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Title 24—HOUSING AND URBAN DEVELOPMENT

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

[Docket No. R-72-201]

PART 221—LOW AND MODERATE INCOME MORTGAGE INSURANCE

Mortgagor's Minimum Investment

A proposal was published on July 11, 1972 (37 F.R. 13557), to amend Title 24 of the Code of Federal Regulations concerning the required minimum investment by an applicant for mortgage insurance under section 221.

The amended requirement is designed to prevent investors from taking advantage of the low downpayment provisions under § 221 to purchase two-, three-, and four-family dwellings for use as rental properties. The downpayment requirements for single-family dwellings and for mortgagors qualifying as displaced families are not affected by the change.

Interested persons were given the opportunity to participate in the rule making through the submission of comments. No comments were received concerning the proposed amendment.

In view of the foregoing, the Department is adopting the amendment as proposed.

Accordingly, § 221.50 is amended to read as follows:

§ 221.50 Mortgagor's minimum investment.

(a) At the time the mortgage on a single-family dwelling is insured, a mortgagor other than a mortgagor qualifying as a displaced family shall have paid in cash or its equivalent at least 3 percent of the Commissioner's estimate of the acquisition cost of the property.

(b) At the time the mortgage on a two-, three-, or four-family dwelling is insured, a mortgagor other than a mortgagor qualifying as a displaced family shall have paid in cash or its equivalent at least the minimum amount required pursuant to the loan-to-value limitations as set forth below.

(1) *Loan-to-value limitation—approval prior to construction.* If the mortgage covers a dwelling approved for mortgage insurance prior to the beginning of construction, or if the mortgage covers a dwelling which was completed more than 1 year preceding the date of the application for mortgage insurance, the sum of the following percentages of the Commissioner's appraised value of the property as of the date the mortgage is accepted for insurance constitutes the maximum loan-to-value ratio:

(i) Ninety-seven percent of the first $15,000 of such value.

(ii) Ninety percent of such value in excess of $15,000, but not in excess of $25,000.

(iii) Eighty percent of such value in excess of $25,000.

(2) *Loan to value limitation—no prior approval.* A loan-to-value limitation of 90 percent of $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance, and 80 percent of such value in excess of $25,000 is required if the dwelling does not meet the requirements contained in subparagraph (1) of this paragraph.

(c) A mortgagor qualifying as a displaced family shall have paid in cash or its equivalent on account of the property, at the time the mortgage is insured, not less than:

(1) Two hundred dollars for a one-family dwelling;

(2) Four hundred dollars for a two-family dwelling;

(3) Six hundred dollars for a three-family dwelling;

(4) Eight hundred dollars for a four-family dwelling.

(Sec. 221, National Housing Act, 12 U.S.C. 1715b, 1715l)

Effective date. This amendment is effective as of November 24, 1972.

EUGENE A. GULLEDGE,
Assistant Secretary-Commissioner.

[FR Doc.72-18494 Filed 10-30-72;8:48 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7208]

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

Certain Partnership Elections and Returns

Correction

In F.R. Doc. 72-16828 appearing at page 20686 of the issue of Tuesday, October 3, 1972, the following dates should be inserted in § 1.761-2(b)(3)(ii):

1. In the final paragraph on page 20687 the designation reading "[the last day of the first calendar month which begins after the date of the publication of the Treasury decision in the FEDERAL REGISTER]" should be deleted and "November 30, 1972" substituted therefor; and

2. The designation beginning on the first line of page 20688 reading "[the 90th day after the date of the publication of the Treasury decision in the FEDERAL REGISTER]" should be deleted and "January 2, 1973" substituted therefor.

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7215]

PART 53—FOUNDATION EXCISE TAXES

Taxes on Taxable Expenditures

On March 20, 1971, notice of proposed rule making was published [1] with respect to promulgation of regulations under section 4945 of the Internal Revenue Code of 1954, as enacted by section 101 (b) of the Tax Reform Act of 1969 (83 Stat. 512), relating to taxes on taxable expenditures. A public hearing with respect to these proposed regulations was held on August 3, 1971. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the Foundation Excise Tax Regulations (26 CFR Parts 53 and 143) are amended as follows: Temporary Treasury Regulations § 143.1 (35 F.R. 763) (1970), and (insofar as related to section 4945) § 143.8 (35 F.R. 7727) (1970), are superseded. Except where otherwise specifically provided, the following regulations, a new Part 53, consisting at this time of Subpart F, take effect on January 1, 1970.

Subpart F—Taxes on Taxable Expenditures

Sec.

AUTHORITY: The provisions of this Part 53 issued under sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Subpart F—Taxes on Taxable Expenditures

§ 53.4945 Statutory provisions; imposition of excise taxes on taxable expenditures.

SEC. 4945. *Taxes on taxable expenditures.*

(a) *Initial taxes.*

[1] 36 F.R. 5357.

(1) *On the foundation.* There is hereby imposed on each taxable expenditure (as defined in subsection (d)) a tax equal to 10 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the private foundation.

(2) *On the management.* There is hereby imposed on the agreement of any foundation manager to the making of an expenditure, knowing that it is a taxable expenditure, a tax equal to 2½ percent of the amount thereof, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any foundation manager who agreed to the making of the expenditure.

