—(a) *General rule.* In the case of a social club or other membership organization which is operated primarily to furnish services or goods to members and which is not exempt from taxation, deductions for the taxable year attributable to furnishing services, insurance, goods, or other items of value to members shall be allowed only to the extent of income derived during such year from members or transactions with members (including income derived during such year from institutes and trade shows which are primarily for the education of members). If for any taxable year such deductions exceed such income, the excess shall be treated as a deduction attributable to furnishing services, insurance, goods, or other items of value to members paid or incurred in the succeeding taxable year.

(b) *Exceptions.* Subsection (a) shall not apply to any organization—

(1) Which for the taxable year is subject to taxation under subchapter H or L,

(2) Which has made an election before October 9, 1969, under section 456(c) or which is affiliated with such an organization, or

(3) Which for each day of any taxable year is a national securities exchange subject to regulation under the Securities Exchange Act of 1934 or a contract market subject to regulations under the Commodity Exchange Act.

(Sec. 277 as added by sec. 121(b)(3), Tax Reform Act 1969 (83 Stat. 540))

§ 1.277–1 Allowable deductions incurred by certain membership organizations.

(a) *In general.* Section 277 provides that, in the case of a social club or other membership organization which is operated primarily to furnish services, facilities, or goods to members and which is not exempt from taxation, deductions for taxable years beginning after December 31, 1970, which are attributable to furnishing services, facilities, insurance, goods, or other items of value to members shall be allowed but only to the extent of the gross income derived during such year from members or from transactions with members. Therefore, section 277 imposes a limitation on the deductibility of items attributable to furnishing services, facilities, insurance, goods, or other items of value to members which would otherwise be allowable as items of deduction under chapter 1 of the Code (including amounts determined without regard to whether the activity giving rise to such amounts was engaged in for profit such as, for example, deductions for interest under section 163). In addition, section 277 allows such organizations a limited deduction for items attributable to furnishing services, facilities, insurance, goods, or other items of value to members which would be deductible under section 162, 167, or similar provisions of the Code if the activity giving rise to such amounts were engaged in for profit.

(b) *Definitions.* For purposes of this section—

(1) *Membership organization.* The phrase "social club or other membership organization which is operated primarily to furnish services, facilities, or goods to members" (hereinafter referred to as a "membership organization") means any taxable organization operated on a mutual, cooperative, or similar basis whose primary activity is providing members with services, facilities, or goods. For purposes of determining whether an organization is operated on a mutual, cooperative, or similar basis, it is immaterial whether the organization is incorporated or unincorporated or is regarded as a profit or a nonprofit corporation under applicable State law. An organization which is operated primarily to realize gains to be distributed among its shareholders in proportion to their capital investment or other equity interest is not a membership organization. Thus, an organization which is a regulated investment company as defined in section 851 is not a membership organization.

(2) *Member.* The term "member" means any person (including the dependents, as defined in § 1.152–1, and guests, as defined in § 1.512(a)–(3)(c)(2)(iii)(*b*), of such a person) who has the privilege by reason of payment of dues or otherwise to obtain from the membership organization services, facilities, insurance, goods, or other items of value on a mutual, cooperative, or similar basis whether or not such person owns stock in the organization or holds a certificate of membership and whether or not such a person is entitled to participate in the management of the organization.

(3) *Membership activity.* The term "membership activity" means the furnishing of services, facilities, insurance, goods, or other items of value to members on a mutual, cooperative, or similar basis.

(4) *Nonmembership activity.* Any activity of a membership organization other than the furnishing of services, facilities, insurance, goods, or other items of value to members on a mutual, cooperative, or similar basis is a "nonmembership activity."

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

Example (1). C is a nonexempt national organization composed of individuals interested in the preservation of natural resources. C's sole objective is the promotion of activities and projects which in its view, will preserve natural resources. C accomplishes its objective by advertising, by presenting its view to State and Federal elected officials, and by actively supporting candidates for public office who agree with its views. Although C and its members generally have the same opinions on conservation issues, C does not promote the specific interests of any of its members. C obtains the funds necessary to accomplish its objective by assessing each of its members annual dues of ten dollars. C is not furnishing its members services since the same services would be available to them even if they were not dues-paying members. Therefore, C is not a membership organization for purposes of section 277 and this section.

Example (2). M Corporation was established by B to own and operate a golf club for individuals living in homes built by B. B established M to facilitate the sale of houses he built. B anticipates he will earn a profit on his investment in M. M's facilities are open only to individuals who buy his homes (its "members") and their dependents and guests. Although M's "members" have a voice in the operational policies of the golf club, all decisions are subject to the approval of B, who is the sole shareholder of M. Under these circumstances, M is not providing its members with services, facilities, or goods on a mutual, cooperative, or similar basis and is not, therefore, a membership organization for purposes of section 277 and this section.

(d) *Income and deductions of a membership organization*—(1) *In general*—(i) *Net membership income.* If for any taxable year membership income (determined under subparagraph (2) of this paragraph) exceeds membership deductions (determined under subparagraph (6) of this paragraph), the taxable income of a membership organization for such taxable year is the excess of the organization's total gross income over its total deductions (determined under subparagraph (5) of this paragraph).

(ii) *Net membership loss.* If for any taxable year a membership organization has sustained a net membership loss (membership deductions exceed membership income), the taxable income of the organization for such taxable year is the excess of its nonmembership income (determined under subparagraph (4) of this paragraph) over its nonmembership deductions (determined under subparagraph (7) of this paragraph). A net membership loss is not deductible in the taxable year in which it is incurred, but may be carried over to succeeding taxable years in the manner provided by paragraph (e) of this section.

(2) *Membership income.* Membership income is the gross income received by a membership organization from its members in consideration for membership activities, including the interest income derived from members who pay their initial membership fee in installments. In addition, membership income also includes the gross income derived by a membership organization from institutes and trade shows conducted primarily for the education of members. The determination of whether an institute or trade show is conducted primarily for the education of members depends upon all the surrounding facts and circumstances, including such factors as the format of the exhibits, the manner in which the exhibitors are selected, the prices charged for space, and use of the exhibits as sales facilities.

(3) *Certain rental income.* For purposes of subparagraph (2) of this paragraph, the term "membership income" includes that part of the rental income received from a person in exchange for permitting him to operate a membership organization facility as determined in accordance with this subparagraph. That part of such rental income so included in "membership income" is equal to the product of the total rental income, multiplied by a fraction, the numerator of which is the gross income received from members by such operator with respect to such facility, and the denominator of which is the total gross income received by such operator with respect thereto. This subparagraph shall apply only if the operator of such facility maintains adequate records to determine what portion of the total gross income he receives is gross income from members attributable to furnishing services, facilities, insurance, goods, or other items of value to members. For example, if the operation of the dining facilities of a membership organization is leased to a concessionaire, and 95 percent of the total gross income for the use of the facilities is from members, then 95 percent of the amount paid by the concessionaire to the organization shall be treated as membership income. Similarly, if a membership organization leases its golf shop to a golf professional, and 97 percent of the total gross income for the use of such facility is from members, then 97 percent of the amount paid to the membership organization by the golf professional shall be treated as membership income.

(4) *Nonmembership income.* Nonmembership income is gross income exclusive of membership income. Thus, amounts of gross income paid to a membership organization by another membership organization or an exempt social club described in section 501(c)(7) for services, facilities, insurance, goods, or other items of value provided by such membership organization under a reciprocal arrangement with such other organization shall be treated as nonmembership income, even though both organizations are of like nature.

(5) *Total deductions.* For purposes of this section, the total deductions a membership organization may take into account are the sum of its membership deductions and its nonmembership deductions.

(6) *Membership deductions.* Membership deductions are the expenses, depreciation, and similar items of deduction attributable to membership activities. Such items of deduction may, however, be taken into account only to the extent that such items are otherwise allowable as deductions under chapter 1 of the Code (applied without regard to whether the activity given rise to such items was engaged in for profit).

(7) *Nonmembership deductions.* Nonmembership deductions are the expenses, depreciation, and similar items allowable as deductions under chapter 1 of the Code other than those items described in subparagraph (6) of this paragraph.

(8) *Allocation of deductions.* Items of deduction attributable in part to nonmembership activities and in part to membership activities shall be allocated between the two classes of activities on a reasonable and consistently applied basis.

(e) *Carryover of net membership loss*—(1) *In general.* If for any taxable year there is a net membership loss, such loss is treated as an item of deduction attributable to membership activities in the succeeding taxable year, but only if such loss is reported on the membership organization's original or amended tax return for the year in which it was sustained. Therefore, section 277 and this section do not impose a time limitation on the carryover to a succeeding taxable year of such loss.

(2) *Change of status.* If in any taxable year a membership organization ceases to operate as such an organization (as defined in paragraph (b)(1) of this section), a net membership loss sustained by such an organization in a prior taxable year may not be carried over to such a taxable year. For example, assume that a membership organization has a net membership loss in 1972 of $10,000. This loss may not be carried over to 1973, if on January 1, 1973, the organization ceases to operate as an organization whose primary activity is furnishing services, facilities, or goods to its members on a mutual, cooperative, or similar basis.

(3) *Net operating loss.* Any amount treated as a net membership loss under section 277 and this section shall not qualify as a net operating loss (as defined in section 172 (c)) and shall not be allowed as a net operating loss deduction in any year.

(f) *Determination of basis.* For purposes of this section, an adjustment which would otherwise be required to be made to the basis of property used for membership activities is not affected by the denial of all or part of a deduction which might be taken into account by an organization not subject to the provisions of section 277 and this section. For example, adjustment must be made for depreciation even though the organization is allowed only a portion of the depreciation allowance because membership deductions exceed membership income.

(g) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). C is a nonexempt social club organized to enrich the social and cultural life of retired persons. C's activities include the planning of social events for its members. C also owns and operates a rooming house and a home for retired persons. Accommodations in the rooming house are rented on a weekly basis to the general public with the expectation of making a profit from such rentals. Accommodations in the home for retired persons are available only to C's members. During 1972 C has the following items of gross income and deduction:

Membership income:		
Dues and assessments	$14,000	
Income from home for retired persons	15,000	
		$29,000
Deductions attributable to membership activities:		
Taxes on home for retired persons	1,600	
Depreciation on home for retired persons	2,000	
Maid service, food, linens, etc. for home for retired persons	15,000	
Social events for the benefit of C's members	7,400	
		26,000

Nonmembership income:		
Rooming house rentals		$20,000
Deductions attributable to nonmembership activities:		
Depreciation of rooming house	3,500	
Taxes on rooming house	2,500	
Maid service, linens, etc. for rooming house	11,000	
		17,000

Since C's membership income ($29,000) exceeds its membership deduction ($26,000), C's taxable income for 1972 is $6,000, the excess of its total gross income ($49,000) over its total deductions which may be taken into account ($43,000).

Example (2). E is a nonexempt membership organization engaged in the business of supplying electricity to rural areas on a cooperative basis. Under applicable State law and its articles of incorporation if a member lives in a rural area which becomes incorporated into a township, such member can continue to receive electricity from E on a fee basis but must transfer back to E his certificate of membership, and is no longer entitled to share in the profits of E on a patronage basis. E engages in the activity of supplying nonmembers with electricity in the expectation of making a profit. E's costs of supplying electricity to members and nonmembers is the same. For the calendar year 1972, E has gross income of $100,000 (consisting of $60,000 from members and $40,000 from nonmembers). E's deductions attributable to supplying electricity for 1972 are $85,000 (consisting of $58,000 attributable to supplying members and $27,000 attributable to supplying nonmembers). In addition, E has a $25,000 net membership loss carried over from 1971 which was reported on E's tax return for 1971. E computes its taxable income as follows:

Membership income		$60,000
Deductions attributable to membership activities:		
For 1972	$58,000	
Carryover from 1971	25,000	
		83,000
Nonmembership income		40,000
Deductions attributable to nonmembership activities		27,000

Since E's membership deductions ($83,000) exceeds its membership income ($60,000), E's taxable income is the excess of its nonmembership income ($40,000) over its nonmembership deductions which may be taken into account ($27,000), or $13,000. In addition, E has sustained a net membership loss of $23,000 ($83,000 of deductions less $60,000 of income) which may be carried over to 1973, if E reports such loss on its tax return for 1972.

§ 1.277–2 Exceptions.

Section 1.277–1 shall not apply to any organization—

(a) Which for the taxable year is subject to taxation under the subchapter H or L, chapter 1 of the Code,

(b) Which has made an election before October 9, 1969, under section 456(c) or which is affiliated with such an organization, or

(c) Which for each day of any taxable year is a national securities exchange subject to regulations under the Securities Exchange Act of 1934 or a contract market subject to regulations under the Commodity Exchange Act.

§ 1.277–3 Interrelationship with cooperatives subject to the rules contained in subchapter T, chapter 1 of the Code. [Reserved]

[FR Doc.72-6866 Filed 5-5-72;8:45 am]

[26 CFR Part 1]

INCOME TAX

Reserves for Losses on Loans of Banks and Small Business Investment Companies, Etc.

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by June 7, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by June 7, 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 the Federal Register. The proposed regulations are to be issued under the authority contained in sections 585(b)(4) and 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 83 Stat. 618; 26 U.S.C. 585(b)(4), 7805).

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

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 166 and 172 of the Internal Revenue Code of 1954 to the amendments made by section 431 (b) and (c) of the Tax Reform Act of 1969 (Public Law 91–172, 83 Stat. 619) and to provide regulations under sections 585 and 586 of the Code as added by section 431(a) of such Act (83 Stat. 616), the Income Tax Regulations are amended as follows:

PARAGRAPH 1. Section 1.166 is amended by redesignating paragraph (g) as paragraph (h), by adding new paragraph (g) immediately after paragraph (f) thereof, by adding subparagraph (4) to paragraph (h) immediately after subparagraph (3) thereof, and by revising the historical note. As amended, these redesignated, added, and revised provisions read as follows:

§ 1.166 Statutory provisions; bad debts.

SEC. 166. *Bad debts.* * * *

(g) *Reserve for certain guaranteed debt obligations*—(1) *Allowance of deduction.* In the case of a taxpayer who is a dealer in property, in lieu of any deduction under subsection (a), there shall be allowed (in the discretion of the Secretary or his delegate) for any taxable year ending after October 21, 1965, a deduction—

(A) For a reasonable addition to a reserve for bad debts which may arise out of his liability as a guarantor, endorser, or indemnitor of debt obligations arising out of the sale by him of real property or tangible personal property (including related services) in the ordinary course of his trade or business; and

(B) For the amount of any reduction in the suspense account required by paragraph (4)(B)(i).

(2) *Deduction disallowed in other cases.* Except as provided in paragraph (1), no deduction shall be allowed to a taxpayer for any addition to a reserve for bad debts which may arise out of his liability as guarantor, endorser, or indemnitor of debt obligations.

(3) *Opening balance.* The opening balance of a reserve described in paragraph (1)(A) for the first taxable year ending after October 21, 1965, for which a taxpayer maintains such reserve shall, under regulations prescribed by the Secretary or his delegate, be determined as if the taxpayer had maintained such reserve for the preceding taxable years.

(4) *Suspense account*—(A) *Requirement.* Except as provided by subparagraph (C), each taxpayer who maintains a reserve described in paragraph (1)(A) shall, for purposes of this subsection and section 81, establish and maintain a suspense account. The initial balance of such account shall be equal to the opening balance described in paragraph (3).

(B) *Adjustments.* At the close of each taxable year the suspense account shall be—

(i) Reduced by the excess of the suspense account at the beginning of the year over the reserve described in paragraph (1)(A) (after making the addition for such year provided in such paragraph), or

(ii) Increased (but not to an amount greater than the initial balance of the suspense account) by the excess of the reserve described in paragraph (1)(A) (after making the addition for such year provided in such paragraph) over the suspense account at the beginning of such year.

(C) *Limitations.* Subparagraphs (A) and (B) shall not apply in the case of the taxpayer who maintained for his last taxable year ending before October 22, 1965, a reserve for bad debts under subsection (c) which included debt obligations described in paragraph (1)(A).

(D) *Section 381 acquisitions.* The application of this paragraph in any acquisition to which section 381(a) applies shall be determined under regulations prescribed by the Secretary or his delegate.

(h) *Cross references.* (1) for disallowance of deduction for worthlessness of debts owed by political parties and similar organizations, see section 271.

(2) For special rule for banks with respect to worthless securities, see section 582.

(3) For special rule for bad debt reserves of certain mutual savings banks, domestic building and loan associations, and cooperative banks, see section 593.

(4) For special rule for bad debts reserves of banks, small business investment companies, etc., see sections 585 and 586.

(Sec. 166 as amended by sec. 8, Technical Amendments Act of 1958 (72 Stat. 1608); by

sec. 1(a), Act of November 2, 1966 (Public Law 89-722, 80 Stat. 1151); sec. 431(c), Tax Reform Act 1969 (83 Stat. 619))

PAR. 2. Paragraph (d) of § 1.166-4 is amended to read as follows:

§ 1.166-4 Reserve for bad debts.

* * * * *

(d) *Special rules applicable to financial institutions.*—(1) Banks: For special rules for the addition to the bad debt reserves of certain banks, see §§ 1.585-1 through 1.585-3.

(2) For special rules for the addition to the bad debt reserves of small business investment companies and business development corporations, see §§ 1.586-1 and 1.586-2.

(3) For special rules for the addition to the bad debts reserves of certain mutual savings banks, domestic building and loan associations, and cooperative banks, see §§ 1.593-1 through 1.593-11.

PAR. 3. Section 1.172 is amended by revising subparagraphs (A)(i) and (B) of paragraph (1) of subsection (b), by adding new subparagraphs (E), (F), and (G) at the end of such paragraph, by adding new subparagraphs (E) and (F) at the end of paragraph (3) of such subsection, and by revising the historical note. As amended, these revised and added provisions read as follows:

§ 1.172 Statutory provisions; net operating loss deduction.

SEC. 172. *Net operating loss deduction.* * * *

(b) *Net operating loss carrybacks and carryovers.*—(1) *Years to which loss may be carried.* (A)(i) Except as provided in clause (ii) and in subparagraphs (D), (E), (F), and (G), a net operating loss for any taxable year ending after December 31, 1957, shall be a net operating loss carryback to each of the 3 taxable years preceding the taxable year of such loss.

* * * * *

(B) Except as provided in subparagraphs (C), (D), and (E), a net operating loss for any taxable year ending after December 31, 1955, shall be a net operating loss carryover to each of the 5 taxable years following the taxable year of such loss.

* * * * *

(E) In the case of a taxpayer which is a domestic corporation qualifying under paragraph (3)(E), a net operating loss for any taxable year ending after December 31, 1966, and prior to January 1, 1969, shall be a net operating loss carryback to each of the 5 taxable years preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 3 taxable years following the taxable year of such loss.

(F) In the case of a financial institution to which section 585, 586, or 593 applies, a net operating loss for any taxable year beginning after December 31, 1975, shall be a net operating loss carryback to each of the 10 taxable years preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 5 taxable years following the taxable year of such loss.

(G) In the case of a Bank for Cooperatives (organized and chartered pursuant to section 2 of the Farm Credit Act of 1933 (12 U.S.C. 1134)), a net operating loss for any taxable year beginning after December 31, 1969, shall be a net operating loss carryback to each of the 10 taxable years preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 5 taxable years following the taxable year of such loss.

* * * * *

(3) *Special rules.* * * *

(E) Paragraph (1)(E) shall apply only if—

(i) The amount of the taxpayer's net operating loss for the taxable year exceeds the sum of the taxable income (computed as provided in paragraph (2)) for each of the 3 preceding taxable years of the taxpayer,

(ii) The amount of the taxpayer's net operating loss for the taxable year, increased by the amount of the taxpayer's net operating loss for the preceding taxable year or decreased by the amount of the taxpayer's taxable income for such preceding year, exceeds 15 percent of the sum of the money and other property (in an amount equal to its adjusted basis for determining gain) of the taxpayer, determined as of the close of the taxable year of such loss without regard to any refund or credit of any overpayment of tax to which the taxpayer may be entitled under paragraph (1)(E),

(iii) The aggregate unadjusted basis of property described in section 1231(b)(1) (without regard to any holding period therein provided), the basis for which was determined under section 1012, which was acquired by the taxpayer during the period beginning with the first day of its fifth taxable year preceding the taxable year of such loss and ending with the last day of the taxable year of such loss, equals or exceeds the aggregate adjusted basis of property of such description of the taxpayer on, and determined as of, the first day of the fifth preceding taxable year, and

(iv) The taxpayer derived 50 percent or more of its gross receipts (other than gross receipts derived from the conduct of a lending or finance business), for the taxable year of such loss and for each of its 5 preceding taxable years, from the manufacture and production of units within the same single class of products, and three or fewer United States persons (including as one person an affiliated group as defined in section 1504 (a)) other than the taxpayer manufactured and produced in the United States, in the calendar year ending in or with the taxable year of such loss, 85 percent or more of the total number of all units within such class of products manufactured and produced in the United States in such calendar year.

(F) For purposes of subparagraph (E)(iv)—

(i) The term "class of products" means any of the categories designated and numbered as a "class of products" in the 1963 Census of Manufacturers compiled and published by the Secretary of Commerce under title 13 of the United States Code, and

(ii) Information compiled or published by the Secretary of Commerce, as part of or in connection with the Statistical Abstract of the United States or the census of manufacturers, regarding the number of units of a class of products manufactured and produced in the United States during a calendar year, or, if such information should not be available, information so compiled or published regarding the number of such units shipped or sold by such manufacturers during a calendar year, shall constitute prima facie evidence of the total number of all units of such class of products manufactured and produced in the United States in such calendar year.