(b) *Additional taxes.*

(1) *On the foundation.* In any case in which an initial tax is imposed by subsection (a)(1) on a taxable expenditure and such expenditure is not corrected within the correction period, there is hereby imposed a tax equal to 100 percent of the amount of the expenditure. The tax imposed by this paragraph shall be paid by the private foundation.

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

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

(1) *Joint and several liability.* If more than one person is liable under subsection (a)(2) or (b)(2) with respect to the making of a taxable expenditure, all such persons shall be jointly and severally liable under such paragraph with respect to such expenditure.

(2) *Limit for management.* With respect to any one taxable expenditure, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $5,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $10,000.

(d) *Taxable expenditure.* For purposes of this section, the term "taxable expenditure" means any amount paid or incurred by a private foundation—

(1) To carry on propaganda, or otherwise to attempt, to influence legislation, within the meaning of subsection (e),

(2) Except as provided in subsection (f), to influence the outcome of any specific public election, or to carry on, directly or indirectly, any voter registration drive,

(3) As a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of subsection (g),

(4) As a grant to an organization (other than an organization described in paragraph (1), (2), or (3) of section 509 (a)), unless the private foundation exercises expenditure responsibility with respect to such grant in accordance with subsection (h), or

(5) For any purpose other than one specified in section 170(c)(2)(B).

(e) *Activities within subsection (d)(1).* For purposes of subsection (d)(1), the term "taxable expenditure" means any amount paid or incurred by a private foundation for—

(1) Any attempt to influence any legislation through an attempt to affect the opinion of the general public or any segment thereof, and

(2) Any attempt to influence legislation through communication with any member or employee of a legislative body, or with any other government official or employee who may participate in the formulation of the legislation (except technical advice or assistance provided to a governmental body or to a committee or other subdivision thereof in response to a written request by such body or subdivision, as the case may be),

other than through making available the results of nonpartisan analysis, study, or research. Paragraph (2) of this subsection shall not apply to any amount paid or incurred in connection with an appearance before, or communication to, any legislative body with respect to a possible decision of such body which might affect the existence of the private foundation, its powers and duties, its tax-exempt status, or the deduction of contributions to such foundation.

(f) *Nonpartisan activities carried on by certain organizations.* Subsection (d)(2) shall not apply to any amount paid or incurred by an organization—

(1) Which is described in section 501 (c)(3) and exempt from taxation under section 501(a),

(2) The activities of which are nonpartisan, are not confined to one specific election period, and are carried on in 5 or more States,

(3) Substantially all of the income of which is expended directly for the active conduct of the activities constituting the purpose or function for which it is organized and operated,

(4) Substantially all of the support (other than gross investment income as defined in section 509(e)) of which is received from exempt organizations, the general public, governmental units described in section 170 (c)(1), or any combination of the foregoing; not more than 25 percent of such support is received from any one exempt organization (for this purpose treating private foundations which are described in section 4946(a)(1)(H) with respect to each other as one exempt organization); and not more than half of the support of which is received from gross investment income, and

(5) Contributions to which for voter registration drives are not subject to conditions that they may be used only in specified States, possessions of the United States, or political subdivisions or other areas of any of the foregoing, or the District of Columbia, or that they may be used in only one specific election period.

In determining whether the organization meets the requirements of paragraph (4) for any taxable year of such organization, there shall be taken into account the support received by such organization during such taxable year and during the immediately preceding 4 taxable years of such organization (excluding therefrom any preceding taxable year which begins before January 1, 1970). Subsection (d)(4) shall not apply to any grant to an organization which meets the requirements of this subsection.

(g) *Individual grants.* Subsection (d)(3) shall not apply to an individual grant awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the Secretary or his delegate, if it is demonstrated to the satisfaction of the Secretary or his delegate that—

(1) The grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is to be used for study at an educational institution described in section 151(e)(4),

(2) The grant constitutes a prize or award which is subject to the provisions of section 74(b), if the recipient of such prize or award is selected from the general public, or

(3) The purpose of the grant is to achieve a specific objective, produce a report or other similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

(h) *Expenditure responsibility.* The expenditure responsibility referred to in subsection (d)(4) means that the private foundation is responsible to exert all reasonable efforts and to establish adequate procedures—

(1) To see that the grant is spent solely for the purpose for which made,

(2) To obtain full and complete reports from the grantee on how the funds are spent, and

(3) To make full and detailed reports with respect to such expenditures to the Secretary or his delegate.

(i) *Other definitions.* For purposes of this section—

(1) *Correction.* The terms "correction" and "correct" mean, with respect to any taxable expenditure, (A) recovering part or all of the expenditure to the extent recovery is possible, and where full recovery is not possible such additional corrective action as is prescribed by the Secretary or his delegate by regulations, or (B) in the case of a failure to comply with subsection (h)(2) or (h)(3), obtaining or making the report in question.

(2) *Correction period.* The term "correction period" means, with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending 90 days after the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (b)(1) under section 6212, extended by—

(A) Any period in which a deficiency cannot be assessed under section 6213(a), and

(B) Any other period which the Secretary or his delegate determines is reasonable and necessary to bring about correction of the taxable expenditure (except that such determination shall not be made with respect to any taxable expenditure within the meaning of paragraph (1), (2), (3), or (4) of subsection (d) because of any action by an appropriate State officer as defined in section 6104(c)(2)).

[Sec. 4945 as added by sec. 101(b), Tax Reform Act 1969 (83 Stat. 512)]

§ 53.4945–1 Taxes on taxable expenditures.

(a) *Imposition of initial taxes*—(1) *Tax on private foundation.* Section 4945(a)(1) of the Code imposes an excise tax on each taxable expenditure (as defined in section 4945(d)) of a private foundation. This tax is to be paid by the private foundation and is at the rate of 10 percent of the amount of each taxable expenditure.

(2) *Tax on foundation manager*—(i) *In general.* Section 4945(a)(2) of the Code imposes, under certain circumstances, an excise tax on the agreement of any foundation manager to the making of a taxable expenditure by a private foundation. This tax is imposed only in cases in which the following circumstances are present:

(*a*) A tax is imposed by section 4945(a)(1);

(*b*) Such foundation manager knows that the expenditure to which he agrees is a taxable expenditure, and

(*c*) Such agreement is willful and is not due to reasonable cause.

However, the tax with respect to any particular expenditure applies only to the agreement of those foundation managers who are authorized to approve, or to exer-

cise discretion in recommending approval of, the making of the expenditure by the foundation and to those foundation managers who are members of a group (such as the foundation's board of directors or trustees) which is so authorized. For the definition of the term "foundation manager," see section 4946(b) and the regulations thereunder.

(ii) *Agreement.* The agreement of any foundation manager to the making of a taxable expenditure shall consist of any manifestation of approval of the expenditure which is sufficient to constitute an exercise of the foundation manager's authority to approve, or to exercise discretion in recommending approval of, the making of the expenditure by the foundation, whether or not such manifestation of approval is the final or decisive approval on behalf of the foundation.

(iii) *Knowing.* For purposes of section 4945, a foundation manager shall be considered to have agreed to an expenditure "knowing" that it is a taxable expenditure only if he has knowledge that it is a taxable expenditure. Knowledge will ordinarily exist if a foundation manager has actual knowledge of sufficient facts so that, based solely upon such facts, such transaction would be a taxable expenditure, and the foundation manager is generally aware that such an expenditure under these circumstances might be inconsistent with the law governing foundations. For purposes of this part and chapter 42 the term "knowledge" does not mean "have reason to know." However, evidence tending to show that a foundation manager has reason to know that a transaction involves such a taxable expenditure ordinarily is relevant in determining whether he has actual knowledge regarding such a transaction.

(iv) *Willful.* A foundation manager's agreement to a taxable expenditure is willful if it is voluntary, conscious, and intentional. No motive to avoid the restrictions of the law or the incurrence of any tax is necessary to make an agreement willful. However, a foundation manager's agreement to a taxable expenditure is not willful if he does not know that it is a taxable expenditure.

(v) *Due to reasonable cause.* A foundation manager's actions are due to reasonable cause if he has exercised his responsibility on behalf of the foundation with ordinary business care and prudence.

(vi) *Advice of counsel.* If a foundation manager, after full disclosure of the factual situation to legal counsel (including house counsel), relies on the advice of such counsel expressed in a reasoned written legal opinion that an expenditure is not a taxable expenditure under section 4945 (or that expenditures conforming to certain guidelines are not taxable expenditures), although such expenditure is subsequently held to be a taxable expenditure (or that certain proposed reporting procedures with respect to an expenditure will satisfy the tests of section 4945(h), although such procedures are subsequently held not to satisfy such section), the foundation manager's agreement to such expenditure (or to grants made with provision for such reporting procedures which are taxable solely because of such inadequate reporting procedures) will ordinarily not be considered "knowing" or "willful" and will ordinarily be considered "due to reasonable cause" within the meaning of section 4945(a)(2). For purposes of the subdivision, a written legal opinion will be considered "reasoned" even if it reaches a conclusion which is subsequently determined to be incorrect so long as such opinion addresses itself to the facts and applicable law. However, a written legal opinion will not be considered "reasoned" if it does nothing more than recite the facts and express a conclusion. However, the absence of advice of counsel with respect to an expenditure shall not, by itself, give rise to any inference that a foundation manager agreed to the making of the expenditure knowingly, willfully, or without reasonable cause.

(vii) *Rate and incidence of tax.* The tax imposed under section 4945(a)(2) is at the rate of 2½ percent of the amount of each taxable expenditure to which the foundation manager has agreed. This tax shall be paid by the foundation manager.

(viii) *Cross reference.* For provisions relating to the burden of proof in cases involving the issue whether a foundation manager has knowingly agreed to the making of a taxable expenditure, see section 7454(b).

(b) *Imposition of additional taxes*—(1) *Tax on private foundation.* Section 4945(b)(1) of the Code imposes an excise tax in any case in which an initial tax is imposed under section 4945(a)(1) on a taxable expenditure of a private foundation and the expenditure is not corrected within the correction period (as defined in section 4945(i)(2)). The tax imposed under section 4945(b)(1) is to be paid by the private foundation and is at the rate of 100 percent of the amount of each taxable expenditure.