* * * * *

(Sec. 172 as amended by secs. 14 and 64(b) Technical Amendments Act 1958 (72 Stat. 1611, 1656); sec. 203, Small Business Tax Revision Act of 1958 (72 Stat. 1678); Act of Sept. 27, 1962 (Public Law 87-710, 76 Stat. 648); sec. 7(f), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 829); sec. 317, Trade Expansion Act 1962 (76 Stat. 889); secs. 210 and 234(b)(5), Rev. Act 1964 (78 Stat. 47, 115); sec. 3(a), Act of December 27, 1967 (Public Law 90-225, 81 Stat. 732); sec. 431(b), Tax Reform Act 1969 (83 Stat. 619))

PAR. 4. Section 1.172-4 is amended by revising subdivision (ii) of subparagraph (1) of paragraph (a) and by adding new subdivisions (viii) and (ix) at the end of such subparagraph. As amended, these revised and added provisions read as follows:

§ 1.172-4 Net operating loss carrybacks and net operating loss carryovers.

(a) *General provisions*—(1) *Years to which loss may be carried.* * * *

(ii) *Loss for taxable years ending after December 31, 1957.* Except as provided in subdivisions (iii), (iv), (v), (viii), and (ix) of this subparagraph, and section 170(b)(1)(E), a net operating loss sustained in a taxable year ending after December 31, 1957, shall be carried back to the 3 preceding taxable years and carried over to the 5 succeeding taxable years.

* * * * *

(viii) *Loss of a financial institution.* A net operating loss sustained in a taxable year beginning after December 31, 1975, by a taxpayer to which section 585, 586, or 593 applies shall be carried back to the 10 preceding taxable years and shall be carried over to the 5 succeeding taxable years.

(ix) *Loss of a Bank for Cooperatives.* A net operating loss sustained in a taxable year beginning after December 31, 1969, by a taxpayer which is a Bank for Cooperatives (organized and chartered pursuant to section 2 of the Farm Credit Act of 1933 (12 U.S.C. 1134)) shall be carried back to the 10 preceding taxable years and shall be carried over to the 5 succeeding taxable years.

* * * * *

PAR. 5. The following new sections are added immediately after § 1.584-6:

§ 1.585 Statutory provisions; reserves for losses on loans of banks.

SEC. 585. *Reserves for losses on loans of banks.*—(a) *Institutions to which section applies.* This section shall apply to the following financial institutions:

(1) Any bank (as defined in section 581) other than an organization to which section 593 applies, and

(2) Any corporation to which paragraph (1) would apply except for the fact that it is a foreign corporation, and in the case of any such foreign corporation this section shall apply only with respect to loans outstanding the interest on which is effectively connected with the conduct of a banking business within the United States.

(b) *Addition to reserves for bad debts*—(1) *General rule.* For purposes of section 166(c), the reasonable addition to the reserve for bad debts of any financial institution to which this section applies shall be an amount determined by the taxpayer which shall not exceed the greater of—

(A) For taxable years beginning before 1988 the addition to the reserve for losses on loans determined under the percentage method as provided in paragraph (2), or

(B) The addition to the reserve for losses on loans determined under the experience method as provided in paragraph (3).

(2) *Percentage method.* The amount determined under this paragraph for a taxable year shall be the amount necessary to increase the balance of the reserve for losses on loans (at the close of the taxable year) to the allowable percentage of eligible loans outstanding at such time, except that—

(A) If the reserve for losses on loans at the close of the base year is less than the allowable percentage of eligible loans outstanding at such time, the amount determined under this paragraph with respect to the difference shall not exceed one-fifth of such difference.

(B) If the reserve for losses on loans at the close of the base year is not less than the allowable percentage of eligible loans outstanding at such time, the amount determined under this paragraph shall be the amount necessary to increase the balance of the reserve at the close of the taxable year to (i) the allowable percentage of eligible loans outstanding at such time, or (ii) the balance of the reserve at the close of the base year, whichever is greater, but if the amount of eligible loans outstanding at the close of the taxable year is less than the amount of such loans outstanding at the close of the base year, the amount determined under clause (ii) shall be the amount necessary to increase the balance of the reserve at the close of the taxable year to the amount which bears the same ratio to eligible loans outstanding at the close of the taxable year as the balance of the reserve at the close of the base year bears to the amount of eligible loans outstanding at the close of the base year.

For purposes of this paragraph, the term "allowable percentage" means 1.8 percent for taxable years beginning before 1976; 1.2 percent for taxable years beginning after 1975 but before 1982; and 0.6 percent for taxable years beginning after 1981. The amount determined under this paragraph shall not exceed 0.6 percent of eligible loans outstanding at the close of the taxable year or an amount sufficient to increase the reserve for losses on loans to 0.6 percent of eligible loans outstanding at the close of the taxable year, whichever is greater. For purposes of this paragraph, the term "base year" means: For taxable years beginning before 1976, the last taxable year beginning on or before July 11, 1969, for taxable years beginning after 1975 but before 1982, the last taxable year beginning before 1976, and for taxable years beginning after 1981, the last taxable year beginning before 1982; except that for purposes of subparagraph (A) such term means the last taxable year before the most recent adoption of the percentage method, if later.

(3) *Experience method.* The amount determined under this paragraph for a taxable year shall be the amount necessary to increase the balance of the reserve for losses on loans (at the close of the taxable year) to the greater of—

(A) The amount which bears the same ratio to loans outstanding at the close of the taxable year as (i) the total bad debts sustained during the taxable year and the 5 preceding taxable years (or, with the approval of the Secretary or his delegate, a shorter period), adjusted for recoveries of bad debts during such period, bears to (ii) the sum of the loans outstanding at the close of such 6 or fewer taxable years, or

(B) The lower of—

(i) The balance of the reserve at the close of the base year, or

(ii) If the amount of loans outstanding at the close of the taxable year is less than the amount of loans outstanding at the close of the base year, the amount which bears the same ratio to loans outstanding at the close of the taxable year as the balance of the reserve at the close of the base year bears to the amount of loans outstanding at the close of the base year.

For purposes of this paragraph, the base year shall be the last taxable year before the most recent adoption of the experience method, except that for taxable years beginning after 1987 the base year shall be the last taxable year beginning before 1988.

(4) *Regulations; definition of eligible loan, etc.* The Secretary or his delegate shall define the terms "loan" and "eligible loan" and prescribe such regulations as may be necessary to carry out the purposes of this section; except that the term "eligible loan" shall not include—

(A) A loan to a bank (as defined in section 581),

(B) A loan to a domestic branch of a foreign corporation to which subsection (a) (2) applies,

(C) A loan secured by a deposit (i) in the lending bank, or (ii) in an institution described in subparagraph (A) or (B) if the lending bank has control over withdrawal of such deposit,

(D) A loan to or guaranteed by the United States, a possession or instrumentality thereof, or a State or a political subdivision thereof,

(E) A loan evidenced by a security as defined in section 165(g)(2)(C),

(F) A loan of Federal funds, and

(G) Commercial paper, including short-term promissory notes which may be purchased on the open market.

[Sec. 585 as added by sec. 431(a), Tax Reform Act 1969 (83 Stat. 616)]

§ 1.585–1 Reserve for losses on loans of banks.

(a) *General rule.* As an alternative to a deduction from gross income under section 166(a) for specific debts which become worthless in whole or in part, a financial institution to which section 585 and this section apply shall be allowed a deduction under section 166(c) for a reasonable addition to a reserve for bad debts provided such financial institution has adopted or adopts the reserve method of treating bad debts in accordance with paragraph (b) of § 1.166–1. In the case of such a taxpayer the amount of the reasonable addition to such reserve for a taxable year beginning after July 11, 1969, shall be an amount determined by the taxpayer which does not exceed the amount computed under § 1.585–2. A financial institution to which section 585 and this section apply which adopts the reserve method is not entitled to charge off any bad debts pursuant to section 166(a) with respect to a loan (as defined in § 1.585–2(e)(2)). Except as provided by § 1.585–3, the reserve for bad debts of a financial institution to which section 585 and this section apply shall be established and maintained in the same manner as is provided by section 166(c) and the regulations thereunder with respect to reserves for bad debts. Except as provided by this section, no deduction is allowable for an addition to a reserve for bad debts of a financial institution to which section 585 and this section apply. For rules relating to deduction with respect to debts which are not loans (as defined in § 1.585–2(e)(2)), see section 166(a) and the regulations thereunder. For the definition of certain terms, see paragraph (e) of § 1.585–2. For rules relating to mergers and consolidations, see § 1.585–4.

(b) *Application of section.* Section 585 and this section apply only to the following financial institutions—

(1) Any bank (as defined in section 581 and the regulations thereunder) other than a mutual savings bank, domestic building and loan association, or cooperative bank, to which section 593 applies, and

(2) Any corporation to which subparagraph (1) of this paragraph would apply except for the fact that it is a foreign corporation, and in the case of any such foreign corporation, the rules provided by section 585, this section, §§ 1.585–2, and 1.585–3 apply only with respect to loans outstanding the interest on which is effectively connected with the conduct of a banking business within the United States.

§ 1.585–2 Addition to reserve.

(a) *General rule.* For taxable years beginning before January 1, 1988, the maximum reasonable addition to the reserve for losses on loans is the amount determined under the percentage method provided by paragraph (b) of this section or the experience method provided by paragraph (c) of this section, whichever is greater. For purposes of this section, a taxpayer shall be considered to have adopted the percentage method provided by paragraph (b) of this section for a taxable year if, for such year the deduction determined under section 166(c) and 585 is greater than the amount determined under the experience method provided by paragraph (c) of this section. For taxable years beginning after December 31, 1987, the maximum reasonable addition to the reserve for losses on loans is the amount determined under the experience method provided by paragraph (c) of this section. Neither the percentage method nor the experience method provided by paragraphs (b) and (c), respectively, of this section is a method of accounting within the meaning of § 1.446–1(e).

(b) *Percentage method*—(1) *In general.* Except as limited under subparagraph (2) of this paragraph, the maximum reasonable addition to the reserve for losses on loans under the percentage method for a taxable year is the amount determined under subdivision (i), (ii), or (iii) of this subparagraph, whichever is applicable. For purposes of this paragraph, the term "allowable percentage" means 1.8 percent for taxable years beginning before 1976; 1.2 percent for taxable years beginning after 1975 but before 1982; and 0.6 percent for taxable years beginning after 1981 and before 1988. This paragraph does not apply for taxable years beginning after 1987.

(i) *Reserve less than allowable percentage of eligible loans.* (a) If the reserve for losses on loans as of the close of the base year is less than the allowable percentage of eligible loans outstanding at such time, the amount determined under this subdivision is the amount necessary to increase the balance of the reserve for losses on loans as of the close of the taxable year to an amount equal to the allowable percentage of eligible loans outstanding at such time, except that the amount de-

termined with respect to the difference for any taxable year shall not exceed one-fifth of the reserve deficiency. Where a taxpayer has recoveries of bad debts for a taxable year which exceed the bad debts for that year, the taxpayer is not required to reduce its otherwise permissible current annual additions by the amount of the net recovery if the limitations of this paragraph are satisfied. A reasonable addition attributable to an increase in eligible loans outstanding at the close of a taxable year may be made only for the portion of such increase which does not exceed the excess of eligible loans outstanding at the close of the taxable year over the sum of the amount of such loans outstanding at the close of the base year and the amount of previous increases in such loans for which an addition was made in taxable years ending after the close of the base year. For purposes of this subdivision, the order in which the factors which make up the annual reserve addition shall be claimed is:

(*1*) Net bad debts charged to the reserve;

(*2*) An amount equal to one-fifth of the reserve deficiency; and

(*3*) An amount attributable to an increase in the amount of eligible loans outstanding.

For purposes of this section, the term "reserve deficiency" means the excess of the allowable percentage for the base year multiplied by the eligible loans outstanding at the close of the base year over the reserve for losses on loans as of the close of the base year.

(*b*) For its first taxable year, a newly organized financial institution to which § 1.585 and this section apply shall be considered to have no reserve deficiency. For example, a new financial institution would compute its annual reserve addition by including in such addition an amount not in excess of the sum of (*1*) the amount of its net bad debts charged to the reserve for the taxable year and (*2*) the allowable percentage of the increase in its eligible loans outstanding at the close of the taxable year over the amount of its loans outstanding (zero) at the end of the year preceding its first taxable year. Such amount would be subject to the 0.6 percent limitations provided in subparagraph (2) of this paragraph.

(*c*) The application of the rules provided by this subdivision may be illustrated by the following example:

Example. The X Bank is a commercial bank which has a calendar year as its taxable year. X adopted the reserve method of accounting for bad debts in 1950. On December 31, 1969, X has $1,000,000 of outstanding eligible loans and a balance of $13,000 in its reserve for losses on loans. The base year is 1969 and, consequently, the reserve deficiency is $5,000 ((1.8% × $1,000,000) − $13,000).

(i) During 1970, X has net bad debts of $1,000 charged to the reserve for losses on loans. On December 31, 1970, X has $1,050,000 of outstanding eligible loans. The maximum reasonable addition under the percentage method is $2,900 which consists of the $1,000 in net bad debts charged to the reserve for losses on loans, $1,000 of reserve deficiency (1/5 × $5,000), and $900 attributable to the increase in the balance of eligible loans (1.8% × ($1,050,000 − $1,000,000)). Assuming that X claims a deduction for bad debts of $2,900 for the year, the balance of the reserve for losses on loans as of December 31, 1970, is $14,900 ($13,000 − $1,000 + $2,900).

(ii) During 1971, X has net bad debts of $1,000 charged to the reserve for losses on loans. On December 31, 1971, X has $800,000 of outstanding eligible loans. The allowable percentage of eligible loans is $14,400 (1.8% × $800,000). The maximum reasonable addition under the percentage method is $500 which consists of a portion of the net bad debts charged to the reserve for losses on loans in 1971. Assuming that X claims a deduction for bad debts of $500 for the year, the balance of the reserve for losses on loans as of December 31, 1971, is $14,400 ($14,900 − $1,000 + $500).

(iii) During 1972, X has net bad debts of $600 charged to the reserve for losses on loans. On December 31, 1972, X has $850,000 of outstanding eligible loans. The allowable percentage of eligible loans is $15,300 (1.8% × $850,000). The maximum reasonable addition under the percentage method is $1,500 which consists of $500 of net bad debts charged to the reserve for losses on loans in 1971, $600 of net bad debts charged to the reserve for losses on loans in 1972, and $400 of reserve deficiency. Assuming that X claims a deduction for bad debts of $1,500 for the year, the balance of the reserve for losses on loans as of December 31, 1972, is $15,300 ($14,400 − $600 + $1,500).

(iv) During 1973, X did not have any net bad debts charged to the reserve for losses on loans. On December 31, 1973, X has $1,000,000 of outstanding eligible loans. The maximum reasonable addition under the percentage method is $1,000 which consists entirely of the $1,000 reserve deficiency (⅕ × $5,000) for 1973. The unused portion of the reserve deficiency from 1972 may not be used in 1973 because not more than one-fifth of the reserve deficiency is permitted as an addition in any taxable year. Although outstanding eligible loans increased from $850,000 in 1972 to $1,000,000 in 1973, no addition is permitted with respect to the increase because the amount of eligible loans outstanding at the close of 1973 ($1,000,000) does not exceed the sum of the amount of such loans at the close of the base year and the amount of previous increases in such loans for which an addition was made in taxable years ending after the close of the base year ($50,000 loan increase in 1970).

(ii) *Reserve greater than allowable percentage of eligible loans and eligible loans have not declined.* If the reserve for losses on loans as of the close of the base year is equal to or greater than the allowable percentage of the eligible loans outstanding at such time and if the amount of eligible loans outstanding at the close of the taxable year is equal to or greater than the amount of eligible loans outstanding at the close of the base year, the amount determined under this subdivision is the amount necessary to increase the reserve to the greater of (*a*) the allowable percentage of eligible loans outstanding at the close of the taxable year, or (*b*) the balance of the reserve as of the close of the base year. The application of the rule provided by this subdivision may be illustrated by the following example:

Example. The M Bank is a commercial bank which has a calendar year as its taxable year. M adopted the reserve method of accounting for bad debts in 1950. On December 31, 1969, M has $1,000,000 of outstanding eligible loans and a balance of $20,000 in its reserve for losses on loans.

(i) During 1970, M has net bad debts of $1,000 charged to the reserve for losses on loans. On December 31, 1970, M has $1,100,000 of outstanding eligible loans. The allowable percentage of eligible loans is $19,800 (1.8% × $1,100,000). The maximum reasonable addition under the percentage method is $1,000 which is the amount sufficient to increase the balance of the reserve as of the close of the taxable year to the balance of the reserve as of the close of the 1969 base year ($20,000). Assuming that M claims a deduction for bad debts of $1,000 for the year, the balance of the reserve for losses on loans as of December 31, 1970, is $20,000 ($20,000 − $1,000 + $1,000).

(ii) During 1971, M has net bad debts of $1,000 charged to the reserve for losses on loans. On December 31, 1970, M has $1,300,000 of outstanding eligible loans. The allowable percentage of eligible loans is $23,400 (1.8% × $1,300,000). The maximum permissible deduction under the percentage method is $4,400 which is the amount sufficient to increase the balance of the reserve to the allowable percentage of eligible loans outstanding at the close of the taxable year. Assuming that M claims a deduction for bad debts of $4,400 for the year the balance of the reserve for losses on loans as of December 31, 1971, is $23,400 ($20,000 − $1,000 + $4,400).

(iii) During 1972, M has net bad debts of $1,000 charged to the reserve for losses on loans. On December 31, 1972, M has $1,200,000 of outstanding eligible loans. The allowable percentage of eligible loans is $21,600 (1.8% x $1,200,000). No reasonable addition may be made under the percentage method because the reserve for losses on loans is greater than the allowable percentage of eligible loans outstanding at the close of the taxable year ($21,600) and the balance of the reserve as of the close of the base year ($20,000). Assuming that no amount is added under the experience method provided by paragraph (c) of this section, the balance of the reserve for losses on loans as of December 31, 1972, is $22,400 ($23,400 − $1,000).

(iv) During 1973, M has net bad debts of $1,000 charged to the reserve for losses on loans. On December 31, 1973, M has $1,200,000 of outstanding eligible loans. The allowable percentage of eligible loans is $21,600 (1.8% × $1,200,000). The maximum permissible deduction under the percentage method is $200 which is the amount sufficient to increase the reserve for losses on loans to the allowable percentage of eligible loans outstanding at the close of the taxable year. Assuming that M claims a deduction for bad debts of $200 for the year, the balance of the reserve for losses on loans as of December 31, 1973, is $21,600 ($22,400 − $1,000 + $200).

(iii) *Reserve greater than allowable percentage and eligible loans have declined.* If the reserve for losses on loans as of the close of the base year is equal to or greater than the allowable percentage of eligible loans outstanding at such time and if the amount of eligible loans outstanding at the close of the taxable year is less than the amount of eligible loans outstanding at the close of the base year, the amount determined under this subdivision is the amount necessary to increase the balance of the reserve to the amount which bears the same ratio to at the close of the taxable year as the balance of the reserve as of the close of the base year bears to the amount of eligible loans outstanding at the close of the base year. The application of the

rule provided by this subdivision may be illustrated by the following example:

Example. The N Bank is a commercial bank which has a calendar year as its taxable year. N adopted the reserve method of accounting for bad debts in 1950. On December 31, 1969, N has $1 million of outstanding eligible loans and a balance of $20,000 in its reserve for losses on loans. During 1970, N has net bad debts of $3,000 charged to the reserve for losses on loans. On December 31, 1970, N has $900,000 of outstanding eligible loans. The maximum reasonable addition under the percentage method is $1,000, which is the amount necessary to increase the balance of reesrve to the amount ($18,000) which bears the same ratio to eligible loans outstanding at the close of the taxable year ($900,000) as the balance of the reserve as of the close of the base year ($20,000) bears to the amount of the eligible loans outstanding at the close of the base year ($1 million). Assuming that N claims a deduction for bad debts of $1,000 for the year, the balance of the reserve for losses on loans as of December 31, 1970, is $18,000 ($20,000−$3,000 +$1,000).

(2) *Limitations.* Notwithstanding any other provision of this paragraph, the maximum reasonable addition to the reserve for losses on loans under the percentage method shall not exceed the greater of—

(i) Six-tenths of 1 percent of the eligible loans outstanding at the close of the taxable year, or

(ii) An amount sufficient to increase the reserve for losses on loans at the close of the taxable year to six-tenths of 1 percent of the eligible loans outstanding at the close of the taxable year.

The application of the rules provided by this subparagraph may be illustrated by the following example:

Example. The Y bank begins business as a commercial bank on July 1, 1974. It adopts the calendar year as its taxable year and the reserve method of accounting for bad debts.

(i) During 1974, Y has net bad debts of $1,000. On December 31, 1974, the bank has $1 million in outstanding eligible loans. Under subparagraph (1)(i)(*b*) of this paragraph, because Y is a new bank, there is no reserve deficiency. Except for the limitations of this subparagraph, the maximum amount which could be added to the reserve for losses on loans would be the amount of the net bad debts charged to the reserve for losses on loans ($1,000) plus the allowable percentage of its eligible loans outstanding at the close of the taxable year, $18,000. ($18,000=1.8%×$1,000,000). However, because of the limitations of this subparagraph, the maximum amount which may be added to the reserve for losses on loans is $7,000, the amount sufficient to increase the reserve for losses on loans to 0.6 percent of the eligible loans outstanding at the close of the taxable year. Assuming that Y claims a deduction for bad debts of $7,000 for the year, the balance of the reserve for losses on loans as of December 31, 1974, is $6,000 ($7,000−$1,000). The $7,000 would consist of the $1,000 in net bad debts and $6,000 attributable to the increase in the balance of eligible loans.