(2) *Tax on foundation manager.* Section 4945(b)(2) of the Code imposes an excise tax in any case in which a tax is imposed under section 4945(b)(1) and a foundation manager has refused to agree to part or all of the correction of the taxable expenditure. The tax imposed under section 4945(b)(2) is at the rate of 50 percent of the amount of the taxable expenditure. This tax is to be paid by any foundation manager who has refused to agree to part or all of the correction of the taxable expenditure.

(c) *Special rules*—(1) *Joint and several liability.* In any case where more than one foundation manager is liable for tax imposed under section 4945(a)(2) or (b)(2) with respect to the making of a taxable expenditure, all such foundation managers shall be jointly severally liable for the tax imposed under such paragraph with respect to such taxable expenditure.

(2) *Limits on liability for management.* The maximum aggregate amount of tax collectible under section 4945(a)(2) from all foundation managers with respect to any one taxable expenditure shall be $5,000, and the maximum aggregate amount of tax collectible under section 4945(b)(2) from all foundation managers with respect to any one taxable expenditure shall be $10,000.

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

Example (1). A, B, and C comprise the board of directors of Foundation M. They vote unanimously in favor of a grant of $100,000 to D, a business associate of each of the directors. Each director knows that D was selected as the recipient of the grant solely because of his friendship with the directors and is generally aware that a grant made under such circumstances is inconsistent with the law governing foundations. Initial taxes are imposed under paragraphs (1) and (2) of section 4945(a). The tax to be paid by the foundation is $10,000 (10 percent of $100,000). The tax to be paid by the board of directors is $2,500 (2½ percent of $100,000). A, B, and C are jointly and severally liable for this $2,500, and this sum may be collected by the Service from any one of them.

Example (2). Assume the same facts as in Example (1). Further assume that within the correction period A makes a motion to correct the taxable expenditure at a meeting of the board of directors. The motion is defeated by a two-to-one vote, A voting for the motion and B and C voting against it. In these circumstances an additional tax would be paid by the private foundation in the amount of $100,000 (100 percent of $100,000). The additional tax to be paid by B and C is $10,000 (50 percent of $100,000, subject to a maximum of $10,000). B and C are jointly and severally liable for the $10,000, and this sum may be collected by the Service from either of them.

(d) *Correction*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph, correction of a taxable expenditure shall be accomplished by recovering part or all of the expenditure to the extent recovery is possible, and, where full recovery cannot be accomplished, by any additional corrective action which the Commissioner may prescribe. Such additional corrective action is to be determined by the circumstances of each particular case and may include the following:

(i) Requiring that any unpaid funds due the grantee be withheld;

(ii) Requiring that no further grants be made to the particular grantee;

(iii) In addition to other reports that are required, requiring periodic (e.g., quarterly) reports from the foundation with respect to all expenditures of the foundation (such reports shall be equivalent in detail to the reports required by section 4945(h)(3) and § 53.4945-5(d));

(iv) Requiring improved methods of exercising expenditure responsibility;

(v) Requiring improved methods of selecting recipients of individual grants; and

(vi) Requiring such other measures as the Commissioner may prescribe in a particular case.

The foundation making the expenditure shall not be under any obligation to attempt to recover the expenditure by legal

action if such action would in all probability not result in the satisfaction of execution on a judgment.

(2) *Correction for inadequate reporting.* If the expenditure is taxable only because of a failure to obtain a full and complete report as required by section 4945(h)(2) or because of a failure to make a full and detailed report as required by section 4945(h)(3), correction may be accomplished by obtaining or making the report in question. In addition, if the expenditure is taxable only because of a failure to obtain a full and complete report as required by section 4945(h)(2) and an investigation indicates that no grant funds have been diverted to any use not in furtherance of a purpose specified in the grant, correction may be accomplished by exerting all reasonable efforts to obtain the report in question and reporting the failure to the Internal Revenue Service, even though the report is not finally obtained.

(e) *Correction period*—(1) *In general.* For purposes of section 4945, the correction period shall begin with the date on which the taxable expenditure occurs and ends 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed under section 4945(b)(1).

(2) *Extensions of correction period.* (i) The correction period referred to in subparagraph (1) of this paragraph shall be extended by any period in which a deficiency cannot be assessed under section 6213(a). In addition, the correction period referred to in subparagraph (1) of this paragraph shall be extended in accordance with subdivisions (ii), (iii), and (iv) of the subparagraph, except that such subdivision (iii) or (iv) shall not operate to extend a correction period with respect to which a taxpayer has filed a petition with the Tax Court for redetermination of a deficiency within the time prescribed by section 6213(a).

(ii) The correction period referred to in subparagraph (1) of this paragraph may be extended by any period which the Commissioner determines is reasonable and necessary to bring about correction of the taxable expenditure. The Commissioner ordinarily will not extend the correction period pursuant to this subdivision unless the following factors are present:

(*a*) The foundation (or, with respect to any taxable expenditure within the meaning of section 4945(d)(5), an appropriate State officer as defined in section 6104(c)(2)) is actively in good faith seeking to correct the taxable expenditure;

(*b*) Adequate corrective action cannot reasonably be expected to result during the unextended correction period; and

(*c*) The taxable expenditure appears to have been an isolated occurrence and it appears unlikely that the foundation will pay or incur similar taxable expenditures in the future.