(ii) During 1975, Y has net bad debts charged to the reserve for losses on loans of $1,000. On December 31, 1975, Y has $1 million in outstanding eligible loans. There is no reserve deficiency. Consequently, the maximum amount which may be added to the reserve for losses on loans is $6,000 which is an amount equal to 0.6 percent of the eligible loans outstanding at the close of the taxable year. This amount consists of net bad debts of $1,000 and the portion of the increase in eligible loans in 1974 of $5,000 with respect to which no deduction was allowable for 1974. Assuming that Y claims a deduction for bad debts of $6,000 for the year, the balance of the reserve for losses on loans as of December 31, 1975, is $11,000 [$6,000−$1,000+$6,000].

(iii) During 1976, Y has net bad debts charged to the reserve for losses on loans of $1,000. On December 31, 1976, Y has $1 million in outstanding eligible loans. At the close of 1975 (Y's base year for 1976), the amount of eligible loans outstanding was also $1 million. Consequently, there is a reserve deficiency of $1,000 [(1.2%×$1,000,000) −$11,000]. The maximum amount which may be added to the reserve for losses on loans under paragraph (b)(1)(i) of this section is $1,200. Because that amount is less than 0.6 percent of the eligible loans outstanding at the close of the taxable year ($6,000=0.6×$1,000,000), the maximum amount which may be added to the reserve for losses on loans for 1976 is limited to $1,200. This amount consists of the net bad debts charged to the reserve for losses on loans for the year ($1,000) and one-fifth of the reserve deficiency ($200=⅕×$1,000).

(c) *Experience method*—(1) *In general.* The amount determined under this paragraph for a taxable year is the amount necessary to increase the balance of the reserve for losses on loans (as of the close of the taxable year) to the greater of—

(i) The amount which bears the same ratio to loans outstanding at the close of the taxable year as (*a*) the total bad debts sustained during the taxable year and the 5 preceding taxable years (or, with the approval of the Commissioner, a shorter period), adjusted for recoveries of bad debts during such period, bears to (*b*) the sum of the loans outstanding at the close of such 6 (or fewer) taxable years, or

(ii) The lower of—

(*a*) The balance of the reserve as of the close of the base year, or

(*b*) If the amount of loans outstanding at the close of the taxable year is less than the amount of loans outstanding at the close of the base year, the amount which bears the same ratio to loans outstanding at the close of the taxable year as the balance of the reserve as of the close of the base year bears to the amount of loans outstanding at the close of the base year.

For purposes of applying the experience method, a period shorter than 6 years generally would be appropriate only where there is a change in the type of a substantial portion of the loans outstanding such that the risk of loss is substantially increased. For example, if the major portion of a bank's portfolio of loans changes from agricultural loans to industrial loans which results in a substantial increase in the risk of loss, a period shorter than 6 years may be appropriate. A period shorter than 6 years, however, would not be appropriate, for example, in the case of a decline in the general economic conditions in the area, even though the risk of loss is substantially increased. If approval is granted to use a shorter period, the experience for those taxable years which are excluded shall not be used for any subsequent year. A request for approval to exclude the experience of a prior taxable year shall be not be considered unless it is sent to the Commissioner at least 30 days before the close of the current taxable year. The request shall include a statement of the reasons such experience should be excluded.

(2) *New financial institutions.* In the case of any taxable year preceded by less than 5 authorization years:

(i) The total bad debts for the 6-year period computed under subparagraph (1)(i)(*a*) of this paragraph shall be the sum of:

(*a*) The bad debts sustained by the taxpayer during its authorization years, adjusted for recoveries of bad debts for such years, and

(*b*) That fraction of the total bad debts sustained by a comparable bank or banks during the comparison years, adjusted for recoveries of bad debts for such years, which bears the same ratio to such total as the average loans outstanding of the taxpayer during the authorization years bears to the average loans outstanding of the comparable bank or banks during the comparison years.

(ii) The total amount of loans outstanding during the 6-year period computed under subparagraph (1)(i)(*b*) of this paragraph shall be six times the average loans outstanding of the taxpayer during the authorization years.

(d) *Change in accounting method from specific charge-off method to reserve method of treating bad debts.* If a bank is granted permission in accordance with § 1.446–1(e)(3) to change its method of accounting for bad debts from a method under which specific bad debt items are deducted to the reserve method of treating bad debts, the taxpayer shall effect the change as follows:

(1) The initial balance reserve at the end of the year of change, in the case of taxable years beginning before 1988, shall be the greater of—

(i) The allowable percentage of eligible loans outstanding at the close of the taxable year of change, or

(ii) The amount which bears the same ratio to loans outstanding at the close of the taxable year as the total bad debts sustained during the taxable year and the 5 preceding taxable years (or, with the approval of the Secretary or his delegate, a shorter period), adjusted for recoveries of bad debts during such period, bears to the sum of the loans outstanding at the close of such six or fewer taxable years.

In the case of taxable years beginning after 1987, the initial balance of the reserve at the end of the year of change shall be the amount specified in subdivision (ii) of this subparagraph.

(2) The deduction with respect to the initial balance reserve for the taxable year of change, determined under subparagraph (1) of this paragraph, is allowable ratably over a period of 10 years commencing with the taxable year of

change. Thus, the bad debt deduction under section 166 for the taxable year of change will consist of the amount of debts determined to be wholly or partially worthless and charged-off during such taxable year plus one-tenth of the amount of the reserve determined under subparagraph (1) of this paragraph. For each of the 9 taxable years following the taxable year of change, the bad debt deduction will consist of the reasonable addition to the reserve for bad debts for each such year as provided by section 585, as otherwise determined, plus one-tenth of the amount determined to be the initial balance of the reserve under subparagraph (1) of this paragraph. The amount established as a bad debt reserve for the taxable year of change under subparagraph (1) of this paragraph shall be considered as the balance of the reserve for purposes of determining the amount of subsequent additions to such reserve, even though the entire amount of the reserve may not have been deducted under section 166(c) because of the requirement that it be deducted over a period of 10 years.

(e) *Definitions*—(1) *Base year.* (i) For purposes of paragraph (b) of this section (relating to the percentage method), the term "base year" means: For taxable years beginning before 1976, the last taxable year beginning on or before July 11, 1969; for taxable years beginning after 1975 but before 1982, the last taxable year beginning before 1976; and, for taxable years beginning after 1981, the last taxable year beginning before 1982; except that, for a financial institution with a reserve deficiency, such term means the last taxable year ending before the most recent adoption of the percentage method, if later than the base year as defined above.

(ii) For purposes of paragraph (c) of this section (relating to the experience method), the term "base year" means (*a*) the last taxable year before the most recent adoption of the experience method or (*b*) the last taxable year beginning on or before July 11, 1969; and, for taxable years beginning after 1987, the last taxable year beginning before 1988.

(2) *Loan.* For purposes of this section and §§ 1.585–1 and 1.585–3, the term "loan" means debt as the term "debt" is used in section 166 and the regulations thereunder.

(i) For purposes of this section, the term "loan" includes (but is not limited to) the following items:

(*a*) In the case of a bank (as defined in section 581 and the regulations thereunder), a debt evidenced by a security (as defined in section 165(g)(2)(C) and the regulations thereunder);

(*b*) An overdraft in one or more deposit accounts of a customer whether or not other deposit accounts of the same customer have balances in excess of the overdraft;

(*c*) A bankers acceptance purchased or discounted by a bank.

For purposes of (*c*) of this subdivision (i), a bankers acceptance shall be considered as a loan made by the bank which purchased or discounted the bankers acceptance and not a loan made by the originating bank.

(ii) Notwithstanding any other provisions of this subparagraph, the term "loan" does not include the following items:

(*a*) Unearned discount or interest receivable reflected in the face amount of an outstanding loan which discount or interest has not been included in gross income;

(*b*) Any loan which is not representative of the taxpayer's ordinary portfolio of outstanding customer loans.

For purposes of (*b*) of this subdivision (ii), a loan made in the ordinary course of business of the taxpayer is presumed to be representative of the taxpayer's ordinary portfolio of outstanding customer loans; however, a loan entered into or acquired for the purpose (whether or not it is the primary purpose) of enlarging the otherwise available bad debt deduction is not representative of the taxpayer's ordinary portfolio of outstanding customer loans.

(3) *Eligible loan.* (i) For purposes of this section and § 1.585–3, the term "eligible loan" means a loan (as defined in subparagraph (2) of this paragraph) which is incurred in the course of the normal customer loan activities of a financial institution. A loan is not incurred in the course of the normal customer loan activities of a financial institution if it is functionally related to the trading or investment position of the financial institution or the maintenance or adjustment of its liquidity position.

(ii) Loans which do not constitute eligible loans include:

(*a*) A loan to a bank (as defined in section 581 and the regulations thereunder) or to a domestic branch of a foreign corporation to which § 1.585–1 applies, including a repurchase transaction or other similar transaction;

(*b*) Bank funds on deposit in any bank (foreign or domestic) such as a deposit represented by a certificate of deposit or any other form of instrument evidencing the deposit of a sum of money with the issuing bank that will be available on or after a stated date or period of time;

(*c*) A sale or loan of Federal funds irrespective of the purchaser or borrower;

(*d*) Commercial paper, however acquired by the bank, including, for example, short-term promissory notes which may be purchased on the open market;

(*e*) A loan, to the extent that it is directly or indirectly made to, guaranteed, or insured by, the United States, a possession or instrumentality thereof, or a State or political subdivision thereof;

(*f*) A debt evidenced by a security (as defined in section 165(g)(2)(C) and the regulations thereunder); and

(*g*) A loan which is secured by a deposit (*i*) in the lending financial institution or (*ii*) in a bank as defined in section 581 or a domestic branch of a foreign corporation to which this section applies, if the lending financial institution has control over withdrawal of such deposit.

For purposes of (*g*) of this subdivision (ii) a loan is considered secured if the loan is on the security of any instrument which makes the deposit specific security for the payment of the loan, provided that such instrument is of such a nature that in the event of default the deposit could be subjected to the satisfaction of the loan. For purposes of such subdivision, a deposit includes a guarantee deposit in the form of a "holdback", pledged collateral that has been reduced to cash, and loan payments that are maintained in a separate account. For purposes of such subdivision, control over withdrawal of the deposit is evidenced by possession of a passbook, certificate of deposit, note, or other similar instrument the possession of which is normally required to permit withdrawal. The lending financial institution does not have control over withdrawal of the deposit if the deposit can be withdrawn without the consent of the lending financial institution. Thus, the lending financial institution normally does not have control over the withdrawal of a deposit in an account merely because the borrower is required to maintain a minimum, average, or compensating balance. Subdivision (ii)(*g*) of this subparagraph does not apply to a deposit held by an institution which is neither a bank nor a domestic branch of a foreign corporation to which § 1.585–1 applies (such as an insurance company).

(4) *Predecessor.* For purposes of this section, the term "predecessor" means (i) any taxpayer which transferred more than 50 percent of the total amount of its assets to the taxpayer and is described in § 1.585–1, or (ii) any predecessor of such predecessor.

(5) *Authorization years.* For purposes of this section, the term "authorization years" means the number of years, containing 12 complete months, between (i) the first day of the first full taxable year of the taxpayer for which it (or any predecessor) was authorized to do business as a financial institution described in § 1.585–1 and (ii) the taxable year.

(6) *Comparison years.* For purposes of this section, the term "comparison years" means those consecutive taxable years containing 12 complete months, of a comparable bank or banks, the last of which ends within the 12 months immediately preceding the beginning of the first taxable year of the taxpayer, which are equal in number to six minus the number of authorization years of the taxpayer.

(7) *Comparable bank.* For purposes of this section, the term "comparable bank" means a financial institution described in § 1.585–1, preferably in the same locality, having loans comparable in their nature and risk involved to those of the taxpayer.

(8) *Average loans outstanding.* For purposes of this section, the term "average loans outstanding" means the sum of the loans outstanding at the close of each taxable year of a period divided by the numbers of taxable years in such period.

§ 1.585–3 Special rules.

(a) *Treatment of reserve.* For taxable years beginning after July 11, 1969, in the case of a financial institution to

which section 585 and § 1.585–1 apply, any bad debt in respect of a loan (whether or not such loan is an eligible loan) must be charged to the reserve for losses on loans provided for by paragraph (b) of this section for the taxable year in which the bad debt occurs. For such a year, any recovery of a bad debt previously charged to the reserve account in respect of a loan (whether or not such loan is an eligible loan) must be credited to such reserve in the taxable year of recovery regardless of whether such credit causes the reserve to exceed the permissible amount. If, as a result of net recoveries during the taxable year, the reserve balance exceeds the permissible amount, a taxpayer is not required to report the excess as taxable income. In such a case, the excess over the otherwise permissible amount in the reserve account precludes current reasonable additions to the reserve and may affect future reasonable additions. Recoveries of bad debts which were not charged to the reserve shall not be credited to such reserve, but shall be treated as taxable income subject to the provisions of § 1.111.

(b) *Accounting for reserve.* A financial institution to which section 585 and § 1.585–1 apply which established a reserve pursuant to section 166(c) is required to establish and maintain, as a permanent part of its regular books of account, an account for the reserve for losses on loans. For purposes of this paragraph, a financial institution may establish and maintain a permanent subsidiary ledger containing such account. If a financial institution maintains such a permanent subsidiary ledger, the balance of the reserve account required to be maintained under this subparagraph must be reconciled with the balance of the reserve for losses on loans maintained in any other ledger. The addition to the reserve for any taxable year is not required to be recorded in the books by the close of such taxable year. Ordinarily such addition should be recorded in the books as soon as practicable after the close of the taxable year. If an adjustment with respect to the income tax return for a taxable year is made and such adjustment (whether initiated by the taxpayer or the Commissioner) has the effect of permitting an increase, or requiring a reduction, in the amount claimed on such return as an addition to the reserve for losses on loans, then the amount initially credited to such reserve for such year pursuant to § 1.585–1 may have to be increased or decreased, as the case may be, to the extent necessary to reflect such adjustment.

§ 1.585–4 Mergers and consolidations. [Reserved.]

§ 1.586 Statutory provisions; reserves for losses on loans of small business investment companies, etc.

SEC. 586. *Reserves for losses on loans of small business investment companies, etc.*—(a) *Institutions to which section applies.* This section shall apply to the following financial institutions:

(1) Any small business investment company operating under the Small Business Investment Act of 1958, and

(2) Any business development corporation.

For purposes of this section, the term "business development corporation" means a corporation which was created by or pursuant to an act of a State legislature for purposes of promoting, maintaining, and assisting the economy and industry within such State on a regional or statewide basis by making loans to be used in trades and businesses which would generally not be made by banks (as defined in section 581) within such region or State in the ordinary course of their business (except on the basis of a partial participation), and which is operated primarily for such purposes.

(b) *Addition to reserves for bad debts*—(1) *General rule.* For purposes of section 166(c), except as provided in paragraph (2) the reasonable addition to the reserve for bad debts of any financial institution to which this section applies shall be an amount determined by the taxpayer which shall not exceed the amount necessary to increase the balance of the reserve for bad debts (at the close of the taxable year) to the greater of—

(A) The amount which bears the same ratio to loans outstanding at the close of the taxable year as (i) the total bad debts sustained during the taxable year and the 5 preceding taxable years (or, with the approval of the Secretary or his delegate, a shorter period), adjusted for recoveries of bad debts during such period, bears to (ii) the sum of the loans outstanding at the close of such 6 or fewer taxable years, or

(B) The lower of—

(i) The balance of the reserve at the close of the base year, or

(ii) If the amount of loans outstanding at the close of the taxable year is less than the amount of loans outstanding at the close of the base year the amount which bears the same ratio to loans outstanding at the close of the taxable year as the balance of the reserve at the close of the base year bears to the amount of loans outstanding at the close of the base year.

For purposes of this subparagraph, the term "base year" means the last taxable year beginning on or before July 11, 1969.

(2) *New financial institutions.* In the case of any taxable year beginning not more than 10 years after the day before the first day on which a financial institution (or any predecessor) was authorized to do business as a financial institution described in subsection (a), the reasonable addition to the reserve for bad debts of such financial institution shall not exceed the larger of the amount determined under paragraph (1) or the amount necessary to increase the balance of the reserve for bad debts at the close of the taxable year to the amount which bears the same ratio (as determined by the Secretary or his delegate) to loans outstanding at the close of the taxable year as (i) the total bad debts sustained by all institutions described in the applicable paragraph of subsection (a) during the 6 preceding taxable years (adjusted for recoveries of bad debts during such period), bears to (ii) the sum of the loans by all such institutions outstanding at the close of such taxable years.

(Sec. 586 as added by sec. 431(a), Tax Reform Act 1969 (83 Stat. 616))

§ 1.586–1 Reserve for losses on loans of small business investment companies, etc.

(a) *General rule.* As an alternative to a deduction from gross income under section 166(a) for specific debts which become worthless in whole or in part, a taxpayer which is a financial institution to which section 586 and this section apply is allowed a deduction under section 166(c) for a reasonable addition to a reserve for bad debts provided such financial institution has adopted or adopts the reserve method of treating bad debts in accordance with paragraph (b) of § 1.166–1. In the case of such a taxpayer, the amount of the reasonable addition to such reserve for a taxable year beginning after July 11, 1969, shall be an amount determined by the taxpayer which does not exceed the amount computed under § 1.586–2. A financial institution to which section 586 and this section apply which adopts the reserve method is not entitled to charge-off any bad debts pursuant to section 166(a) with respect to a loan (as defined in § 1.586–2(c)(2)). Except as provided by § 1.586–2, regarding the manner of computation of the addition to the reserve for bad debts, the reserve for bad debts of a financial institution to which this section applies shall be maintained in the same manner as is provided by section 166(c) and the regulations thereunder with respect to reserves for bad debts. Except as provided by this section, no deduction is allowable for an addition to a reserve for bad debts of a financial institution to which section 586 and this section apply. For rules relating to deduction with respect to debts which are not loans (as defined in § 1.586–2(c)(2)), see section 166(a) and the regulations thereunder. For rules pertaining to mergers and consolidations, see § 1.586–3.

(b) *Application of section.* Section 586 and this section shall apply only to the following financial institutions—

(1) Any small business investment company operating under the Small Business Investment Act of 1958 as amended and supplemented (72 Stat. 689), and

(2) Any business development corporation, which for purposes of this section, means a corporation which was created by or pursuant to an act of a State legislature for purposes of promoting, maintaining, and assisting the economy and industry within such State on a regional or statewide basis by making loans which would generally not be made by banks (as defined in section 581 and the regulations thereunder) within such region or State in the ordinary course of their businesses (except on the basis of a partial participation), and which is operated primarily for such purposes.

§ 1.586–2 Addition to reserve.

(a) *General rule.* Except as provided by paragraph (b) of this section, the amount computed under this section is the amount necessary to increase the balance of the reserve for bad debts (as of the close of the taxable year) to the greater of—

(1) The amount which bears the same ratio to loans outstanding at the close of the taxable year as (i) the total bad debts sustained during the taxable year and the 5 preceding taxable years (or, with the approval of the Commissioner, a shorter period), adjusted for recoveries of bad debts during such period, bears to (ii) the sum of the loans outstanding at the close of such 6 or fewer taxable years, or

(2) The lower of—

(i) The balance of the reserve as of the close of the base year, or

(ii) If the amount of loans outstanding at the close of the taxable year is less than the amount of loans outstanding at the close of the base year, the amount which bears the same ratio to loans outstanding at the close of the taxable year as the balance of the reserve as of the close of the base year bears to the amount of loans outstanding at the close of the base year.

For purposes of subparagraph (2) of this paragraph, the term "base year" means the last taxable year beginning on or before July 11, 1969. For purposes of applying this paragraph, a period shorter than the 6 years generally would be appropriate only where there is a change in the type of a substantial portion of the loans outstanding such that the risk of loss is substantially increased. For example, if the major portion of a business development corporation's portfolio of loans changes from agricultural loans to industrial loans which results in a substantial increase in the risk of loss, a period shorter than the 6 years may be appropriate. A period shorter than the 6 years, however, would not be appropriate, for example, in the case of a decline in the general economic conditions in the area, even though the risk of loss is substantially increased. If approval is granted to use a shorter period, the experience for those taxable years which are excluded shall not be used for any subsequent year. A request for approval to exclude the experience of a prior taxable year shall not be considered unless it is sent to the Commissioner at least 30 days before the close of the current taxable year. The request shall include a statement of the reasons such experience should be excluded.

(b) *New financial institutions*—(1) *General rule.* In the case of a new financial institution, the amount computed under this section is the greater of the amount computed under paragraph (a) of this section or the amount necessary to increase the balance of the reserve for bad debts as of the close of the taxable year to the amount which bears the same ratio to loans outstanding at the close of the taxable year as—

(i) The total bad debts (as determined by the Commissioner) sustained by all financial institutions described in the applicable subparagraph of § 1.586–1(b) during the calendar year ending with or within the taxpayer's previous taxable year and during the 5 calendar years preceding such calendar year, adjusted for recoveries of bad debts during such period (as determined by the Commissioner), bears to

(ii) The sum of the loans outstanding (as determined by the Commissioner) by all such institutions at the close of each of such 6 calendar years.

(c) *Definitions.* For purposes of this section—

(1) *New financial institution.* A financial institution is a new financial institution for any taxable year beginning less than 10 years after the day on which it (or any predecessor) was authorized to do business as a financial institution described in the applicable subparagraph of § 1.586–1(b). For this purpose, the term "predecessor" means (i) any taxpayer which transferred more than 50 percent of the total amount of its assets to the taxpayer and is described in the same subparagraph of § 1.586–1(b) which describes the taxpayer, or (ii) any predecessor of such predecessor.