The Commissioner shall not make a determination extending the correction period with respect to any taxable expenditure within the meaning of section 4945(d)(1), (2), (3), or (4) because of any action by an appropriate State officer (as defined in section 6104(c)(2)), unless the expenditure is also taxable by reason of section 4945(d)(5).

(iii) If, within the unextended correction period, the tax imposed by section 4945(a)(1) is paid, then the Commissioner shall extend the correction period to the later of—

(*a*) A period of 90 days after the payment of such tax, or

(*b*) The correction period determined without regard to this subdivision.

(iv) If prior to the expiration of the correction period (including extensions) a claim for refund with respect to a tax imposed by section 4945(a)(1) is filed, the Commissioner shall extend the correction period during the pendency of the claim plus an additional 90 days. If within such time, a suit or proceeding referred to in section 7422(g) with respect to such claim is filed, the Commissioner shall extend the correction period during the pendency of such suit or proceeding. See § 301.7422–1 of this chapter (regulations on procedure and administration) for rules relating to pendency of such suit or proceeding.

§ 53.4945–2 Propaganda influencing legislation.

(a) *Propaganda influencing legislation, etc.*—(1) *In general.* Under section 4945(d)(1) the term "taxable expenditure" includes any amount paid or incurred by a private foundation to carry on propaganda, or otherwise to attempt, to influence legislation. Attempts to influence legislation may include communications with a member or employee of a legislative body or with an official of the executive department of a government or efforts to affect the opinion of the general public with respect to legislation being considered by, or to be submitted imminently to, a legislative body. For purposes of this section, a proposed treaty required to be submitted by the President to the Senate for its advice and consent shall be considered "legislation being considered by, or to be submitted imminently to, a legislative body" at the time the President's representative begins to negotiate its position with the prospective parties to the proposed treaty. See, however, paragraph (d) of this section for exceptions to the general rule.

(2) *Legislation defined.* For purposes of this section, the term "legislation" includes action by the Congress, by any State legislature, by any local council, or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure. Such term does not include actions by executive, judicial, or administrative bodies. For purposes of the preceding sentence, school boards, housing authorities, sewer and water districts, zoning boards, and other similar Federal, State, or local special purpose bodies, whether elective or appointive, shall be considered administrative bodies. The word "action" includes the introduction, enactment, defeat, or repeal of legislation. Thus, for example, for purposes of section 4945, the term "any attempt to influence legislation" does not include attempts by a private foundation to persuade an executive body or department to form, support the formation of, expand or support the expansion of, or to acquire property to be used for the formation or expansion of, a public park or equivalent preserves (such as public recreation areas, game, or forest preserves, and soil demonstration areas) established or to be established by act of Congress, by executive action in accordance with an act of Congress, or by State, municipality or other governmental unit described in section 170(c)(1), as compared with attempts to persuade a legislative body, a member thereof, or other governmental official or employee, to promote the appropriation of funds for such an acquisition or other legislative authorization of such an acquisition. Therefore, a private foundation could under this subdivision, for example, propose to a park authority that it purchase a particular tract of land for a new park, even though such an attempt would necessarily require the park authority eventually to seek appropriations to support a new park. However, in such a case, the foundation could not provide the park authority with a proposed budget to be submitted to a legislative body, unless such submission could qualify under paragraph (d) of this section.

(3) *Jointly funded projects.* A private foundation will not be treated as having paid or incurred any amount to attempt to influence legislation merely because it makes a grant to another organization upon the condition that the recipient obtain a matching support appropriation from a governmental body. In addition, a private foundation will not be treated as having made taxable expenditures of amounts paid or incurred in carrying on discussions with officials of governmental bodies provided that:

(i) The subject of such discussions is a program which is jointly funded by the foundation and the Government or is a new program which may be jointly funded by the foundation and the Government,

(ii) The discussions are undertaken for the purpose of exchanging data and information on the subject matter of the programs, and

(iii) Such discussions are not undertaken by foundation managers in order to make any direct attempt to persuade governmental officials or employees to take particular positions on specific legislative issues other than such program.

(4) *Certain expenditures by recipients of program-related investments.* Any amount paid or incurred by a recipient of a program-related investment (as defined in § 53.4944–3) in connection with an appearance before, or communication with, any legislative body with respect to legislation or proposed legislation of direct interest to such recipient shall not be attributed to the investing foundation, if—

(i) The foundation does not earmark its funds to be used for any activities described in section 4945(d)(1) and

(ii) A deduction under section 162 is allowable to the recipient for such amount.

(5) *Grants to public organizations*—(i) *In general.* A grant by a private foundation to an organization described in section 509(a)(1), (2), or (3) does not constitute a taxable expenditure by such foundation under section 4945(d) if the grant by the private foundation is not earmarked to be used for any activity described in section 4945(d)(1), (2), or (5), is not earmarked to be used in a manner which would violate section 4945(d)(3) or (4), and there does not exist an agreement, oral or written, whereby such grantor foundation may cause the grantee to engage in any such prohibited activity or to select the recipient to which the grant is to be devoted. For purposes of this subdivision, a grant by a private foundation is earmarked if such grant is given pursuant to an agreement, oral or written, that the grant will be used for specific purposes. For the expenditure responsibility requirements with respect to organizations other than those described in section 509(a)(1), (2), or (3), see § 53.4945-5.