(2) *Loan.* (i) The term "loan" means debt, as the term "debt" is used in section 166 and the regulations thereunder.

(ii) The term "loan" does not include the following items:

(*a*) Unearned discount or interest receivable reflected in the face amount of an outstanding loan which discount or interest has not been included in gross income;

(*b*) A debt evidenced by a security (as defined in section 165(g)(2)(C) and the regulations thereunder); and

(*c*) Any loan which is not representative of the taxpayer's ordinary portfolio of outstanding customer loans.

For purposes of (c) of this subdivision (ii), a loan made in the ordinary course of business of the taxpayer is presumed to be representative of the taxpayer's ordinary portfolio of outstanding customer loans; however, a loan entered into or acquired for the purpose (whether or not it is the primary purpose) of enlarging the otherwise available bad debt deduction is not representative of the taxpayer's ordinary portfolio of outstanding customer loans.

§ 1.586–3 Mergers and consolidations. [Reserved]

[FR Doc.72-6867 Filed 5-5-72;8:45 am]

[26 CFR Part 1]

INCOME TAX

Accounting for Redemption of Trading Stamps and Coupons

Notice is hereby given that the regulations with respect to accounting for redemption of trading stamps and coupons proposed to be prescribed under section 451 of the Internal Revenue Code of 1954 which were published in tentative form with a notice of proposed rule making in the FEDERAL REGISTER for August 7, 1970 (35 F.R. 12612) are withdrawn and that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by June 7, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by June 7, 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 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 clarify the Income Tax Regulations (26 CFR Part 1) under section 451 of the Internal Revenue Code of 1954, such regulations are amended as follows:

Section 1.451–4 is amended to read as follows:

§ 1.451–4 Accounting for redemption of trading stamps and coupons.

(a) *In general*—(1) *Subtraction from receipts.* If an accrual method taxpayer issues trading stamps or premium coupons with sales, or an accrual method taxpayer is engaged in the business of selling trading stamps or premium coupons, and such stamps or coupons are redeemable by such taxpayer in merchandise, cash, or other property, the taxpayer should, in computing the income from such sales, subtract from gross receipts with respect to sales of such stamps or coupons (or from gross receipts with respect to sales with which trading stamps or coupons are issued) an amount equal to—

(i) The cost to the taxpayer of merchandise, cash, and other property used for redemptions in the taxable year,

(ii) Plus the net addition to the provision for future redemptions during the taxable year (or less the net subtraction from the provision for future redemptions during the taxable year).

(2) *Trading stamp companies.* For purposes of this section, a taxpayer will be considered as being in the business of selling trading stamps or premium coupons if—

(i) The trading stamps or premium coupons sold by him are issued by purchasers to promote the sale of their merchandise or services,

(ii) The principal activity of the trade or business is the sale of such stamps or coupons,

(iii) Such stamps or coupons are redeemable by the taxpayer for a period of at least 1 year from the date of sale, and

(iv) Based on his overall experience, it is estimated that not more than two-thirds of the stamps or coupons sold which it is estimated, pursuant to paragraph (c) of this section, will be ultimately redeemed, will be redeemed within 6 months of the date of sale.

(b) *Computation of the net addition to or subtraction from the provision for future redemptions*—(1) *Determination*

of the provision for future redemptions. (i) The provision for future redemptions as of the end of a taxable year is computed by multiplying "estimated future redemptions" (as defined in subdivision (ii) of this subparagraph) by the estimated average cost of redeeming each trading stamp or coupon (computed in accordance with subdivision (iii) of this subparagraph).

(ii) For purposes of this section, the term "estimated future redemptions" as of the end of a taxable year means the number of trading stamps or coupons outstanding as of the end of such year that it is reasonably estimated will ultimately be presented for redemption. Such estimate shall be determined in accordance with the rules contained in paragraph (c) of this section.

(iii) For purposes of this section, the estimated average cost of redeeming each trading stamp or coupon shall be computed by including only the costs to the taxpayer of acquiring the merchandise, cash, or other property needed to redeem such stamps or coupons. Items such as the costs of advertising, catalogs, operating redemption centers, and storing the merchandise until used to redeem stamps or coupons should not be included in costs of redeeming stamps or premium coupons, but rather should be accounted for in accordance with the provisions of sections 162 and 263.

(2) *Changes in provision for future redemptions.* For purposes of this section, a "net addition to" or "net subtraction from" the provision for future redemptions for a taxable year is computed as follows:

(i) Carry over the provision for future redemptions (if any) as of the end of the preceding taxable year,

(ii) Compute the provision for future redemptions as of the end of the taxable year in accordance with subparagraph (1) of this paragraph, and

(iii) If the amount referred to in subdivision (ii) of this subparagraph exceeds the amount referred to in subdivision (i) of this subparagraph, such excess is the net addition to the provision for future redemptions for the taxable year. On the other hand, if the amount referred to in such subdivision (i) exceeds the amount referred to in such subdivision (ii), such excess is the net subtraction from the provision for future redemptions for the taxable year.

(8) *Example.* The provisions of this paragraph and paragraph (a) (1) of this section may be illustrated by the following example:

Example. (*a*) X Company, a calendar year accrual method taxpayer, is engaged in the business of selling trading stamps to merchants. In 1971, its first year of operation, X sells 10 million stamps at $5 per 1,000; it redeems 3 million stamps for merchandise and cash of an average value of $3 per 1,000 stamps. At the end of 1971 it is estimated (pursuant to paragraph (c) of this section) that a total of 9 million stamps of the 10 million stamps issued in 1971 will eventually be presented for redemption. At this time it is estimated that the average cost of redeeming stamps (as described in subparagraph (1) (iii) of this paragraph) would continue to be $3 per 1,000 stamps. Under these circumstances, X computes its gross income from sales of trading stamps as follows:

Gross receipts from sales (10 million stamps at $5 per 1,000)		$50,000
Less:		
Cost of actual redemptions (3 million stamps at $3 per 1,000)	$9,000	
Provision for future redemptions on December 31, 1971 (9 million stamps — 3 million stamps x $3 per 1,000)	18,000	
		27,000
1971 gross income from sales of stamps		23,000

(b) In 1972, X also sells 10 million stamps at $5 per 1,000 stamps. During 1972 X redeems 7 million stamps at an average cost of $3.01 per 1,000 stamps. At the end of 1972 it is determined that the estimated future redemptions (within the meaning of subparagraph (1) (ii) of this paragraph) is 8 million. It is further determined that the estimated average cost of redeeming stamps would continue to be $3.01 per 1,000 stamps. X thus computes its gross income from sales of trading stamps for 1972 as follows:

Gross receipts from sales (10 million stamps at $5 per 1,000)		$50,000
Less:		
Cost of actual redemptions (7 million stamps at $3.01 per 1,000)	$21,070	
Plus:		
Provision for future redemptions on Dec. 31, 1972 (8 million stamps at $3.01 per 1,000)	$24,080	
Minus provision for future redemptions on Dec. 31, 1971	18,000	
Addition to provision for future redemptions	6,080	
Total cost of redemptions		27,150
1972 Gross income from sales of stamps		22,850

(c) *Estimated future redemptions*—(1) *In general.* A taxpayer may use any method of determining the estimated future redemptions as of the end of a year so long as—

(i) Such method results in a reasonably accurate estimate of the stamps or coupons outstanding at the end of such year that will ultimately be presented for redemption,

(ii) Such method is used consistently, and

(iii) Such taxpayer complies with the requirements of this paragraph and paragraphs (d) and (e) of this section.

(2) *Utilization of prior redemption experience.* Normally, the estimated future redemptions of a taxpayer shall be determined on the basis of such taxpayer's prior redemption experience. However, if the taxpayer does not have sufficient redemption experience to make a reasonable determination of his "estimated future redemptions," or if because of a change in his mode of operation or other relevant factors the determination cannot reasonably be made completely on the basis of the taxpayer's own experience, the experiences of similarly situated taxpayers may be used to establish an experience factor.

(3) *One method of determining estimated future redemptions.* One permissible method of determining the estimated future redemptions as of the end of the current taxable year is as follows:

(i) Estimate for each preceding taxable year and the current taxable year the number of trading stamps or coupons issued for each such year which will ultimately be presented for redemption.

(ii) Determine the sum of the estimates under subdivision (i) of this subparagraph for each taxable year prior to and including the current taxable year.

(iii) The difference between the sum determined under subdivision (ii) of this subparagraph and the total number of trading stamps or coupons which have already been presented for redemption is the estimated future redemptions as of the end of the current taxable year.

(4) *Determination of an "estimated redemption percentage."* For purposes of applying subparagraph (3) (i) of this paragraph, one permissible method of estimating the number of trading stamps or coupons issued for a taxable year that will ultimately be presented for redemption is to multiply such number of stamps issued for such year by an "estimated redemption percentage." For purposes of this section the term "estimated redemption percentage" for a taxable year means a fraction, the numerator of which is the number of trading stamps or coupons issued during a taxable year that it is reasonably estimated will ultimately be redeemed, and the denominator of which is the number of trading stamps or coupons issued during such year. Consequently, the product of such percentage and the number of stamps issued for such year equals the number of trading stamps or coupons issued for such year that it is estimated will ultimately be redeemed.

(5) *Five-year rule.* (i) One permissible method of determining the "estimated redemption percentage" for a taxable year is to—

(*a*) Determine the percentage which the total number of stamps or coupons redeemed in the taxable year and the 4 preceding taxable years is of the total number of stamps or coupons issued or sold in such 5 years; and

(*b*) Multiply such percentage by an appropriate growth factor as determined pursuant to guidelines published by the Commissioner.

(ii) If a taxpayer uses the method described in subdivision (i) of this subparagraph for a taxable year, it will normally be presumed that such taxpayer's "estimated redemption percentage" is reasonably accurate.

(6) *Other methods of determining estimated future redemptions.* (i) If a taxpayer uses a method of determining his "estimated future redemptions" (other than a method which applies the 5-year rule as described in subparagraph (5) (i) of this paragraph) such as a probability sampling technique, the appropriateness of the method (including the appropriateness of the sampling technique, if any) and the accuracy and reliability of the results obtained must, if requested, be demonstrated to the satisfaction of the district director.

(ii) No inference shall be drawn from subdivision (i) of this subparagraph that the use of any method to which such

subdivision applies is less acceptable than the method described in subparagraph (5)(i) of this paragraph. Therefore, certain probability sampling techniques used in determining estimated future redemptions may result in reasonably accurate and reliable estimates. Such a sampling technique will be considered appropriate if the sample is—

(*a*) Taken in accordance with sound statistical sampling principles,

(*b*) In accordance with such principles, sufficiently broad to produce a reasonably accurate result, and

(*c*) Taken with sufficient frequency as to produce a reasonably accurate result.

In addition, if the sampling technique is appropriate, the results obtained therefrom in determining estimated future redemptions will be considered accurate and reliable if the evaluation of such results is consistent with sound statistical principles. Ordinarily, samplings and recomputations of the estimated future redemptions will be required annually. However, the facts and circumstances in a particular case may justify such a recomputation being taken less frequently than annually. In addition, the Commissioner may prescribe procedures indicating that samples made to update the results of a sample of stamps redeemed in a prior year need not be the same size as the sample of such prior year.

(d) *Consistency with financial reporting*—(1) *Estimated future redemptions.* For taxable years beginning after (the date of adoption of these regulations), the estimated future redemptions must be no greater than the estimate that the taxpayer uses for purposes of all reports (including consolidated financial statements) to shareholders, partners, beneficiaries, other proprietors, and for credit purposes.

(2) *Average cost of redeeming stamps.* For taxable years beginning after [the date of adoption of these regulations], the estimated average cost of redeeming each stamp or coupon must be no greater than the average cost of redeeming each stamp or coupon that the taxpayer uses for purposes of all reports (including consolidated financial statements) to shareholders, partners, beneficiaries, other proprietors, and for credit purposes.

(e) *Information to be furnished with return*—(1) *In general.* For taxable years beginning after (the date of adoption of these regulations), a taxpayer described in paragraph (a) of this section who uses a method of determining the "estimated future redemptions" other than that described in paragraph (c)(5)(i) of this section shall file a statement with his return showing such information as is necessary to establish the correctness of the amount subtracted from gross receipts in the taxable year.

(2) *Taxpayers using the 5-year rule.* If a taxpayer uses the method of determining estimated future redemptions described in paragraph (c)(5)(i) of this section, he shall file a statement with his return showing, with respect to the taxable year and the 4 preceding taxable years—

(i) The total number of stamps or coupons issued or sold during each year, and

(ii) The total number of stamps or coupons redeemed in each such year.

(3) *Trading stamp companies.* In addition to the information required by subparagraph (1) or (2) of this paragraph, a taxpayer engaged in the trade or business of selling trading stamps or premium coupons shall include with the statement described in subparagraph (1) or (2) of this paragraph such information as may be necessary to satisfy the requirements of paragraph (a)(2)(iv) of this section.

[FR Doc.72-6865 Filed 5-5-72;8:45 am]

[26 CFR Part 1]

INCOME TAX

Special Rules with Respect to Section 501(c)(3) Organizations

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue. Attention: CC:LR:T, Washington, D.C. 20224, by June 7, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by June 7, 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 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.

The following regulations relating to special rules with respect to section 501(c)(3) organizations are prescribed under section 508 of the Internal Revenue Code of 1954, as added by section 101(a) of the Tax Reform Act of 1969 (83 Stat. 992).

Temporary Treasury Regulations § 13.8 (T.D. 7040, 35 F.R. 7300 (1970)), § 13.9 (T.D. 7052, 35 F.R. 11232 (1970)) and § 13.17 (T.D. 7151, 36 F.R. 23905 (1971)) are superseded and the following regulations are added. Except where otherwise specifically provided, these regulations take effect on January 1, 1970.

Insert in the appropriate place, the following sections:

§ 1.508-1 Special rules for certain section 501(c)(3) organizations.

Sec. 508. *Special rules with respect to section 501(c)(3) organizations*—(a) *New organizations must notify Secretary that they are applying for recognition of section 501(c)(3) status.* Except as provided in subsection (c), an organization organized after October 9, 1969, shall not be treated as an organization described in section 501(c)(3)—

(1) Unless it has given notice to the Secretary or his delegate, in such manner as the Secretary or his delegate may by regulations prescribe, that it is applying for recognition of such status, or

(2) For any period before the giving of such notice, if such notice is given after the time prescribed by the Secretary or his delegate by regulations for giving notice under this subsection.

For purposes of paragraph (2), the time prescribed for giving notice under this subsection shall not expire before the 90th day after the day on which regulations first prescribed under this subsection become final.

(b) *Presumption that organizations are private foundations.* Except as provided in subsection (c), any organization (including an organization in existence on October 9, 1969) which is described in section 501(c)(3) and which does not notify the Secretary or his delegate, at such time and in such manner as the Secretary or his delegate may by regulations prescribe, that it is not a private foundation shall be presumed to be a private foundation. The time prescribed for giving notice under this subsection shall not expire before the 90th day after the day on which regulations first prescribed under this subsection become final.

(c) *Exceptions*—(1) *Mandatory exceptions.* Subsections (a) and (b) shall not apply to—

(A) Churches, their integrated auxiliaries, and conventions or associations of churches, or

(B) Any organization which is not a private foundation (as defined in section 509(a)) and the gross receipts of which in each taxable year are normally not more than $5,000.

(2) *Exceptions by regulations.* The Secretary or his delegate may by regulations exempt (to the extent and subject to such conditions as may be prescribed in such regulations) from the provisions of subsection (a) and (b) or both—

(A) Educational organizations which normally maintain a regular faculty and curriculum and normally have a regularly enrolled body of pupils or students in attendance at the place where their educational activities are regularly carried on; and

(B) Any other class of organizations with respect to which the Secretary or his delegate determines that full compliance with the provisions of subsections (a) and (b) is not necessary to the efficient administration of the provisions of this title relating to private foundations.

(d) *Disallowance of certain charitable, etc., deductions*—(1) *Gift or bequest to organizations subject to section 507(c) tax.* No gift or bequest made to an organization upon which the tax provided by section 507(c) has been imposed shall be allowed as a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if such gift or bequest is made—

(A) By any person after notification is made under section 507(a), or

(B) By a substantial contributor (as defined in section 507(d)(2)) in his taxable year which includes the first day on which action is taken by such organization which culminates in the imposition of tax under section 507(c) and any subsequent taxable year.

(2) *Gift or bequest to taxable private foundation, section 4947 trust, etc.* No gift or bequest made to an organization shall be allowed as a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if such gift or bequest is made—

(A) To a private foundation or a trust described in section 4947 in a taxable year for which it fails to meet the requirements of subsection (e) (determined without regard to subsection (e)(2)(B) and (C)), or

(B) To any organization in a period for which it is not treated as an organization described in section 501(c)(3) by reason of subsection (a).

(3) *Exemption.* Paragraph (1) shall not apply if the entire amount of the unpaid portion of the tax imposed by section 507(c) is abated by the Secretary or his delegate under section 507(g).

(e) *Governing instruments*—(1) *General rule.* A private foundation shall not be exempt from taxation under section 501(a) unless its governing instrument includes provisions the effects of which are—

(A) To require its income for each taxable year to be distributed at such time and in such manner as not to subject the foundation to tax under section 4942, and

(B) To prohibit the foundation from engaging in any act of self-dealing (as defined in section 4941(d)), from retaining any excess business holdings (as defined in section 4943(c)), from making any investments in such manner as to subject the foundation to tax under section 4944, and from making any taxable expenditures (as defined in section 4945(d)).

(2) *Special rules for existing private foundations.* In the case of any organization organized before January 1, 1970, paragraph (1) shall not apply—

(A) To any taxable year beginning before January 1, 1972,

(B) To any period after December 31, 1971, during the pendency of any judicial proceeding begun before January 1, 1972, by the private foundation which is necessary to reform, or to excuse such foundation from compliance with, its governing instrument or any other instrument in order to meet the requirements of paragraph (1), and

(C) To any period after the termination of any judicial proceeding described in subparagraph (B) during which its governing instrument or any other instrument does not permit it to meet the requirements of paragraph (1).

[Sec. 508, as added by sec. 101(d) Tax Reform Act of 1969 (83 Stat. 163)]

§ 1.508–1 Special rules for certain section 501(c)(3) organizations.

(a) *New organizations must notify the Secretary that they are applying for recognition of section 501(c)(3) status*—(1) *In general.* Under section 508(a) of the Internal Revenue Code of 1954, except as provided in subparagraph (3) of this paragraph, an organization that is organized after October 9, 1969, will not be treated as an organization described in section 501(c)(3)—

(i) Unless such organization has given the Commissioner notice in the manner prescribed in subparagraph (2) of this paragraph; or

(ii) For any period before the giving of such notice, unless such notice is given in the manner and within the time prescribed in subparagraph (2) of this paragraph.

See section 508(d)(2)(B) for the effect on the deductibility of charitable contributions during the period an organization is not treated as an organization described in section 501(c)(3).

(2) *Filing of notice.* (i) Except as provided in subparagraph (3)(ii) of this paragraph, for purposes of subparagraph (1) of this paragraph, notice must be filed within 15 months from the end of the month in which the organization seeking exemption under section 501(c)(3) was organized, or before the 90th day after final regulations under section 508(a) are filed by the FEDERAL REGISTER, whichever comes later. Such notice is filed by submitting a properly completed and executed Form 1023, Exemption Application. Notice should be filed with the district director. A request for extension of time for the filing of such notice should be submitted to such district director. Such request may be granted if it demonstrates that additional time is required.

(ii) Although the information required by Form 1023 must be submitted to satisfy the notice required by this section, the failure to supply, within the required time, all of the information required to complete such form is not alone sufficient to deny exemption from the date of organization to the date such complete information is submitted by the organization. If the information which is submitted within the required time is incomplete, and the organization supplies the necessary additional information at the request of the Commissioner within the additional time period allowed by him, the original notice will be considered timely.

(iii) For purposes of subdivision (i) of this subparagraph, a corporation shall be considered "organized" as of the date on which, according to the applicable State law, the corporation was created.

(iv) For purposes of subdivision (i) of this subparagraph, an inter vivos trust shall be considered "organized" as of the date it is deemed created under rules similar to the rules under § 1.664–1(a)(3). A testamentary trust shall be considered "organized" as of the date of death of the testator (rather than the date of any court order or decree approving the transfer of assets to such trust).

(v) Since a trust described in section 4947(a)(2) is not described in section 501(c)(3), it is not required to file the notification under section 508(a). A trust described in section 4947(a)(1) is not required to file such notification in order to be treated as described in section 501(c)(3). However, a trust created after October 9, 1969, which otherwise meets the requirements of section 501(c)(3) shall be exempt under section 501(a) by reason of being described in section 501(c)(3) only if it files the notification under section 508(a).

(vi) For the treatment of community trusts, and the trusts or funds comprising them, under section 508, see the special rules under § 1.170A–9(e).

(vii) A foreign organization shall, for purposes of section 508, be treated in the same manner as a domestic organization, except that section 508 shall not apply to a foreign organization which is described in section 4948(b).

(3) *Exceptions from notice.* (i) Subparagraphs (1) and (2) of this paragraph are inapplicable to the following organizations:

(*a*) Churches, interchurch organizations of local units of a church, conventions or associations of churches, or integrated auxiliaries of a church, such as a men's or women's organization, religious school, mission society, or youth group;

(*b*) Any organization which is not a private foundation (as defined in section 509(a)) and the gross receipts of which in each taxable year are normally not more than $5,000 (as described in subdivision (ii) of this subparagraph);

(*c*) Subordinate organizations (other than private foundations) covered by a group exemption letter; and

(*d*) Any other class of organization that the Commissioner from time to time excludes from the requirement of filing notice under section 508(a).

(ii) For purposes of subdivision (i)(*b*) of this subparagraph and paragraph (b)(7)(ii) of this section, the gross receipts (as defined in subdivision (iii) of this subparagraph) of an organization are normally not more than $5,000 if—

(*a*) During the first taxable year of the organization the organization has received gross receipts of $7,500 or less;

(*b*) During its first two taxable years the aggregate gross receipts received by the organization is $12,000 or less; and

(*c*) In the case of an organization which has been in existence for at least 3 taxable years, the aggregate gross receipts received by the organization during the immediately preceding 2 taxable years, plus the current year is $15,000 or less.

If an organization fails to meet the requirements of (*a*), (*b*), or (*c*) of this subdivision, then with respect to the organization, such organization shall be required to file the notices described in section 508 (a) and (b) within 90 days after the end of the period described in (*a*), (*b*), or (*c*) of this subdivision in lieu of the period prescribed in subparagraph (2)(i) of this paragraph. Thus, for example, if an organization meets the $7,500 requirement of (*a*) of this subdivision for its first taxable year, but fails to meet the $12,000 requirement of (*b*) of this subdivision for the period ending with its second taxable year, then such organization shall meet the notification requirements of section 508(a)(1) and (b) and subparagraph (2)(i) of this paragraph if it files such notification within 90 days after the close of its second taxable year. If an organization which has been in existence at least 3 taxable years meets the requirements of

(a), (b), and (c) of this subdivision with respect to all prior taxable years, but fails to meet the requirements of (c) of this subdivision with respect to the current taxable year, then even if the organization fails to make such notification within 90 days after the close of the current taxable year, section 508(a)(1) and (b) shall not apply with respect to its prior years. In such a case, the organization shall not be treated as an organization described in section 501(c)(3) for a period beginning with such current taxable year and ending when such notice is given under section 508(a)(2).

(iii) For a definition of "gross receipts" for purposes of subdivision (i)(b) of this subparagraph and paragraph (b)(7)(ii) of this section, see § 1.6033-2(g)(4).

(4) *Voluntary filings by new organizations excepted from filing notice.* Any organization excepted from the requirement of filing notice under section 508(a) will be exempt from taxation under section 501(c)(?) if it meets the requirements of that section, whether or not it files the notice under section 508(a). However, in order to establish its exemption with the Internal Revenue Service and receive a ruling or determination letter recognizing its exempt status, an oganization excepted from the notice requirement by reason of subparagraph (3) of this paragraph should file proof of its exemption in the manner prescribed in § 1.501(a)-1.

(b) *Presumption that old and new organizations are private foundations—* (1) *In general.* Under section 508(b), except as provided in subparagraph (7) of this paragraph, any organization (including an organization in existence on October 9, 1969) which is described in section 501(c)(3), and which does not notify the Commissioner within the time and in the manner prescribed in subparagraph (2) of this paragraph that it is not a private foundation, will be presumed to be a private foundation.

(2) *Filing of notice.* (i) Except as provided in subparagraph (7) of this paragraph, an organization must file the notice described in section 508(b) within 15 months from the end of the month in which such organization was organized, or before the 90th day after final regulations under section 508(b) are filed by the FEDERAL REGISTER, whichever comes later. Pursuant to § 53.4947-1(b)(3) of this chapter a charitable trust described in section 4947(a)(1) will be regarded as if organized on the day on which it first becomes subject to section 4947(a)(1) if it wants its section 509(a)(3) status recognized under section 508(b). For other rules pertaining to when a trust is "organized", see paragraph (a)(2)(iv) of this section.

(ii) Any organization filing notice under this paragraph that has received a ruling or determination letter from the Internal Revenue Service dated on or before July 13, 1970, recognizing its exemption from taxation under section 501(c)(3) (or the corresponding provisions of prior law), shall file the notice described in section 508(b) by submitting a properly completed and executed Form 4653, Notification Concerning Foundation Status.

(iii) The financial schedule on Form 4653 need be completed only if the organization is, or thinks it might be, described in section 170(b)(1)(A)(iv) or (vi) or section 509(a)(2).

(iv) Any organization filing notice under this paragraph that has not received a ruling or determination letter from the Internal Revenue Service dated on or before July 13, 1970, recognizing its exemption from taxation under section 501(c)(3) (or the corresponding provisions of prior law), shall file its notice by submitting a properly completed and executed Form 1023 and providing information that it is not a private foundation. The organization shall also submit all information required by the regulations under section 170 or 509 (whichever is applicable) necessary to establish recognition of its classification as an organization described in section 509(a)(1), (2), (3), or (4). A Form 1023 submitted prior to July 14, 1970, will satisfy this requirement if the organization submits an additional statement that it is not a private foundation together with all pertinent additional information required. Any statement filed under this subdivision shall be accompanied by a written declaration by the principal officer, manager or authorized trustee that there is a reasonable basis in law and in fact for the statement that the organization so filing is not a private foundation, and that to the best of the knowledge and belief of such officer, manager or trustee, the information submitted is complete and correct.

(v) The notice filed under subdivision (ii) of this subparagraph should be filed in accordance with the instructions applicable to Form 4653. The notice required by subdivision (iv) of this subparagraph should be filed with the district director. An extension of time for the filing of such notice may be granted by the director of the Internal Revenue Service Center or district director upon timely request by the organization to such person, if the organization demonstrates that additional time is required.

(3) *Effect of notice upon the filing organization.* (i) The notice filed under this paragraph may not be relied upon by the organization so filing unless and until the Internal Revenue Service notifies the organization that it is an organization described in paragraph (1), (2), (3), or (4) of section 509(a). For purposes of the preceding sentence, an organization that has filed notice under section 508(b), and has previously received a ruling that it is an organization described in section 170(b)(1)(A) (other than subdivisions (vii) and (viii) of subparagraph (2), of this paragraph), will be considered to have been notified by the Internal Revenue Service that it is an organization described in paragraph (1) of section 509(a) if (*a*) the facts and circumstances forming the basis for the issuance of such ruling have not substantially changed, and (*b*) the ruling issued under that section has not been revoked expressly or by a subsequent change of the law or regulations under which the ruling was issued

(ii) If an organization has filed a notice, pursuant to section 508(b), that it is not a private foundation, has designated only one paragraph of section 509(a) under which it claims recognition of its classification (such as an organization described in section 509(a)(2)), and it has received a ruling or determination letter recognizing that it is not a private foundation, but the ruling or determination letter fails to designate the paragraph under section 509(a) in which it is described, then it will be treated as described under the paragraph designated by the organization, until such ruling or determination letter is modified or revoked. The rule in the preceding sentence shall not apply where an organization has indicated either that it does not know its status under section 509(a) or that it is claiming recognition of its status under more than one paragraph of section 509(a).

(4) *Effect on of notice upon grantors or contributors to the filing organization.* (i) Any organization which has properly filed the notice described in section 508(b) prior to 90 days after the date on which the final regulations under section 508 are filed by the FEDERAL REGISTER will not be treated as a private foundation for purposes of making any determination under the internal revenue laws with respect to a grantor or contributor thereto, unless the organization is controlled directly or indirectly by such grantor or contributor, if by the 30th day after the day on which such notice is filed the organization has not been notified by the Commissioner that the notice filed by such organization has failed to establish that such organization is not a private foundation. See subparagraph (6) of this paragraph for the effect of an adverse notice by the Internal Revenue Service. For purposes of this subdivision, an organization which has properly filed the notice described in section 508(b) prior to 90 days after the date on which the final regulations under section 508 are filed by the FEDERAL REGISTER, and which has claimed recognition of its status under only one paragraph of section 509(a) in such notice, will be treated only for purposes of grantors or contributors as having the classification claimed in the notice if the provisions of this subdivision are otherwise satisfied.

(ii) Grantors or contributors may not rely upon the provisions of subdivision (i) of this subparagraph with respect to grants or contributions made to any organization which has properly filed the notice described in section 508(b) more than 90 days after the date on which final regulations under section 508 are filed by the FEDERAL REGISTER.

(5) *Statement that old and new organizations are operating foundations.* (i) Any organization (including an organization in existence on October 9, 1969) which is described in section 501(c)(3) may submit a statement, in the form and manner provided for notice in subparagraph (2) of this paragraph, that it

is an operating foundation (as defined in section 4942(j)(3) and include in such statement:

(*a*) Necessary supporting information as required by the regulations under section 4942(j)(3) to confirm such determination (including a statement identifying the clause of section 4942(j)(3)(B) that is applicable); and

(*b*) A written declaration by the principal officer, manager or authorized trustee that there is a reasonable basis in law and in fact that the organization so filing is an operating foundation, and that to the best of the knowledge and belief of such officer, manager or trustee, the information submitted is complete and correct.

(ii) The statement filed under this subparagraph may not be relied upon by the organization so filing unless and until the Internal Revenue Service notifies the organization that it is an operating foundation described in section 4942(j)(3).

(iii) Any organization which has properly filed the statement described in this subparagraph prior to 90 days after the date on which the final regulations under section 508 are filed by the FEDERAL REGISTER will be treated as an operating foundation for purposes of making any determination under the internal revenue laws with respect to a grantor or contributor thereto, unless the organization is controlled directly or indirectly by such grantor or contributor, if by the 30th day after the day on which such statement is filed the organization has not been notified by the Commissioner or his delegate that its statement has failed to establish that such organization is an operating foundation. See subparagraph (6) of this paragraph for the effect of an adverse notice by the Internal Revenue Service. However, grantors or contributors may not rely upon the provisions of this subdivision with respect to grants or contributions made to any organization which has properly filed the statement described in this subparagraph more than 90 days after the date on which final regulations under section 508 are filed by the FEDERAL REGISTER.

(6) *Effect of notice by Internal Revenue Service concerning organization's notice or statement.* Subparagraph (4) and subdivision (iii) of subparagraph (5) of this paragraph shall have no effect:

(i) With respect to a grantor or contributor to any organization for any period after the date on which the Internal Revenue Service makes notice to the public (such as by publication in the Internal Revenue Bulletin) that a grantor or contributor to such organization can no longer rely upon the notice or statement submitted by such organization; and

(ii) Upon any grant or contribution made to an organization on or after the date on which a grantor or contributor acquired knowledge that the Internal Revenue Service has given notice to such organization that its notice or statement has failed to establish that such organization either is not a private foundation, or is an operating foundation, as the case may be.

(7) *Exceptions from notice.* Subparagraphs (1) and (2) of this paragraph are inapplicable to the following organizations:

(i) Churches, interchurch organizations of local units of a church, conventions or associations of churches, or integrated auxiliaries of a church, such as a men's or women's organization, religious school, mission society, or youth group;

(ii) Any organization which is not a private foundation (as defined in section 509(a)) and the gross receipts of which in each taxable year are normally not more than $5,000 (as described in paragraph (a)(3)(ii) of this section);

(iii) Subordinate organizations (other than private foundations) covered by a group exemption letter but only if the parent or supervisory organization submits a notice covering the subordinates; and

(iv) Any other class of organization that the Commissioner from time to time excludes from the notification requirements of section 508(b).

(8) *Voluntary filings by organizations excepted from filing notice.* Any organization that is excepted from the notice requirement of section 508(b) by reason of subdivisions (i), (ii), and (iv) of subparagraph (7) of this paragraph may receive the benefits of subparagraph (4) of this paragraph by filing the notice described in section 508(b).

§ 1.508–2 Disallowance of certain charitable, etc., deductions.

(a) *Gift or bequest to organizations subject to section 507(c) tax—(1) General rule.* No gift or bequest made to an organization upon which the tax provided by section 507(c) has been imposed shall be allowed as a deduction under sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if such gift or bequest is made:

(i) By any person after notification has been made under section 507(a), or

(ii) By a substantial contributor (as defined in section 507(d)(2)) in his taxable year which includes the first day on which action is taken by such organization which culminates in the imposition of tax under section 507(c) and any subsequent taxable year.

For purposes of subdivision (ii) of this subparagraph, the first day on which action is taken by an organization which culminates in the imposition of tax under section 507(c) shall be determined under the rules set forth in § 1.507–7(b)(1) and (2).

(2) *Exception.* Subparagraph (1) of this paragraph shall not apply if the entire amount of the unpaid portion of the tax imposed by section 507(c) is abated by the Commissioner under section 507(g).

(b) *Gift or bequest to taxable private foundation, section 4947 trust, etc.—(1) General rule.* (i) Except as provided in subparagraph (2) of this paragraph, no gift or bequest made to an organization shall be allowed as a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if such gift or bequest is made:

(*a*) To a private foundation or a trust described in section 4947 in a taxable year for which it fails to meet the requirements of section 508(e) (determined without regard to section 508(e)(2)(B) and (C)), or

(*b*) To any organization in a period for which it is not treated as an organization described in section 501(c)(3) by reason of section 508(a).

(ii) For purposes of subdivision (i)(*a*) of this subparagraph the term "taxable year" refers to the taxable year of the donee or beneficiary organization. In the event a bequest is made to a private foundation or trust described in section 4947 which is not in existence at the date of the testator's death (but which is created under the terms of the testator's will), the term "taxable year" shall mean the first taxable year of the private foundation or trust.

(iii) For purposes of subdivision (i)(*a*) of this subparagraph, an organization does not fail to meet the requirements of section 508(e) for a taxable year, unless it fails to meet such requirements for the entire year. Therefore, even if a donee organization fails to meet the requirements of section 508(e) on the date it receives a grant from a donor, the donor's grant will not be disallowed by operation of section 508(d)(2)(A) and subdivision (i)(*a*) of this subparagraph, if the organization meets the requirements of section 508(e) (determined without regard to section 508(e)(2)(B) or (C)) by the end of its taxable year.

(iv) No deduction will be disallowed under section 508(d)(2)(A) with respect to a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 if during the taxable year in question, the private foundation or trust described in section 4947 has instituted a judicial proceeding which is necessary to reform its governing instrument or other instrument in order to meet the requirements of section 508(e)(1). This subdivision shall not apply unless within a reasonable time such judicial proceedings succeed in so reforming such instrument.

(v) For purposes of subdivision (i)(*a*) of this subparagraph, no deduction will be disallowed under section 508(d)(2)(A) for any taxable year beginning before January 1, 1972, with respect to a private foundation or trust described in section 4947 organized before January 1, 1970. See, also § 1.508–3(g) regarding transitional rules for extending compliance with section 508(e)(1).

(vi) (*a*) Under section 4947(a)(2) certain split-interest trusts are not subject to the provisions of section 4942 for the period such a trust is described in section 4947(a)(2). Similarly, certain split-interest trusts described in section 4947(b)(3) are not subject to the provisions of section 4943 and 4944 for the period such a trust is described in section 4947(b)(3). Therefore, with respect to section 4942 or sections 4942, 4943, and 4944 (as the case may be) if the governing instrument of a trust to which this subdivision applies contains provisions to the effect that the trust must comply with the provisions of section 4942, or

sections 4942, 4943, and 4944 (as the case may be) to the extent made applicable by the Code, such governing instrument shall meet the requirements of section 508(e). However, if such a governing instrument is silent with respect to section 4942, or sections 4942, 4943, and 4944 (as the case may be), then such a governing instrument shall not have met the requirements of section 508(e)(1). This subdivision shall apply to the governing instrument of a trust described in section 4947(a)(2), which governing instrument was executed after the 90th day after final regulations under section 508 are filed by the FEDERAL REGISTER, but only if such trust will by its terms become a trust described in section 4947(a)(1).

(*b*) This subdivision may be illustrated by the following example:

Example. H executes a will on January 1, 1977, establishing a charitable remainder trust (as described in section 664) with income payable to W, his wife, for life, remainder in trust in perpetuity for the benefit of an organization described in section 170(c). By its terms the trust will become a trust described in section 4947(a)(1), and will become a private foundation. The will provides that the trust is prohibited from engaging in activities which would subject itself or its foundation manager to taxes under sections 4941 or 4945 of the Code. The will is silent as to sections 4942, 4943 and 4944. H dies February 12, 1978. Unless the trust's governing instrument is amended prior to the end of the trust's first taxable year, or judicial proceedings have been instituted under subdivision (iv) of this subparagraph, section 508(d)(2)(A) will operate to disallow any deduction to H's estate under section 2055 with respect to such trust.

(vii) In the case of a contribution or bequest to a trust described in section 4947(a)(2) other than a trust to which subdivision (vi) of this subparagraph applies, no deduction shall be disallowed by application of section 508(d)(2)(A) on the grounds that such trust's governing instrument contained no provision with respect to section 4942. Similarly, if for a taxable year such a trust is also described in section 4947(b)(3), no deduction for such year shall be so disallowed on the grounds that the governing instrument contained no provision with respect to section 4943 or 4944.

(viii) A charitable trust described in section 4947(a)(1) is treated as an organization described in section 501(c)(3) even if such trust failed to file the notification required under section 508(a). Therefore, subdivision (i)(*b*) of this subparagraph is not applicable to such a trust.

(2) *Transitional rules.* Any deduction which would otherwise be allowable under section 642(c)(2), 2106(a)(2), or 2055 shall not be disallowed under section 508(d)(2)(A) if such deduction is attributable to:

(i) Property passing under the terms of a will executed on or before October 9, 1969,

(*a*) If the decedent dies after October 9, 1969, but before October 9, 1972, without having amended any dispositive provision of the will after October 9, 1969, by codicil or otherwise,

(*b*) If the decedent dies after October 9, 1969, and at no time after that date had the right to change the portions of the will which pertains to the passing of property to, or for the use of, an organization described in section 170(c)(2)(B) or 2055(a); or

(*c*) If no dispositive provision of the will is amended by the decedent, by codicil or otherwise, before October 9, 1972, and the decedent is on October 9, 1972, and at all times thereafter under a mental disability (as defined in § 1.642(c)-2(b)(2)(ii)) to amend the will by codicil or otherwise; or

(ii) Property transferred in trust on or before October 9, 1969,

(*a*) If the grantor dies after October 9, 1969, but before October 9, 1972, without having amended, after October 9, 1969, any dispositive provision of the instrument governing the disposition of the property,

(*b*) If the property transferred was an irrevocable interest to, or for the use of, an organization described in section 170(e)(2)(B) or 2055(a); or

(*c*) In the case of a deduction under section 2106(a)(2) or 2055; if no dispositive provision of the instrument governing the disposition of the property is amended by the grantor before October 9, 1972, and the grantor is on October 9, 1972, and at all times thereafter under a mental disability (as defined in § 1.642(c)-2(b)(2)(ii)) to change the disposition of the property; or

(*d*) In the case of a deduction under section 642(c)(2)(A), if the grantor is at all times after October 9, 1969, under a mental disability (as defined in § 1.642(c)-2(b)(2)(ii)) to change the terms of the trust.

See also § 1.508-3(g) regarding the extension of time for compliance with section 508(e), § 1.664-1(g)(3)(ii) regarding the special transitional rule for charitable remainder annuity and unitrusts described in section 664 which were created subsequent to July 31, 1969, and prior to 30 days after the publication of final regulations under section 664, and § 20.2055-2(e)(4) of this chapter regarding the rules for determining if the dispositive provisions have been amended.

§ 1.508-3 Governing instruments.

(a) *General rule.* A private foundation shall not be exempt from taxation under section 501(a) unless prior to the end of its taxable year its governing instrument includes provisions the effects of which are:

(1) To require distributions at such times and in such manner as not to subject the foundation to tax under section 4942; and

(2) To prohibit the foundation from engaging in any act of self-dealing (as defined in section 4941(d)), from retaining any excess business holdings (as defined in section 4943(c)), from making any investments in such manner as to subject the foundation to tax under section 4944, and from making any taxable expenditures (as defined in section 4945(d)).

(b) *Effect and nature of governing instrument*—(1) *In general.* Except as provided in paragraph (d) of this section, the provisions of a foundation's governing instrument must require or prohibit, as the case may be, the foundation to act or refrain from acting so that the foundation, and any foundation managers or other disqualified persons with respect thereto, shall not be liable for any of the taxes imposed by sections 4941, 4942, 4943, 4944, and 4945 of the Code or, in the case of a split-interest trust described in section 4947(a)(2), any of the taxes imposed by those sections of chapter 42 made applicable under section 4947(a)(2). Specific reference to these sections of the Code will generally be required to be included in the governing instrument, unless equivalent language is used which is deemed by the Commissioner to have the same full force and effect. However, a governing instrument which contains only language sufficient to satisfy the requirements of the organizational test under § 1.501(c)(3)-1(b) will not be considered as meeting the requirements of this subparagraph, regardless of the interpretation placed on such language as a matter of law by a State court in a particular jurisdiction, unless the requirements of paragraph (d) of this section are satisfied.

(2) *Corpus.* A governing instrument does not meet the requirements of paragraph (a)(1) of this section if it expressly prohibits the distribution of capital or corpus.

(3) *Savings provisions.* For purposes of section 508(d)(2)(A) and (e), a governing instrument need not include any provision which is inconsistent with section 101(1), (2), (3), (4), or (5) of the Tax Reform Act of 1969 (83 Stat. 533) with respect to the organization. Compliance with subparagraph (1) of this paragraph will have the effect of excluding all such inconsistent provisions. In the alternative, the governing instrument may incorporate any provision contained in section 101(l) (2), (3), (4), or (5) of the Tax Reform Act of 1969 as a specific exception to the general provisions of paragraph (a) of this section if such provision has pertinence with respect to such organization. However, the governing instrument of such organization must nevertheless contain all of the provisions specified in paragraph (a) of this section with respect to all acts or failures to act to which the provisions of section 101(l) (2), (3), (4), or (5) of the Tax Reform Act of 1969 do not apply.