(ii) *Certain "public" organizations.* For purposes of this section, an organization shall be considered a section 509(a)(1) organization if it is treated as such under subparagraph (4) of § 53.4945-5(a).

(iii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples.

Example (1). M, a private foundation, makes a general purpose grant to Z, an organization described in section 509(a)(1). As an insubstantial portion of its activities, Z makes some attempts to influence the State legislature with regard to changes in the mental health laws. The use of the grant is not earmarked by M to be used in a manner which would violate section 4945(d). In addition, there is no oral or written agreement whereby M may influence the choice by Z of the activity or recipient to which the grant is to be devoted. Even if the grant is subsequently devoted by Z to its legislative activities, the grant by M is not a taxable expenditure under section 4945(d).

Example (2). X, a private foundation, makes a grant to Y University for the purpose of conducting research on the potential environmental effects of certain pesticides. X does not earmark the grant for any purpose which would violate section 4945(d) and there is no oral or written agreement whereby X may cause Y to engage in any activity described in section 4945(d)(1), (2), or (5), or to select any recipient to which the grant may be devoted. Y uses most of the funds for the research project; however, on its own volition, Y expends a portion of the grant funds to send a representative to testify at congressional hearings on a specific bill proposing certain pesticide control measures. The portion of the grant funds expended with respect to the congressional hearings is not treated as a taxable expenditure by X under section 4945(d).

(b) *Attempts to affect the opinion of the general public.* Except as provided in paragraph (d)(1) (relating to the making available of nonpartisan analysis, study, or research) and (4) (relating to examination and discussion of broad social, economic, and similar problems) of this section, any expenditure paid or incurred by a private foundation in an attempt to influence any legislation through an attempt to affect the opinion of the general public or any segment thereof is a taxable expenditure.

(c) *Lobbying activities.* Except as provided in paragraph (d) of this section, any expenditure for the purpose of influencing legislation through communication with any member or employee of a legislative body, or with any Government official or employee who may participate in the formulation of the legislation, is a taxable expenditure.

(d) *Exceptions*—(1) *Nonpartisan analysis, study, or research*—(i) *In general.* Engaging in nonpartisan analysis, study, or research and making available to the general public or a segment or members thereof or to governmental bodies, officials, or employees the results of such work do not constitute carrying on propaganda, or otherwise attempting, to influence legislation.

(ii) *Nonpartisan analysis, study or research.* For purposes of section 4945(e), "nonpartisan analysis, study, or research" means an independent and objective exposition of a particular subject matter, including any activity which is "educational" within the meaning of § 1.501(c)(3)-1(d)(3) of this chapter. Thus, "nonpartisan analysis, study, or research" may advocate a particular position or viewpoint so long as there is a sufficiently full and fair exposition of the pertinent facts to enable the public or an individual to form an independent opinion or conclusion. On the other hand, the mere presentation of unsupported opinion does not qualify as "nonpartisan analysis, study, or research." Activities of a noncommercial educational broadcasting station or network (television or radio) constitute "nonpartisan analysis, study, or research" if the station or network adheres to the Federal Communications Commission regulations and its "fairness doctrine" (requiring balanced, fair, and objective presentation of issues). Ordinarily, if no determination has been made by the Federal Communications Commission that the "fairness doctrine" (as stated above) has been violated, the activities of the station or network will be treated as "nonpartisan analysis, study, or research."

(iii) *Presentation as part of a series.* Normally, whether a publication or broadcast qualifies as "nonpartisan analysis, study, or research" will be determined on a presentation-by-presentation basis. However, if a publication or broadcast is one of a series prepared or supported by a private foundation and the series as a whole meets the standards of subdivision (ii) of this subparagraph, then any individual publication or broadcast within the series will not result in a taxable expenditure even though such individual broadcast or publication does not, by itself, meet the standards of subdivision (ii) of this subparagraph. Whether a broadcast or publication is considered part of a series will ordinarily depend on all the facts and circumstances of each particular situation. However, with respect to broadcast activities, all broadcasts within any period of 6 consecutive months will ordinarily be eligible to be considered as part of a series. If a private foundation times or channels a part of a series which is described in this subdivision in a manner designed to influence the general public or the action of a legislative body with respect to a specific legislative proposal in violation of section 4945(d)(1), the expenses of preparing and distributing such part of the analysis, study, or research will be a taxable expenditure under this section.

(iv) *Making available results of analysis, study, or research.* A private foundation may choose any suitable means, including oral or written presentations, to distribute the results of its nonpartisan analysis, study, or research, with or without charge. Such means include distribution of reprints of speeches, articles, and reports (including the report required under section 6056); presentation of information through conferences, meetings, and discussions; and dissemination to the news media, including radio, television, and newspapers, and to other public forums. For purposes of this subparagraph, such presentations may not be limited to or directed toward persons who are interested solely in one side of a particular issue.