(4) *Excess holdings.* For purposes of paragraph (a)(2) of this section, the prohibition against "retaining any excess business holdings (as defined in section 4943(c))" shall be deemed only to prohibit the foundation from retaining any excess business holdings when such holdings would subject the foundation to tax under section 4943(a).

(5) *Revoked ruling on status.* In the case of an organization which—

(i) Has, pursuant to section 508(b), been classified as an organization described in section 509(a)(1), (2), (3), or (4), and

(ii) Subsequently receives a ruling or determination letter stating that it is no longer described in section 509(a) (1), (2), (3), or (4), but is a private foundation within the meaning of section 509, such organization shall have 1 year from the date of receipt of such ruling or determination letter, or the final ruling or determination letter if a protest is filed to the earlier one, to meet the requirements of section 508(e). Section 508 (d)(2)(A) shall not be applicable with respect to gifts and bequests made during this 1-year period of such requirements are met within the 1-year period.

(6) *Judicial proceedings.* For purposes of paragraphs (a), (b)(5), and (d)(3) of this section, an organization shall be deemed to have met the requirements of section 508(e) within a year, if a judicial proceeding which is necessary to reform its governing instrument or other instrument is instituted within the year and within a reasonable time the organization, in fact, meets the requirements of section 508(e). For purposes only of subparagraph (5) of this paragraph and (d)(3) of this section, if an organization organized before January 1, 1970, institutes such a judicial proceeding within such 1-year period, section 508 (e)(2)(C) shall be applied as if such proceeding had been instituted prior to January 1, 1972.

(c) *Meaning of governing instrument.* For purposes of section 508(e), the term "governing instrument" shall have the same meaning as the term "articles or organization" under § 1.501(c)(3)–1(b)(2). The bylaws of an organization shall not constitute its governing instrument for purposes of section 508(e).

(d) *Effect of State law*—(1) *In general.* A private foundation's governing instrument shall be deemed to have been amended to conform with the requirements of paragraph (a) of this section if valid provisions of State law have been enacted which:

(i) Require it to act or refrain from acting so as not to subject the foundation, or foundation managers with respect thereto, to liability for any of the taxes imposed by section 4941 (relating to taxes on self-dealing), 4942 (relating to taxes on failure to distribute income), 4943 (relating to taxes on excess business holdings), 4944 (relating to taxes on investments which jeopardize charitable purpose), and 4945 (relating to taxable expenditures); or

(ii) Treat the required provisions as contained in the foundation's governing instrument.

(2) *Applicability.* Unless the provisions of State law specify to the contrary, the provisions of paragraph (b) (2), (3), and (4) of this section will be deemed to apply with respect to the governing instrument.

(3) *Validity.* Any provision of State law described in subparagraph (1) of this paragraph shall be presumed valid as enacted, and in the absence of State provisions to the contrary, to apply with respect to any foundation that does not specifically disclaim coverage under State law (either by notification to the appropriate State official or by commencement of judicial proceedings) unless and until such provisions are declared invalid by a court of competent jurisdiction. If such provisions are determined to be invalid by a court of competent jurisdiction, then the organization shall have a year from the applicable date (as defined in this subparagraph) within which to meet the requirements of section 508(e). If no appeal is filed, such applicable date shall be the date the time for filing an appeal from the decision of such court has expired. If an appeal has been filed to a court of intermediate appellate jurisdiction (if any), but no appeal is filed from such intermediate court's decision then such applicable date shall be the date the time for filing an appeal from the decision of such intermediate appellate court has expired. If an appeal is filed with the highest appellate court, State or Federal, such applicable date shall be the date such highest court has declared the provisions of such State law invalid. See paragraph (b)(6) of this section for the effect of certain judicial proceedings that are brought within 1 year.

(4) *Conflicting instrument.* For taxable years beginning after the 90th day after final regulations under section 508 have been filed by the FEDERAL REGISTER in order for a private foundation to receive the benefit of coverage under any State statute which makes applicable the requirements of section 508(e)(1) (A) and (B), where the statute by its terms does not apply to a governing instrument which contains a mandatory direction conflicting with any of such requirements, the private foundation must establish that its governing instrument contains no mandatory directions which conflict with the requirements of section 508(e)(1) (A) or (B), as incorporated by the State statute. General language in a governing instrument empowering the trustee to make investments without being limited to those investments authorized by law will not be regarded as a mandatory conflicting direction.

(5) *Notice of exclusion.* (i) For any taxable year beginning after the 90th day after final regulations under section 508 have been filed by the FEDERAL REGISTER in the case of a private foundation subject to a State statute which makes applicable the requirements of section 508(e)(1) (A) and (B) to the governing instruments of private foundations and trusts described in section 4947(a) (1) and (2), other than those which file a notice excluding such a foundation from such application, the private foundation will receive the benefit of such State statute only if it establishes that it has not filed a notice of exclusion with an appropriate State official.

(ii) This paragraph permits certain organizations that are subject to the provisions of such a State law, to avoid changing its governing instrument in order to meet the requirements of section 508(e)(1). Since an organization which avoids the application of a provision or provisions of State law, such as by filing a notice of exclusion, is not entitled to the benefits of this paragraph, such an organization must meet the requirements of section 508(e)(1) without regard to this paragraph and except as provided in section 508(e)(2)(C) or paragraph (g)(1)(i)(c) of this section must change its governing instrument to the extent inconsistent with section 508(e)(1).

(6) *Treatment of prevailing conflicting clause.* If provisions of State law are inapplicable to a clause in a governing instrument which is contrary to the provisions of section 508(e)(1), the requirements of section 508(e) are not satisfied by a provision of State law which purports to eliminate the need for litigation under such circumstances. Therefore, except as otherwise provided in this section unless the governing instrument is changed or litigation is commenced pursuant to section 508(e)(2)(B) by an organization organized before January 1, 1970, or pursuant to paragraph (g)(1)(i)(b) of this section, to amend the nonconforming provision to meet the requirements of section 508(e)(1) (A) and (B), such organization will not be exempt from taxation pursuant to section 508(e).

(7) *Retroactive application to grants or bequests.* Solely for purposes of section 508(d)(2)(A), if valid provisions of such a State law apply retroactively to a taxable year within which an organization has received a grant or bequest, section 508(d)(2)(A) shall not apply, and such grant or bequest shall not be disallowed by reason of section 508(d)(2)(A) but only if such valid provisions of State law are enacted within 2 years of such grant or bequest.

(e) *Effect of section 508(e) upon section 4947 trusts.* (1) A charitable trust described in section 4947(a)(1) is subject to all of the provisions of paragraph (a) of this section. A split-interest trust described in section 4947(a)(2), as long as it is so described, is subject to the provisions of paragraph (a)(2) of this section, except to the extent that such provisions are made inapplicable to one or more interests in such trusts by section 4947 and the regulations thereunder. The governing instrument may except amounts described in section 4947(a)(2)(A) from the requirements of paragraph (a) of this section. With respect to amounts described in section 4947(a)(2)(B), only those segregated amounts to which neither section 4947(a)(1) nor section 4947(a)(2) applies, pursuant to § 53.4947–1(c)(3) of this chapter, may be excepted from paragraph (a) of this section.

(2) The governing instrument of a split-interest trust described in section 4947(a)(2) which consists solely of amounts transferred in trust before May 27, 1969, within the meaning of section 4947(a)(2)(C) and § 53.4947–1(c)(5) of this chapter need not meet the requirements of paragraph (a) of this section. However, if any amount is transferred to such trust on or after May 27, 1969, the governing instrument of such trust shall be subject to the provisions of paragraph (a)(2) of this section to the extent applicable unless such amounts, and any income or capital gains derived therefrom, can be separately accounted

for (within the meaning of § 53.4947–1 (c)(4) of this chapter), in which case the governing instrument can limit the application of paragraph (a)(2) of this section to such separate amounts.

(3) The governing instrument of a split-interest trust described in section 4947(a)(2) may contain provisions excluding the application of sections 4943 and 4944 to an interest for the period during which it meets the requirements of section 4947(b)(3) (A) or (B). However, see § 1.508–2(b)(1) for rules relating to the deductibility of grants or bequests to such a trust.

(4) If:

(i) A trust which is described in section 4947(a)(2) meets the requirements of paragraph (a) of this section to the extent applicable, and

(ii) Such trust subsequently ceases to be described in section 4947(a)(2) and becomes a trust described in section 4947(a)(1),

then, prior to the end of its taxable year such trust except as otherwise provided in this section, must meet all of the requirements of paragraph (a)(1) and (2) of this section in order to comply with section 508(e).

(f) *Special rules for existing private foundations.* (1) Section 508(e)(2) makes the provisions of section 508(e)(1) (and paragraph (a) of this section) inapplicable in the case of any organization whose governing instrument was executed before January 1, 1970:

(i) To any taxable year beginning before January 1, 1972;

(ii) To any period after December 31, 1971, during the pendency of any judicial proceeding begun before January 1, 1972, by the private foundation which is necessary to reform, or to excuse such foundation from compliance with, its governing instrument or any other instrument in order to meet the requirements of section 508(e)(1); and

(iii) To any period after the termination of any judicial proceeding described in subdivision (ii) of this subparagraph during which its governing instrument or any other instrument does not permit it to meet the requirements of section 508(e)(1).

(2) For purposes of subparagraph (1) of this paragraph, and § 1.508–2(b)(1)(vi)(*a*), a governing instrument will not be treated as executed before the applicable date, if, after such date the dispositive provisions of the instrument are amended (determined under rules similar to the rules set forth in § 20.2055–2(e)(4) of this chapter).

(3) For purposes of subparagraph (1)(ii) and (iii) of this paragraph, a private foundation will be treated as meeting the requirements of section 508(e)(2) (B) and (C) if it has commenced a necessary and timely proceeding in an appropriate court of original jurisdiction and such court has ruled that the foundation's governing instrument or any other instrument does not permit it to meet the requirements of section 508(e)(1). Such foundation is not required to commence proceedings in any court of appellate jurisdiction in order to comply with section 508(e)(2)(C). See also § 1.508–2(b)(2).

(g) *Extension of time for compliance with section 508(e)*—(1) *In general.* (i) Except as provided in subdivision (ii) of this subparagraph, section 508(e)(1) shall not apply to any private foundation (regardless of when organized) with respect—

(*a*) To any taxable year beginning before the transitional date,

(*b*) To any period on or after the transitional date during the pendency of any judicial proceeding begun before the transitional date by a private foundation to which this paragraph applies which is necessary to reform, or to excuse such foundation from compliance with, its governing instrument or any other instrument in order to meet the requirements of section 508(e)(1), and

(*c*) To any period after the termination of any judicial proceeding described in (*b*) of this subdivision of this subparagraph during which its governing instrument or any other instrument does not permit it to meet the requirements of section 508(e)(1).

(ii) Subdivision (i) of the subparagraph shall apply only to gifts or bequests referred to in section 508(d)(2)(A) that are made before the transitional date.

(iii) For purposes of this paragraph, the term "transitional date" means the 91st day after the last of the following dates:

(*a*) The day on which regulations first prescribed under section 509 becomes final, or

(*b*) The day on which corrective and clarifying regulations under section 170(b)(1)(A) (including regulations relating to community trusts) and designated as § 1.170A–9 becomes final.

(2) *Exception: Private foundations receiving final determinations.* Subparagraph (1) of this paragraph shall not apply to any organization which has been issued a final ruling or determination letter holding that it is a private foundation under section 509(a). Such organization must, except as otherwise provided in section 508(e)(2) or this section, meet the requirements of section 508(e) within 90 days from the issuance of such final ruling or determination letter. If such organization meets the requirements of section 508(e)(1) by the end of the 90-day period, it will be deemed to have met such requirements from the effective date of its being described or treated as being described, under section 501(c)(3). The filing of Forms 990 and 990AR or equivalent, in and of itself, will not be considered a final ruling or determination (referred to in this subparagraph) that such organization is a private foundation under section 509(a).

§ 1.508–4 Effective date.

Except as otherwise provided, §§ 1.508–1 through 1.508–3 shall take effect on January 1, 1970.

[FR Doc.72-6868 Filed 5-5-72;8:46 am]

[26 CFR Parts 1, 20, 25]

INCOME TAX, ESTATE, AND GIFT TAXES

Qualified Pension, Etc., Plans of Electing Small Business Corporations

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by June 7, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by June 7, 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 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 prescribe regulations under section 1379 of the Internal Revenue Code of 1954 as added by section 531 of the Tax Reform Act of 1969 (Public Law 91–172, 83 Stat. 654) and to conform the Income Tax Regulations, the Estate Tax Regulations, and the Gift Tax Regulations (26 CFR Parts 1, 20, and 25) under sections 62, 72, 401, 402, 403, 404, 405, 1371, 2039, and 2517 to the amendments made by section 531 of such Act, such regulations are amended as follows:

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

PARAGRAPH 1. Section 1.62 is amended by adding a new paragraph (9) immediately after paragraph (8) thereof and by revising the historical note. These added and revised provisions read as follows:

§ 1.62 Statutory provisions; adjusted gross income defined.

Sec. 62. *Adjusted gross income defined.* * * *

(9) *Pension, etc., plans of electing small business corporations.* The deduction allowed by section 1379(b)(3).

Nothing in this section shall permit the same item to be deducted more than once.

[Sec. 62 as amended by sec. 7(b), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 828); sec. 213(b), Rev. Act 1964 (78 Stat. 52); sec. 531(b), Tax Reform Act 1969 (83 Stat. 655)]

PAR. 2. Section 1.62–1(c) is amended by revising subparagraph (11) thereof and by adding, immediately after subparagraph (11), a new subparagraph (12). These revised and added provisions read as follows:

§ 1.62–1 Adjusted gross income.

* * * * *

(c) * * *

(11) The deduction for moving expenses allowed by section 217;

(12) The deduction allowed by section 1379(b)(3) to an individual or his beneficiaries upon the termination of rights to receive benefits prior to the excludable recovery of amounts which were included in the gross income of a shareholder-employee as excess employer contributions to a pension, etc., plan of an electing small business corporation.

* * * * *

PAR. 3. Section 1.72–8(a)(1) is amended by adding a new sentence at the end thereof. As amended, this provision reads as follows:

§ 1.72–8 Effect of certain employer contributions with respect to premiums or other consideration paid or contributed by an employee.

(a) *Contributions in the nature of compensation*—(1) *Amounts includible in gross income of employee under subtitle A of the Code or prior income tax laws.* Section 72(f) provides that for purposes of section 72 (c), (d), and (e), amounts contributed by an employer for the benefit of an employee or his beneficiaries shall constitute consideration paid or contributed by the employee to the extent that such amounts were includible in the gross income of the employee under subtitle A of the Code or prior income tax laws. Amounts to which this paragraph applies include, for example, contributions made by an employer to or under a trust or plan which fails to qualify under the provisions of section 401(a), provided that the employee's rights to such contributions are nonforfeitable at the time the contributions are made. See sections 402(b) and 403(c) and the regulations thereunder. This subparagraph also applies to premiums paid by an employer (other than premiums paid on behalf of an owner-employee) for life insurance protection for an employee if such premiums are includible in the gross income of the employee when paid. See § 1.72–16. However, such premiums shall only be considered as premiums and other consideration paid by the employee with respect to any benefits attributable to the contract providing the life insurance protection. See § 1.72–16. This subparagraph also applies to amounts included in the gross income of a shareholder-employee under section 1379(b) for excess contributions paid on his behalf by an electing small business corporation (see § 1.1379–2).

* * * * *

PAR. 4. Section 1.401–1(a)(3) is amended by revising subdivision (ix) thereof and by adding, immediately after subdivision (ix), a new subdivision (x). These revised and added provisions read as follows:

§ 1.401–1 Qualified pension, profit-sharing, and stock bonus plans.

(a) *Introduction.* * * *

(3) * * *

(ix) It must, if the plan benefits any self-employed individual who is an owner-employee, satisfy the additional requirements for qualification contained in section 401(a)(10) and (d);

(x) If the trust forms part of a profit-sharing plan of an electing small business corporation for a taxable year beginning after December 31, 1970, the plan must satisfy the additional requirement for qualification provided by section 1379(a) (see § 1.1379–1).

* * * * *

PAR. 5. Section 1.401–4 is amended by adding, immediately after paragraph (c), a new paragraph (d) which reads as follows:

§ 1.401–4 Discrimination as to contributions or benefits.

* * * * *

(d) For purposes of this section, contributions made on behalf of a shareholder-employee of an electing small business corporation which are included in his gross income under section 1379(b) and § 1.1379–2 are treated as contributions by the employer.

PAR. 6. Section 1.401–8 is amended by revising paragraph (b)(1)(i) to read as follows:

§ 1.401–8 Custodial accounts.

* * * * *

(b) *Rules applicable to custodial accounts.* (1) A custodial account shall be treated for taxable years beginning after December 31, 1962, as a qualified trust under section 401 if such account meets the following requirements described in subdivisions (i) through (iii) of this subparagraph:

(i) The custodial account must satisfy all the requirements of section 401 that are applicable to qualified trusts and, if a custodial account is used under a profit-sharing plan of an electing small business corporation, the additional requirement for qualification provided by section 1379(a). See subparagraph (2) of this paragraph.

* * * * *

PAR. 7. Section 1.402(a)–1 is amended by revising subparagraphs (1)(i) and (6)(i) of paragraph (a) to read as follows:

§ 1.402(a)–1 Taxability of beneficiary under a trust which meets the requirements of section 401(a).

(a) *In general.* (1)(i) Section 402 relates to the taxation of the beneficiary of an employees' trust. If an employer makes a contribution for the benefit of an employee to a trust described in section 401(a) for the taxable year of the employer which ends within or with a taxable year of the trust for which the trust is exempt under section 501(a), the employee is not required to include such contribution in his income except for the year or years in which such contribution is distributed or made available to him. However, see section 1379(b) and the regulations thereunder for the inclusion of excess contributions made by an electing small business corporation in the gross income of certain shareholder-employees for a year or years prior to distribution. It is immaterial in the case of contributions to an exempt trust whether the employee's rights in the contributions to the trust are forfeitable or nonforfeitable either at the time the contribution is made to the trust or thereafter.

* * * * *

(6)(i) If the total distributions payable with respect to any employee under a trust described in section 401(a) which in the year of distribution is exempt under section 501(a) are paid to, or includible in the gross income of, the distributee within 1 taxable year of the distributee on account of the employee's death or other separation from the service, or death after such separation from service, the amount of such distribution, to the extent it exceeds the net amount contributed by the employee, shall be considered a gain from the sale or exchange of a capital asset held for more than 6 months. Under section 402(a)(5), for taxable years ending after December 31, 1969, the amount of a distribution considered under the previous sentence to be a gain from the sale or exchange of a capital asset held for more than 6 months shall be limited as provided in § 1.402(a)–2 (36 F.R. 11443). Section 72(n)(4) and § 1.72–19 (36 F.R. 3822) apply to the portion of the total distributions payable not treated as long-term capital gain or the net amount contributed by the employee. The total distributions payable are includible in the gross income of the distributee within one taxable year if they are made available to such distributee and the distributee fails to make a timely election under section 72(h) to receive an annuity in lieu of such total distributions. The "net amount contributed by the employee" is the amount actually contributed by the employee plus any amounts considered to be contributed by the employee under the rules of sections 72(f), 101(b), 1379(b)(2), and subparagraph (3) of this paragraph, reduced by any amounts theretofore distributed to him which were excludable from gross income as a return of employee contributions. See, however, paragraph (b) of this section for rules relating to the exclusion of amounts representing net unrealized appreciation in the value of securities of the employer corporation. In addition, all or part of the amount otherwise includible in gross income under this paragraph by a nonresident alien individual in respect of a distribution by the United States under a qualified pension plan may be excludable from gross income under section

402(a)(4). For rules relating to such exclusion, see paragraph (c) of this section. For additional rules relating to the treatment of total distributions described in this subdivision in the case of a nonresident alien individual, see sections 871 and 1441 and the regulations thereunder.

* * * * *

PAR. 8. Section 1.403(a)-1(a) is amended to read as follows:

§ 1.403(a)-1 Taxability of beneficiary under a qualified annuity plan.

(a) An employee or retired or former employee for whom an annuity contract is purchased by his employer is not required to include in his gross income the amount paid for the contract at the time such amount is paid (except to the extent a shareholder-employee of an electing small business corporation must include excess contributions paid on his behalf in the year paid under section 1379(b)), whether or not his rights to the contract are forfeitable, if the annuity contract is purchased under a plan which meets the requirements of section 404(a)(2). For purposes of the preceding sentence, it is immaterial whether the employer deducts the amounts paid (other than certain amounts paid on behalf of a shareholder-employee by an electing small business corporation) for the contract under section 404(a)(2). See § 1.403(b)-1 for rules relating to annuity contracts which are not purchased under qualified plans but which are purchased by organizations described in section 501(c)(3) and exempt under section 501(a) or which are purchased for employees who perform services for certain public schools.

* * * * *

PAR. 9. Section 1.403(a)-2 is amended by revising paragraph (a) to read as follows:

§ 1.403(a)-2 Capital gains treatment for certain distributions.