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

Example (1). M, a private foundation, establishes a research project to collect information for the purpose of showing the dangers of the use of pesticides in raising crops. The information collected includes data with respect to proposed legislation, pending before several State legislatures, which would ban the use of pesticides. The project takes favorable positions on such legislation without producing a sufficiently full and fair exposition of the pertinent facts to enable the public or an individual to form an independent opinion or conclusion on the pros and cons of the use of pesticides. This project is not within the exception for nonpartisan analysis, study, or research because it is designed to present information merely on one side of the legislative controversy.

Example (2). N, a private foundation, establishes a research project to collect information concerning the dangers of the use of pesticides in raising crops for the ostensible purpose of examining and reporting information as to the pros and cons of the use of pesticides in raising crops. The information is collected and distributed in the form of a published report which analyzes the effects and costs of the use and nonuse of various pesticides under various conditions on humans, animals, and crops. The report also presents the advantages, disadvantages, and economic cost of allowing the continued use of pesticides unabated, of controlling the use of pesticides, and of developing alternatives to pesticides. Even if the report sets forth conclusions that the disadvantages as a result of using pesticides are greater than the advantages of using pesticides and that prompt legislative regulation of the use of pesticides is needed, the project is within the exception for nonpartisan analysis, study or research since it is designed to present in-

formation on both sides of the legislative controversy and presents a sufficiently full and fair exposition of the pertinent facts to enable the public or an individual to form an independent opinion or conclusion.

Example (3). O, a private foundation, establishes a research project to collect information on the presence or absence of disease in humans from eating food grown with pesticides and the presence or absence of disease in humans from eating food not grown with pesticides. As part of the research project, O hires a consultant who prepares a "fact sheet" which calls for the curtailment of the use of pesticides and which addresses itself to the merits of several specific legislative proposals to curtail the use of pesticides in raising crops which are currently pending before State legislatures. The "fact sheet" presents reports of experimental evidence tending to support its conclusions but omits any reference to reports of experimental evidence tending to dispute its conclusions. O distributes 10,000 copies to citizens' groups. Expenditures by O in connection with this work of the consultant are not within the exception for nonpartisan analysis, study, or research.

Example (4). P, a private foundation, publishes a bimonthly newsletter to collect and report all published materials, ongoing research, and new developments with regard to the use of pesticides in raising crops. The newsletter also includes notices of proposed pesticide legislation with impartial summaries of the provisions of and debates on such legislation. The newsletter is designed to present information on both sides of the legislative controversy and does present such information fully and fairly. It is within the exception for nonpartisan analysis, study, or research.

Example (5). X, a private foundation, is satisfied that A, a member of the faculty of Y university, is exceptionally well qualified to undertake a project involving a comprehensive study of the effect of pesticides on crop yields. Consequently, X makes a grant to A to underwrite the cost of the study and of the preparation of a book on the effect of pesticides on crop yields. X does not take any position on the issues or control the content of A's output. A produces a book which concludes that the use of pesticides often has a favorable effect on crop yields, and on that basis argues against pending bills which would ban the use of pesticides. A's book contains a sufficiently full and fair exposition of the pertinent facts, including known or potential disadvantages of the use of pesticides, to enable the public or an individual to form an independent opinion or conclusion as to whether pesticides should be banned as provided in the pending bills. Consequently, the book is within the exception for nonpartisan analysis, study, or research.

Example (6). Assume the same facts as Example (2), except that, instead of issuing a report, X presents within a period of 6 consecutive months a two-program television series relating to the pesticide issue. The first program contains information, arguments, and conclusions favoring legislation to restrict the use of pesticides. The second program contains information, arguments, and conclusions opposing legislation to restrict the use of pesticides. The programs are broadcast within 6 months of each other during commensurate periods of prime time. X's programs are within the exception for nonpartisan analysis, study, or research. Although neither program individually could be regarded as nonpartisan, the series of two programs constitutes a balanced presentation.

Example (7). Assume the same facts as Example (6), except that X arranged for televising the program favoring legislation to restrict the use of pesticides at 8 p.m. on a Thursday evening and for televising the program opposing such legislation at 7 a.m. on a Sunday morning. X's presentation is not within the exception for nonpartisan analysis, study, or research, since X disseminated its information in a manner prejudicial to one side of the legislative controversy.

(2) *Technical advice or assistance*—(i) *In general.* Amounts paid or incurred in connection with providing technical advice or assistance to a governmental body, a governmental committee, or a subdivision of either of the foregoing, in response to a written request by such body, committee, or subdivision do not constitute taxable expenditures for purposes of this section. Under this exception, the request for assistance or advice must be made in the name of the requesting governmental body, committee or subdivision rather than an individual member thereof. Similarly, the response to such request must be available to every member of the requesting body, committee or subdivision. For example, in the case of a written response to a request for technical advice or assistance from a congressional committee, the response will be considered available to every member of the requesting committee if the response is submitted to the person making such request in the name of the committee and it is made clear that the response is for the use of all the members of the committee.