(a) If the total amounts payable with respect to any employee for whom an annuity contract has been purchased by an employer under a plan which—

(1) Is a plan described in section 403(a)(1) and § 1.403(a)-1, and

(2) Requires that refunds of contributions with respect to annuity contracts purchased under such plan be used to reduce subsequent premiums on the contracts under the plan,

are paid to, or includible in gross income of the payee within 1 taxable year of the payee by reason of the employee's death or other separation from the service, or death after such separation from the service, such total payments, to the extent they exceed the net amount contributed by the employee, shall, except as limited by section 403(a)(2)(C) for taxable years ending after December 31, 1969, be considered a gain from the sale or exchange of a capital asset held for more than 6 months. The limitation on the long-term capital gain treatment under section 403(a)(2)(C) shall be determined under the rules set forth in § 1.402(a)-2, except that the rules provided by paragraphs (b)(4) and (d)(4) of § 1.402(a)-2 shall not be applied to distributions to which this section applies, and any reference in § 1.402(a)-2 to a provision of section 402 or the regulations thereunder shall be treated as a reference to the corresponding provision of section 403 or the regulations thereunder. In applying the rules provided in § 1.402(a)-2 the term "plan year" shall have the same meaning as under paragraph (a)(2) of § 1.404(a)-8. Section 72(n)(4) and § 1.72-19 apply to the portion of the total amounts payable not treated as long-term capital gain or the net amount contributed by the employee. The "net amount contributed by the employee" is the amount actually contributed by the employee plus any amounts considered to be contributed by the employee under the rules of sections 72(f), 101(b), 1379(b)(2), and paragraph (d) of § 1.403(a)-1, reduced by any amounts theretofore distributed to him which were excludable from his gross income as a return of employee contributions. For example, if under an annuity contract purchased under a plan described in this section, the total amounts payable to the employee's widow are paid to her in the year in which the employee dies, in the amount of $8,000, and if $5,000 thereof is excludable under section 101(b), and if the ordinary income element of such distribution is $4,000, the capital gain element is $3,400, and the net employee contributions $600, $2,703 ($5,000×($4,000÷$7,400)) of the ordinary income element and $2,297 ($5,000×($3,400÷$7,400)) of the capital gain element are excludable from her gross income. The net employee contributions, $600, are excludable from her gross income as a return of the employee's contributions.

* * * * *

PAR. 10. Section 1.404(a)-9 is amended by revising paragraphs (a) and (d) to read as follows:

§ 1.404(a)-9 Contributions of an employer to an employees' profit-sharing or stock bonus trust that meets the requirements of section 401(a); application of section 404(a)(3)(A).

(a) If contributions are paid by an employer to a profit-sharing or stock bonus trust for employees and the general conditions and limitations applicable to deductions for such contributions are satisfied (see § 1.404(a)-1), the contributions are deductible under section 404(a)(3)(A) if the further conditions provided therein are also satisfied. In the case of an employer who is an electing small business corporation, or a successor of such a corporation, the additional requirement contained in section 1379(a) must also be satisfied. In order to be deductible under the first, second, or third sentence of section 404(a)(3)(A), the contributions must be paid (or deemed to have been paid under section 404(a)(6)) in a taxable year of the employer which ends with or within a taxable year of the trust for which it is exempt under section 501(a) and the trust must not be designed to provide retirement benefits for which the contributions can be determined actuarially. Excess contributions paid in such a taxable year of the employer may be carried over and deducted in a succeeding taxable year of the employer in accordance with the third sentence of section 404(a)(3)(A), whether or not such succeeding taxable year ends with or within a taxable year of the trust for which it is exempt under section 501(a). This section is also applicable to contributions to a foreign situs profit-sharing or stock bonus trust which could qualify for exemption under section 501(a) except that it is not created or organized and maintained in the United States.

* * * * *

(d) In order that the deductions may average 15 percent of compensation otherwise paid or accrued over a period of years, where contributions in some taxable year are less than the primary limitation but contributions in some succeeding taxable year exceed the primary limitation, deductions in each succeeding year are subject to a secondary limitation instead of to the primary limitation. The secondary limitation for any year is equal to the lesser of (1) twice the primary limitation for the year, or (2) any excess of (i) the aggregate of the primary limitations for the year and for all prior years over (ii) the aggregate of the deductions allowed or allowable under the limitations provided in section 404(a)(3)(A) for all prior years. However, see section 1379(c) and § 1.1379-3 for restrictions upon the carryover amount deductible by a corporation from a year with respect to which it or its predecessor was an electing small business corporation. Because contributions paid into a profit-sharing or stock bonus trust are deductible under section 404(a)(3)(A) only if they are paid (or deemed to have been paid under section 404(a)(6)) in a taxable year of the employer which ends with or within a taxable year of the trust for which it is exempt under section 501(a), the secondary limitation described in this paragraph is not applicable with respect to determining amounts deductible for a taxable year of the employer which ends with or within a taxable year of the trust during which it is not exempt under section 501(a), or which ends after the trust has terminated. See paragraph (e) of this section for rules relating to amounts which are deductible in such a taxable year.

* * * * *

PAR. 11. Section 1.405-3 is amended by revising paragraph (a)(1) to read as follows:

§ 1.405-3 Taxation of retirement bonds.

(a) *In general.* (1) As in the case of employer contributions under a qualified pension, annuity, profit-sharing, or stock bonus plan, employer contributions on behalf of his common-law employees under a qualified bond purchase plan are not includible in the gross income of the employees when made (except to the extent includible in the gross income of

a shareholder-employee of an electing small business corporation in the year paid under section 1379(b)), and employer contributions on behalf of self-employed individuals are deductible as provided in section 405(c) and § 1.405–2. Further, an employee or his beneficiary does not realize gross income upon the receipt of a retirement bond pursuant to a qualified bond purchase plan or from a trust described in section 401(a) which is exempt from tax under section 501(a). Upon redemption of such a bond, ordinary income will be realized to the extent the proceeds thereof exceed the basis (determined in accordance with paragraph (b) of this section) of the bond. The proceeds of a retirement bond are not entitled to the special tax treatment of section 72(n) and § 1.72–18.

* * * * *

PAR. 12. Section 1.1371–1 is amended by revising paragraph (e) to read as follows:

§ 1.1371–1 Definition of small business corporation.

* * * * *

(e) *Shareholders must be individuals or estates.* A corporation in which any shareholder is a corporation, trust, or partnership does not qualify as a small business corporation. The word "trust" as used in this paragraph includes all trusts subject to the provisions of Subchapter D (including a trust forming part of a stock bonus plan), F, H, or J (including Subpart E thereof), chapter 1 of the Code and voting trusts. Thus, even though the grantor is treated as the owner of all or any part of a trust, the corporation in which such trust is a shareholder does not meet the qualifications of a small business corporation.

* * * * *

PAR. 13. There are inserted immediately after § 1.1378–3 the following new sections:

§ 1.1379 Statutory provisions; certain qualified pension, etc., plans.

Sec. 1379. *Certain qualified pension, etc., plans*—(a) *Additional requirement for qualification of stock bonus or profit-sharing plans.* A trust forming part of a stock bonus or profit-sharing plan which provides contributions or benefits for employees some or all of whom are shareholder-employees shall not constitute a qualified trust under section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) unless the plan of which such trust is a part provides that forfeitures attributable to contributions deductible under section 404(a)(3) for any taxable year (beginning after December 31, 1970) of the employer with respect to which it is an electing small business corporation may not inure to the benefit of any individual who is a shareholder-employee for such taxable year. A plan shall be considered as satisfying the requirement of this subsection for the period beginning with the first day of a taxable year and ending with the 15th day of the third month following the close of such taxable year, if all the provisions of the plan which are necessary to satisfy this requirement are in effect by the end of such period and have been made effective for all purposes with respect to the whole of such period.

(b) *Taxability of shareholder-employee beneficiaries*—(1) *Inclusion of excess contributions in gross income.* Notwithstanding the provisions of section 402 (relating to taxability of beneficiary of employees' trust), section 403 (relating to taxation of employee annuities), or section 405(d) (relating to taxability of beneficiaries under qualified bond purchase plans), an individual who is a shareholder-employee of an electing small business corporation shall include in gross income, for his taxable year in which or with which the taxable year of the corporation ends, the excess of the amount of contributions paid on his behalf which is deductible under section 404(a) (1), (2), or (3) by the corporation for its taxable year over the lesser of—

(A) Ten percent of the compensation received or accrued by him from such corporation during its taxable year, or

(B) $2,500.

(2) *Treatment of amounts included in gross income.* Any amount included in the gross income of a shareholder-employee under paragraph (1) shall be treated as consideration for the contract contributed by the shareholder-employee for purposes of section 72 (relating to annuities).

(3) *Deduction for amounts not received as benefits.* If—

(A) Amounts are included in the gross income of an individual under paragraph (1), and

(B) The rights of such individual (or his beneficiaries) under the plan terminate before payments under the plan which are excluded from gross income equal the amounts included in gross income under paragraph (1), then there shall be allowed as a deduction, for the taxable year in which such rights terminate, an amount equal to the excess of the amounts included in gross income under paragraph (1) over such payments.

(c) *Carryover of amounts deductible.* No amount deductible shall be carried forward under the second sentence of section 404(a)(3)(A) (relating to limits on deductible contributions under stock bonus and profit-sharing trusts) to a taxable year of a corporation with respect to which it is not an electing small business corporation from a taxable year (beginning after December 31, 1970) with respect to which it is an electing small business corporation.

(d) *Shareholder-employee.* For purposes of this section, the term "shareholder-employee" means an employee or officer of an electing small business corporation who owns (or is considered as owning within the meaning of section 318(a)(1), on any day during the taxable year of such corporation, more than 5 percent of the outstanding stock of the corporation.

(Sec. 1379 as added by sec. 531(a), Tax Reform Act 1969 (83 Stat. 654))

§ 1.1379–1 Additional requirement for qualification of profit-sharing plans of electing small business corporations.

(a) *Introduction.* Section 1379(a) and this section prescribe an additional requirement which must be met for qualification under section 401 of a trust forming part of a profit-sharing plan which does not provide that each employee's rights to the contributions, or to the benefits derived from the contributions, of the employer are nonforfeitable at the time the contributions are paid to, or under, the plan and—

(1) Which is maintained (i) by a corporation which is an electing small business corporation (as defined in section 1371(b) and § 1.1371–2) with respect to any taxable year beginning after December 31, 1970, during which such plan was maintained, or (ii) by the successor of such a corporation, and

(2) Which covers any individual who is a shareholder-employee (as defined in section 1379(d) and § 1.1379–4) of such corporation or a predecessor of such corporation for any taxable year referred to in subparagraph (1) of this paragraph.

Thus, this requirement must be met even though a corporation ceases to be an electing small business corporation or the plan ceases to be a profit-sharing plan as long as the plan covers an individual who was a shareholder-employee of such corporation or a predecessor of such corporation while it was an electing small business corporation which maintained the profit-sharing plan. With respect to stock bonus plans, see paragraph (e) of § 1.1371–1 for rules relating to the ownership of the stock of a small business corporation. The provisions of section 1379(a) and this section apply to such trusts for taxable years beginning after December 31, 1970.

(b) *General rule.* A trust described in paragraph (a) of this section does not constitute a qualified trust under section 401 unless the plan of which such trust is a part provides that funds in such plan arising from forfeitures may not be allocated to the account of an employee to the extent that—

(1) Such funds are attributable to a restricted contribution; and

(2) The employee is a shareholder-employee for the taxable year of the corporation in which the restricted contribution is deducted.

For purposes of this section, the term "restricted contribution" means a contribution which is deducted or deductible under section 404(a)(3) for a taxable year beginning after December 31, 1970, by an employer which is an electing small business corporation for such a taxable year. A trust meets the requirements of section 1379(a) and this section if the plan of which such trust is a part provides that funds arising from a forfeiture which are attributable to a restricted contribution shall be determined in a manner consistent with paragraph (c) of this section and shall be applied in a manner consistent with paragraph (d) of this section.

(c) *Funds attributable to restricted contributions*—(1) *In general.* The funds arising from a forfeiture which are attributable to a restricted contribution for a particular taxable year of an electing small business corporation consists of so much of its contribution for such year (including the income derived thereon) as is forfeited by an employee. For purposes of this section, a forfeiture which is attributable to a restricted contribution for a taxable year of the employer shall be determined under a method which is specified in the plan and which meets the requirements of subparagraph (2) or (3) of this paragraph.

(2) *Apportionment method.* Under the apportionment method, the portion of a forfeiture which is attributable to a restricted contribution for a particular taxable year of the corporation shall be determined by dividing the amount of such forfeiture by the number of years the forfeiting employee participated in the plan. For this purpose, the number of years of an employee's participation includes years for which no contribution was made under the plan and years for which no contribution to the plan was deductible by the corporation under section 404(a)(3).

(3) *Direct tracing method.* Under the direct tracing method, the portion of a forfeiture which is attributable to a restricted contribution for a particular year is an amount which bears the same ratio to the amount of such forfeiture as the forfeiting employee's annual account balance for such year bears to the sum of all annual account balances for such employee. For purposes of the preceding sentence, the annual account balance for an employee shall be determined by the maintenance of a separate account which reflects with respect to a taxable year of the employer—

(i) The amount of contribution allocated to the employee's account in any year, which is deductible by the employer under section 404(a)(3) for such taxable year;

(ii) The amount of contribution deductible by the employer for such taxable year which is included in a forfeiture allocated to the employee's account in any year;

(iii) The amount of net income and net gain or loss for all years from the investment and reinvestment of the employer contribution described in subdivisions (i) and (ii) of this subparagraph for such taxable year; and

(iv) The adjustments made with respect to each amount determined under the preceding subdivisions on account of any distribution made before termination of services.

For purposes of subdivisions (i) and (ii) of this subparagraph, if, for any taxable year, an employer pays contributions to both a profit-sharing plan and a pension or annuity plan in excess of the limitation of section 404(a)(7), the amount of such contributions which are deductible under section 404(a)(3) is an amount which bears the same ratio to the limitation of section 404(a)(7) as the amount otherwise deductible under section 404(a)(3) bears to the sum of such amount and the amount otherwise deductible under section 404(a) (1) or (2). For such purposes, where all or a portion of an employer contribution allocated to an employee's account is deductible, if at all, as a carryover to a taxable year subsequent to the taxable year in which the forfeiture occurs, the funds attributable to the contribution carryover shall be treated as a restricted contribution with respect to any employee who is a shareholder-employee for the year in which the forfeiture occurs. For purposes of this subparagraph, all taxable years beginning before January 1, 1971, may be treated as a single taxable year.

(d) *Acceptable treatment of forfeitures.* For purposes of this section, funds attributable to a restricted contribution are not considered to inure to the benefit of an employee who was a shareholder-employee for the taxable year for which such contribution was deductible if—

(1) In the case of a plan containing a definite formula (within the meaning of paragraph (d) of § 1.401–12) for determining the contributions to be made by the employer on behalf of employees, (i) such funds are to be used solely to reduce the employer's contribution for the taxable year in which such funds arise, and (ii) any excess of the funds so arising in any taxable year over the amount determined under such formula for such year is to be allocated in accordance with plan provisions satisfying the requirement of subparagraph (2) of this paragraph; or

(2)(i) The plan provides that such funds are to be allocated solely to employees other than such shareholder-employees, or (ii) if there are no such other employees participating in the plan, such funds are to be repaid to the employer not later than the 15th day of the third month following the close of the taxable year of the employer in which such funds arose.

A trust forming part of a profit-sharing plan shall not be considered not to meet the requirement of section 401(a)(2) and § 1.401–2, relating to impossibility of diversion under the trust instrument, merely because such plan permits funds to be repaid to the employer in accordance with subparagraph (2)(ii) of this paragraph. Such requirement shall not be deemed to be satisfied with respect to any amount repaid to the employer unless such amount is contributed to the trust, immediately upon receipt thereof by the employer, as a contribution by the employer for its taxable year in which such funds arose.

(e) *Treatment of amounts repaid to employer.* Any amount repaid to an employer under paragraph (d)(2) of this section shall be included in the gross income of the employer for its taxable year in which such funds arose but shall not be treated as passive investment income for purposes of section 1372(e)(5).

(f) *Timely amendment.* A trust shall be considered to satisfy the requirement of section 1379(a) and this section for the period beginning with the first day of a taxable year and ending with the 15th day of the third month following the close of such taxable year if, as of the end of such period, the plan of which such trust is a part provides that all funds in such plan, to the extent attributable to a restricted contribution, arising since the beginning of such period from forfeitures will be treated in a manner which meets such requirement. Further, for any taxable year beginning after December 31, 1970, and ending on or before the 90th day after the date regulations under section 1379(a) are first published in the FEDERAL REGISTER as a Treasury decision, a trust shall be considered to satisfy the requirement of section 1379(a) and this section if, as of such 90th day, the plan of which such trust is a part provides that all such funds arising during any taxable year beginning after December 31, 1970, will be treated in a manner which meets such requirement.

§ 1.1379–2 Taxability of shareholder-employee beneficiaries.

(a) *In general.* Under section 1379(b)(1), if an electing small business corporation maintains a qualified pension, annuity, profit-sharing, or bond purchase plan, a participant in such plan who is a shareholder-employee of such corporation for a taxable year of such corporation for which it is allowed a deduction under section 404(a) (1), (2), or (3) on account of contributions to such plan must include as compensation in his gross income, for his taxable year in which or with which such taxable year of such corporation ends, the portion of such contributions determined under paragraph (c) of this section, which is paid on his behalf and which exceeds the limitation provided in paragraph (b) of this section. Section 1379(b)(1) and this section apply notwithstanding the provisions of section 402 (relating to taxability of beneficiary of employees' trust), section 403 (relating to taxation of employee annuities), or section 405(d) (relating to taxability of beneficiaries under qualified bond purchase plan). Section 1379(b)(1) and this section apply notwithstanding the fact that a shareholder-employee's rights in a contribution paid on his behalf are forfeitable (within the meaning of paragraph (d)(2) of § 1.402(b)–1) in whole or in part. Section 1379 (b)(1) and this section apply to contributions on account of which a deduction is allowed under section 404(a) (1), (2), or (3) for taxable years of an electing small business corporation which began after December 31, 1970.

(b) *Limitation on excludable contributions*—(1) *In general.* The limitation on excludable contributions on behalf of a shareholder-employee of an electing small business corporation for any taxable year of such corporation is the lesser of—

(i) Except as provided in subparagraph (2) of this paragraph, $2,500, or

(ii) 10 percent of the compensation received by such shareholder-employee from such corporation during such year, or if he computes his income under the accrual method, 10 percent of the compensation accrued by him from such corporation during such year.

For purposes of subdivision (ii) of this subparagraph, the term "compensation" means all compensation for personal services actually rendered except that for which a deduction is allowable under a plan that qualifies under section 401(a), including a plan that qualifies under section 404(a)(2). Thus, amounts includible in gross income under section 1379(b)(1) are not compensation for purposes of subdivision (ii) of this subparagraph.

(2) *Multiple corporations.* If an individual is a shareholder-employee of two or more electing small business corpora-

tions and participates in qualified pension, annuity, profit-sharing, or bond purchase plans maintained by more than one of such corporations, the excludable portion of the contributions paid on his behalf by all such corporations for their taxable years ending in or with one of his taxable years shall not exceed $2,500. If such contributions exceed $2,500, the excludable contributions paid on his behalf by each such corporation shall be determined by substituting for the $2,500 amount specified in subparagraph (1)(i) of this paragraph an amount which bears the same ratio to $2,500 as the compensation received or accrued from each such corporation bears to the total compensation received or accrued from all such corporations.

(c) *Deductible contributions paid on behalf of a shareholder-employee*—(1) *In general.* This paragraph provides rules for determining the portion of the contributions to a qualified pension, annuity, profit-sharing, or bond purchase plan by an electing small business corporation on account of which it is allowed a deduction under section 404(a)(1), (2), or (3) which are paid on behalf of a shareholder-employee of such corporation. Subparagraph (2) of this paragraph provides rules for making this determination in the case of contributions to define contribution plans (as defined in paragraph (b)(1) of § 1.402(a)–2 (36 F.R. 11443)) and to certain defined benefit plans (as defined in paragraph (d)(1) of § 1.402(a)–2 (36 F.R. 11447)). Subparagraph (3) of this paragraph provides rules for making this determination in the case of contributions to defined benefit plans if separate accounts are not maintained with respect to contributions made on behalf of each employee.

(2) *Defined contribution plans and certain defined benefit plans*—(i) *General rule.* For purposes of this section, the portion of the contributions for a taxable year to a defined contribution plan (or a defined benefit plan as provided by subdivision (iii) of this subparagraph) by an electing small business corporation on account of which it is allowed a deduction under section 404(a)(1), (2), or (3) which are paid on behalf of a shareholder-employee of such corporation are the amounts actually contributed to the plan for such taxable year by such corporation which are (*a*) credited to the account of the shareholder-employee or (*b*) are not so credited but are applied as consideration for, or against any indebtedness on, an annuity, retirement income, endowment, or other life insurance contract for the shareholder-employee. The amount considered as employer contributions credited to the account of the shareholder-employee under this subdivision shall at his option be reduced by the excess (if any) of the gross annual premium paid under an annuity, retirement income, endowment, or other life insurance contract purchased for him over the adjusted premium under such contract. For purposes of this subdivision, the adjusted premium for any year is the amount of premium considered by the insurer in computing the cash surrender value of an insurance contract for such year. No amount shall be treated as consideration for any such contract for any period for which the gross premiums are waived. For purposes of this subdivision (i), the amount of employer contributions actually contributed to the plan does not include any amounts considered to be contributed by a shareholder-employee under the rules of section 72(f) or paragraph (b) of § 1.72–16.

(ii) *Excess contributions.* If the amount actually contributed to a defined contribution plan for a taxable year of the corporation exceeds the deduction allowable for such year under section 404(a) on account of such contributions, the amount determined under subdivision (i) of this subparagraph shall be reduced (but not below zero) by an amount equal to such excess, multiplied by a fraction (*a*) the numerator of which is the amount determined under subdivision (i) of this subparagraph without regard to this subdivision, and (*b*) the denominator of which is the amount actually contributed to such plan for such year. The amount of any reduction under the preceding sentence shall be treated as an amount actually contributed to such plan for any succeeding taxable year of the corporation in the same proportion that such excess is deductible under paragraph (e) of § 1.404(a)–9.

(iii) *Defined plans with separate accounts.* If separate accounts are maintained with respect to contributions made on behalf of each employee, the portion of the contributions for a taxable year to a defined benefit plan by an electing small business corporation on account of which it is allowed a deduction under section 404(a)(1) or (2) which are paid on behalf of a shareholder-employee may be determined under the rules provided under this subparagraph. The determination of such portion for a taxable year under the rules provided by this subparagraph shall be treated as the adoption of a method of accounting by the shareholder-employee for purposes of section 446.

(3) *Defined benefit plans*—(i) *In general.* If a shareholder-employee has not adopted the method of accounting described in subparagraph (2) of this paragraph, the portion of the contributions for a taxable year to a defined benefit plan by an electing small business corporation, on account of which it is allowed a deduction under section 404(a)(1) or (2), which are paid on behalf of a shareholder-employee of such corporation shall be considered to be an amount determined on the basis of level funding of the benefits to be provided under such plan during the shareholder-employee's participation in such plan, payment of employer contributions at the end of the plan year, and a growth rate of 6 percent per annum compounded annually. The determination of such portion for a taxable year under the rules provided under this subparagraph shall be treated as the adoption of a method of accounting by the shareholder-employee for purposes of section 446.

(ii) *Deductible employer contributions paid on behalf of a shareholder-employee for a taxable year.* If this subparagraph applies, the portion of the contributions for a taxable year which is deductible under section 404(a)(1) or (2) which are paid on behalf of a shareholder-employee shall be equal to the adjusted annual contribution (determined under subdivision (iii) of this subparagraph) to a plan for such shareholder-employee for such taxable year.

(iii) *Adjusted annual contribution.* For purposes of this subparagraph, the amount of the adjusted annual contribution to a plan for a shareholder-employee for a taxable year is the excess (if any) of the sum of—

(*a*) The amount of the unadjusted annual contribution (determined under subdivision (iv) of this subparagraph) for such taxable year, and

(*b*) The amount, if any, of the preretirement death benefit adjustment (determined under subdivision (v) of this paragraph) for such taxable year,

over the amount, if any, of his mandatory contributions to the plan (as defined in paragraph (d)(2)(ii)(*a*) of § 1.402(a)–2) for such taxable year.

(iv) *Unadjusted annual contribution.* The amount of the unadjusted annual contribution on behalf of a shareholder-employee for a taxable year is the amount by which the reserve for the shareholder-employee as of the end of such taxable year (determined under subdivision (vi) of this subparagraph) exceeds 106 percent of the reserve for such shareholder-employee as of the end of the preceding taxable year (determined under subdivision (vi) of this subparagraph). For this purpose, the reserve for a shareholder-employee as of the end of the preceding taxable year shall be zero in the case where the unadjusted annual contribution is computed for the first taxable year in which such shareholder-employee is a participant under the plan.

(v) *Preretirement death benefit adjustment.* If a plan provides benefits in case of death before retirement and paragraph (b) of § 1.72–16 does not apply, the excess (if any) of the value of such benefits over 103 percent of the reserve for a shareholder-employee as of the end of the preceding taxable year (determined under subdivision (vi) of this subparagraph) shall be considered current life insurance protection, and the cost thereof (determined in accordance with the rules of paragraph (b) of § 1.72–16) shall be treated as a contribution made on behalf of the shareholder-employee by the corporation for the taxable year for purposes of subdivision (iii) of this subparagraph.

(vi) *Reserve for shareholder-employee.* The reserve for a shareholder-employee as of the end of a taxable year is (*a*) the product of—

(*1*) The level contribution to retirement (determined under subdivision (vii) of this subparagraph) and

(*2*) The factor from Table IV of subdivision (ix) of this subparagraph for the number of years of participation in the plan by the shareholder-employee at such time,

or (*b*) 106 percent of the reserve for the shareholder-employee as of the end of the previous taxable year, if greater. However, if the shareholder-employee does not treat certain disability benefits under the plan as an early retirement benefit under subdivision (vii) of this subparagraph, the amount of the reserve for a shareholder-employee as of the end of a taxable year shall be considered to be 10/9 of the amount determined under the preceding sentence.

(vii) *Level contribution to retirement.* Except as hereinafter provided with respect to benefits payable under the plan before normal retirement age, the amount of the level contribution to retirement is the product of (*a*) the single sum equivalent at retirement age (determined under subdivision (viii) of this subparagraph) and (*b*) the factor from Table III of subdivision (ix) of this subparagraph (representing the present value of contributions which will accumulate to $1 at normal retirement age) for the number of years of anticipated participation in the plan until normal retirement age. If benefits, including disability benefits, are payable under the plan before normal retirement age and the level contribution to such early retirement age (computed in a manner consistent with the provisions of the preceding sentence) exceeds the level contribution to normal retirement age, the level contribution to retirement shall be considered to be the greatest amount determined with respect to each retirement age prior to normal retirement age. For this purpose, if the disability payments under the plan are payable only for the period of time when an employee is eligible for and receives disability benefits under section 223 of the Social Security Act, as amended and supplemented (49 Stat. 620) and the reserve for the shareholder-employee is determined in accordance with the second sentence of subdivision (vi) of this subparagraph, such disability benefits shall not be treated as benefits payable under the plan before normal retirement age.

(viii) *Single sum equivalent at retirement age.* The single sum equivalent at retirement age for a shareholder-employee is the product of—

(*a*) The projected annual amount of his pension (as of such time) to be provided at retirement age which is not attributable to his voluntary contributions to the plan (as defined in paragraph (d)(2)(ii)(*b*) of § 1.402(a)-2), based upon the provisions of the plan in effect at such time and upon the assumption of his continued employment with his present employer at his then current compensation rate,

(*b*) The factor from Table I of subdivision (ix) of this subparagraph (representing the value at retirement age of an annuity of $1 per annum payable in equal monthly installments during the life of the employee) based upon the employee's sex and retirement age, and

(*c*) If the form of retirement benefit under the plan is other than a straight life annuity, the appropriate factor from Table II of subdivision (ix) of this subparagraph.

If a plan contains provisions for the commutation of an annuity to a single sum at retirement and the amount determined by applying such provisions is greater than the single sum equivalent at retirement age otherwise determined under this subdivision, the single sum equivalent at retirement age shall be such greater amount. The single sum equivalent shall be determined with respect to each retirement age provided under the plan.

(ix) *Tables.*

TABLE I

(Value at retirement age of an annuity of $1 per annum payable in monthly installments during the life of the employee, based upon the employee's sex and retirement age.)

Age	Male	Female
20	15.6483	16.0963
21	15.5871	16.0456
22	15.5241	15.9922
23	15.4580	15.9361
24	15.3882	15.8769
25	15.3130	15.8147
26	15.2320	15.7492
27	15.1452	15.6804
28	15.0528	15.6079
29	14.9548	15.5321
30	14.8517	15.4524
31	14.7432	15.3692
32	14.6292	15.2822
33	14.5096	15.1911
34	14.3843	15.0957
35	14.2532	14.9960
36	14.1163	14.8918
37	13.9736	14.7829
38	13.8252	14.6695
39	13.6710	14.5516
40	13.5116	14.4289
41	13.3468	14.3014
42	13.1768	14.1692
43	13.0017	14.0320
44	12.8214	13.8897
45	12.6359	13.7420
46	12.4453	13.5888
47	12.2497	13.4302
48	12.0490	13.2660
49	11.8467	13.0964
50	11.6412	12.9215
51	11.4336	12.7413
52	11.2239	12.5557
53	11.0116	12.3641
54	10.7959	12.1657
55	10.5761	11.9599
56	10.3518	11.7463
57	10.1233	11.5252
58	9.8916	11.2971
59	9.6586	11.0633
60	9.4249	10.8242
61	9.1912	10.5807
62	8.9574	10.3323
63	8.7234	10.0787
64	8.4890	9.8192
65	8.2539	9.5535
66	8.0183	9.2810
67	7.7824	9.0023
68	7.5460	8.7183
69	7.3084	8.4300
70	7.0695	8.1389

TABLE II

Type of Benefit	*Factor*
Annuity for 5 years certain and life thereafter [1]	1.04387
Annuity for 10 years certain and life thereafter [1]	1.15354
Annuity for 15 years certain and life thereafter [1]	1.29708
Annuity for 20 years certain and life thereafter [1]	1.44956
Life annuity with installment refund	1.14067
Life annuity with one-half continued to surviving spouse of employee	1.21493
Life annuity with two-thirds continued to surviving spouse of employee	1.28657
Life annuity with entire amount continued to surviving spouse of employee	1.42985

[1] In the case of annuities for periods certain other than those provided in the foregoing table, the factor shall be computed by interpolation between the nearest given factors in the table.

TABLE III

(Level annual contribution which will accumulate to $1 at end of number of years)

Number of Years	*Factor*	*Number of Years*	*Factor*
1	1.00000	26	0.01690
2	.48544	27	.01570
3	.31411	28	.01459
4	.22859	29	.01358
5	.17740	30	.01265
6	.14336	31	.01179
7	.11914	32	.01100
8	.10104	33	.01027
9	.08702	34	.00960
10	.07587	35	.00897
11	.06679	36	.00839
12	.05928	37	.00786
13	.05296	38	.00736
14	.04758	39	.00689
15	.04296	40	.00646
16	.03895	41	.00606
17	.03544	42	.00568
18	.03236	43	.00533
19	.02962	44	.00501
20	.02718	45	.00470
21	.02500	46	.00441
22	.02305	47	.00415
23	.02128	48	.00390
24	.01968	49	.00366
25	.01823	50	.00344

TABLE IV

(Amount of annuity of $1 at end of such period)

Years	*Factor*	*Years*	*Factor*
1	1.0000	26	59.1564
2	2.0600	27	63.7058
3	3.1836	28	68.5281
4	4.3746	29	73.6398
5	5.6371	30	79.0582
6	6.9753	31	84.8017
7	8.3938	32	90.8898
8	9.8975	33	97.3432
9	11.4913	34	104.1838
10	13.1808	35	111.4348
11	14.9716	36	119.1209
12	16.8699	37	127.2681
13	18.8821	38	135.9042
14	21.0151	39	145.0585
15	23.2760	40	154.7620
16	25.6725	41	165.0477
17	28.2129	42	175.9505
18	30.9056	43	187.5076
19	33.7600	44	199.7580
20	36.7856	45	212.7435
21	39.9927	46	226.5081
22	43.3923	47	241.0986
23	46.9958	48	256.5645
24	50.8156	49	272.9584
25	54.8645	50	290.3359

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

Example (1). (i) A is a male employee of, and owns all the stock of, X Corporation, an electing small business corporation. A and X Corporation are calendar-year taxpayers. X Corporation has a qualified pension plan which it adopted on January 1, 1968, and which provides at age 65 a straight life annuity payable at the end of each month of 50 percent of a participant's average monthly compensation during the last 5 years of service. He began participation in the plan on January 1, 1968. The plan does not provide any benefits in case of death or disability be-

fore retirement or for a lump sum distribution in lieu of the straight life annuity. A's annual compensation for calendar years 1973 and 1974 is $50,000. A was born on October 4, 1927. The plan is noncontributory.

(ii) A's projected annual pension as of the end of 1973 and 1974 is $25,000 (50 percent of $50,000). The factor from Table I for the value of a straight life annuity at age 65 of $1 payable in monthly installments at the end of each month is 8.2539. The single sum equivalent as of the end of 1974 is $206,347.50 ($25,000×8.2539). The factor from Table III, representing the present value of contributions which will accumulate to $1 at retirement age, for 25 years of anticipated participation in the plan by A is 0.01823. The level contribution to retirement is $3,761.71 ($206,347.50×0.01823). The factor from Table IV for the number of years of participation in the plan is 6.9753 for 1973 and 8.3938 for 1974. The reserve for A is $26,239.06 ($3,761.71×6.9753) at the end of 1973 and $31,575.04 ($3,761.71×8.3938) at the end of 1974. The unadjusted annual contribution for A is $3,761.64 ($31,575.04−($26,239.06×1.06)). Because no adjustment is necessary for mandatory employee contributions or pre-retirement death benefits, the adjusted annual contribution for A is equal to the unadjusted annual contribution for A. Accordingly, the portion of the contribution for 1974 to the plan by X Corporation on account of which it is allowed a deduction under section 404(a)(1) which are paid on A's behalf is $3,761.64.

Example (2). The facts are the same as in example (1) except that the plan provides that if an employee dies before retirement, his spouse or his estate will receive an amount equal to his annual compensation at the time of his death. The death benefit is uninsured and thus paragraph (b) of § 1.72–16 does not apply. A reasonable net premium cost for A's age (47) is $7.32 per $1,000. Accordingly, the portion of the contributions for 1974 to the plan by X Corporation on account of which it is allowed a deduction under section 404(a)(1) which are paid on behalf of A is $3,929.81 ($3,761.64 (the amount determined in example (1))+$168.17 (($50,000−($26,239.06×1.03))×0.00732)).

Example (3). The facts are the same as in example (1) except that A's annual compensation for calendar year 1974 is $55,000. Accordingly, A's projected annual pension as of the end of 1974 is $27,500 (50 percent of $55,000). The single sum equivalent as of the end of 1974 is $226,982.25 ($27,500×8.2539). The level contribution to retirement is $4,137.89 ($226,982.25×0.01823). The reserve for A as of the end of 1974 is $34,732.62 ($4,137.89×8.3938). Thus, the portion of the contributions for 1974 to the plan by X corporation on account of which it is allowed a deduction under section 404(a)(1) which are paid on behalf of A is $6,919.22 ($34,732.62−($26,239.06×1.06)).

Example (4). (i) The facts are the same as in example (1) except that the plan is amended January 1, 1974, effective as of such date, to provide early retirement benefits beginning at age 60 equal to the benefit at age 65 reduced 3 percent per annum for each year by which the employee's age is less than 65.

(ii) The age under the plan for which the level contribution to retirement is the greatest is age 60, computed as follows:

Potential retirement age	(a) Projected annual retirement benefit	(b) Table I factor	(c) Single sum equivalent at retirement age [(a)×(b)]	(d) Table III factor	(e) Level contribution to retirement [(c)×(d)]
65	$25,000	8.2539	$206,347.50	0.01823	$3,761.71
64	24,250	8.4890	205,858.25	.01968	4,051.29
63	23,500	8.7234	204,999.90	.02128	4,362.40
62	22,750	8.9574	203,780.85	.02305	4,697.15
61	22,000	9.1912	202,206.40	.02500	5,055.16
60	21,250	9.4249	200,279.13	.02718	5,443.59

(iii) The reserve for A is $45,692.41 ($5,443.59×8.3938) as of the end of 1974. Accordingly, the portion of the contributions for 1974 to the plan by X Corporation on account of which it is allowed a deduction under section 404(a)(1) which are paid on behalf of A is $17,879.01 ($45,692.41−($26,239.06×1.06)).

(d) *Treatment of amounts included in gross income.* Any amount included in the gross income of a shareholder-employee under section 1379(b)(1) and this section shall be treated as consideration for the contract contributed by the shareholder-employee for purposes of section 72 (relating to annuities). See § 1.72–8(a)(1). If an individual is a participant in two or more plans maintained by one or more electing small business corporations with respect to which such individual is a shareholder-employee, the amount treated as consideration paid or contributed by such individual to a particular plan for a year shall be a ratable portion of the total amount included, under section 1379(b) and this section, by him in his gross income for that year.

(e) *Deduction for excess contributions not received as benefits*—(1) *General rule.* If, immediately after the termination of the rights of a shareholder-employee or his beneficiaries under the plan, the sum of the amounts included in the gross income of the shareholder-employee under paragraph (a) of this section exceeds the sum of the distributions and payments which are excludable from gross income, or will be excluded by a beneficiary in the case of a survivorship annuity with term certain, such excess shall be allowable as a deduction from gross income. For purposes of the preceding sentence, all distributions and payments which are excluded from gross income are considered to consist entirely of amounts treated as consideration for the contract contributed by a shareholder-employee under paragraph (d) of this section until such excludable distributions and payments equal the total amount includible in gross income by the shareholder-employee under paragraph (a) of this section. Except as provided in subparagraph (2) of this paragraph, such deduction shall be allowable to the shareholder-employee for his taxable year in which the termination of rights under the plan occurs. In the case of a termination of rights by reason of the death of the shareholder-employee, the deduction shall be allowable in computing his taxable income for the taxable year ending with the date of his death. For purposes of this paragraph, a termination of rights occurs when, in all events, the entire amount of benefits payable under a plan with respect to a shareholder-employee has been distributed or paid except so much as remains to be paid to a beneficiary under a survivorship annuity with term certain.

(2) *Special rule.* If, immediately prior to the termination of benefits with respect to a shareholder-employee, such shareholder-employee is not alive, a portion of the deduction referred to in subparagraph (1) of this paragraph is allowable to each person who, immediately prior to such termination, was a beneficiary of the shareholder-employee under the plan and whose interest as a beneficiary at such time was not a future interest. The deduction is allowable to each such person for his taxable year in which the termination of benefits occurs. The portion of the deduction referred to in subparagraph (1) of this paragraph allowable to each such person is obtained by multiplying the amount of such deduction by a fraction—

(i) The numerator of which is the amount of benefits under the plan received by such person with respect to the shareholder-employee, and

(ii) The denominator of which is the total amount of benefits under the plan received by all persons to whom a portion of the deduction is allowable.

If, however, no such person has received benefits under the plan, the portion of the deduction referred to in subparagraph (1) of this paragraph which is allowable to each such person is obtained by dividing the amount of such deduction by the number of persons to whom a portion of the deduction is allowable.

§ 1.1379–3 Carryover of amounts deductible.

For taxable years beginning after December 31, 1970, no amount deductible shall be carried forward under the second sentence of section 404(a)(3)(A) (relating to limits on deductible contributions under stock bonus and profit-sharing trusts) or § 1.404(a)–9(d) to a taxable year of a corporation with respect to which it is not an electing small business corporation.

§ 1.1379–4 Shareholder-employee.

For purposes of §§ 1.1379–1 and 1.1379–2, under section 1379(d), an individual is a shareholder-employee for a taxable year of an electing small business corporation beginning after December 31, 1970, if he is an employee of officer of such corporation who owns (or is considered as owning within the meaning of section 318(a)(1) and the regulations thereunder), on any day during such taxable year of such corporation, more than 5 percent of the total number of shares of the outstanding stock of the corporation.

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

PAR. 14. Section 20.2039–2(c)(1) is amended to read as follows:

§ 20.2039–2 Annuities under "qualified plans" and section 403(b) annuity contracts.

* * * * *

(c) *Amount excludable from the gross estate.* (1) The amount to be excluded from a decedent's gross estate under section 2039(c) is an amount which bears the same ratio to the value at the decedent's death of the annuity or other payment receivable by the beneficiary as the employer's contribution (or a contribution made on his behalf) on the employee's account to the plan or towards the purchase of the annuity contract bears to the total contributions on the employee's account to the plan or towards the purchase of the annuity contract. In applying the ratio set forth in the preceding sentence, payments or contributions made by the employer (or on its behalf) toward the purchase of an annuity contract described in paragraph (b)(3) of this section shall be considered to include only such payments or contributions as are, or were, excludable from the employee's gross income under section 403(b). For purposes of this ratio, contributions or payments made under a plan described in subparagraph (1) or (2) of paragraph (b) of this section on behalf of the decedent while he was an employee within the meaning of section 401(c)(1) with respect to such plan shall be considered to be contributions or payments made by the decedent and not by the employer. Further, amounts includible in the gross income of an employee under section 1379(b) are considered to be payments or contributions made by the employee. For purposes of this paragraph, amounts payable under subparagraph (4) of paragraph (b) of this section are attributable to payments or contributions made by the decedent only to the extent of amounts deposited by him pursuant to section 1438 of title 10 of the United States Code. In applying this ratio, the value at the decedent's death of the annuity or other payment is determined in accordance with the rules set forth in §§ 20.2031–1, 20.2031–7, 20.2031–8, and 20.2031–9.

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PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

PAR. 15. Section 25.2517–1(c) is amended by revising so much of subparagraph (1) as precedes example (1) to read as follows:

§ 25.2517–1 Employees' annuities.

* * * * *

(c) *Amount excludable from gift.* (1) If an annuity or other payment described in paragraph (a)(1) of this section (other than an annuity or other payment referred to in paragraph (b)(1)(iv) of this section) is attributable to payments or contributions made by both the employee and the employer, the exclusion is limited to that proportion of the value on the date of the gift (see paragraph (a)(1) of this section) of the annuity or other payment which the employer's contribution (or a contribution made on the employer's behalf) to the plan on the employee's account bears to the total contributions to the plan on the employee's account. In applying the ratio set forth in the preceding sentence payments or contributions made by the employer toward the purchase of an annuity contract described in paragraph (b)(1)(iii) of this section are considered to be contributions made by the employee (and not by the employer) to the extent that such contributions are, or were, not excludable from the employee's gross income under section 403(b). For purposes of this ratio, payments or contributions made to a plan described in subdivision (i) or (ii) of paragraph (b)(1) of this section on behalf of an individual while he was an employee within the meaning of section 401(c)(1) with respect to such plan shall be considered to be payments or contributions made by the employee. Further, amounts includible in the gross income of an employee under section 1379(b) are considered to be payments or contributions made by the employee. The application of this paragraph may be illustrated by the following examples, none of which involves employees within the meaning of section 401(c)(1):

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[FR Doc.72–6869 Filed 5–5–72;8:46 am]