(ii) *Nature of technical advice or assistance.* "Technical advice or assistance" may be given as a result of knowledge or skill in a given area. Because such assistance or advice may be given only at the express request of a governmental body, committee or subdivision, the oral or written presentation of such assistance or advice need not qualify as nonpartisan analysis, study or research. The offering of opinions or recommendations will ordinarily qualify under this exception only if such opinions or recommendations are specifically requested by the governmental body, committee or subdivision or are directly related to the materials so requested.

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

Example (1). A congressional committee is studying the feasibility of legislation to provide funds for scholarships to U.S. students attending schools abroad. X, a private foundation which has engaged in a private scholarship program of this type, is asked, in writing, by the committee to describe the manner in which it selects candidates for its program. X's response disclosing its methods of selection constitutes technical advice or assistance.

Example (2). Assume the same facts as Example (1), except that X's response not only includes a description of its own grant-making procedures, but also its views regarding the wisdom of adopting such a program. Since such views are directly related to the subject matter of the request for technical advice or assistance, expenditures paid or incurred with respect to the presentation of such views would not constitute taxable expenditures. However, expenditures paid or incurred with respect to a response which is not directly related to the subject matter of the request for technical advice or assistance would constitute taxable expenditures unless the presentation can qualify as the making available of nonpartisan analysis, study or research.

Example (3). Assume the same facts as Example (1), except that X is requested, in addition, to give any views it considers relevant. A response to this request giving opinions which are relevant to the committee's consideration of the scholarship program but which are not necessarily directly related to X's scholarship program, programs and their relative merits, would qualify as "technical advice or assistance", and expenditures paid or incurred with respect to such response would not constitute taxable expenditures.

Example (4). A, an official of the State Department, makes a written request in his official capacity for information from foundation Y relating to the economic development of country M and for the opinions of Y as to the proper position of the United States in pending negotiations with M concerning a proposed treaty involving a program of economic and technical aid to M. Y's furnishing of such information and opinions constitutes technical advice or assistance.

(3) *Decisions affecting the powers, duties, etc., of a private foundation*—(i) *In general.* Paragraph (c) of this section does not apply to any amount paid or incurred in connection with an appearance before, or communication with, any legislative body with respect to a possible decision of such body which might affect the existence of the private foundation, its powers and duties, its tax-exempt status, or the deductibility of contributions to such foundation. Under this exception, a foundation may communicate with the entire legislative body, committees or subcommittees of such legislative body, individual congressmen or legislators, members of their staffs, or representatives of the executive branch, who are involved in the legislative process, if such communication is limited to the prescribed subjects. Similarly, the foundation may make expenditures in order to initiate legislation if such legislation concerns only matters which might affect the existence of the private foundation, its powers and duties, its tax-exempt status, or the deductibility of contributions to such foundation.

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

Example (1). A bill is being considered by Congress which would, if enacted, restrict the power of a private foundation to engage in transactions with certain related persons. Under the proposed bill a private foundation would lose its exemption from taxation if it engages in such transactions. W, a private foundation, writes to the congressional committee considering the bill, arguing that the enactment of such a bill would not be advisable, and subsequently appears before such committee to make its arguments. In addition, W requests that the congressional committee consider modification of the 2 percent de minimis rule of section 4943(c)(2)(C). Expenditures paid or incurred with respect to such submissions do not constitute taxable expenditures since they are made with respect to a possible decision of Congress which might affect the existence of the private foundation, its powers and duties, its tax-exempt status, or the deduction of contributions to such foundation.

Example (2). A bill being considered in a State legislature is designed to implement the requirements of section 508(e) of the Internal Revenue Code of 1954. Under such section, a private foundation is required to make certain amendments to its governing instrument. X, a private foundation, makes a submission to the legislature which proposes alternative measures which might be taken in lieu of the proposed bill. X also arranges to have its president contact certain State legislators with regard to this bill. Expenditures paid or incurred in making such submission and in contacting the State legislators do not constitute taxable expenditures since they are made with respect to a possible decision of such State legislature which might affect the existence of the private foundation, its powers and duties, its tax-exempt status, or the deduction of contributions to such foundation.

Example (3). A bill is being considered by a State legislature under which the State would assume certain responsibilities for nursing care of the aged. Y, a private foundation which hitherto has engaged in such activities, appears before the State legislature and contends that such activities can be better performed by privately supported organizations. Expenditures paid or incurred with respect to such appearance are not made with respect to possible decisions of the State legislature which might affect the existence of the private foundation, its powers and duties, its tax-exempt status, or the deduction of contributions to such foundation, but rather merely affect the scope of the private foundation's future activities.

Example (4). A State legislature is considering the annual appropriations bill. Z, a private foundation which had hitherto performed contract research for the State, appears before the appropriations committee in order to attempt to persuade the committee of the advisability of continuing the program. Expenditures paid or incurred with respect to such appearance are not made with respect to possible decisions of the State legislature which might affect the existence of the private foundation, its powers and duties, its tax-exempt status, or the deduction of contributions to such foundation, but rather merely affect the scope of the private foundation's future activities.

(4) *Examinations and discussions of broad social, economic, and similar problems.* Expenditures for examinations and discussions of broad social, economic, and similar problems are not taxable even if the problems are of the type with which government would be expected to deal ultimately. Thus, the term "any attempt to influence any legislation" does not include public discussion, or communications with members of legislative bodies or governmental employees, the general subject of which is also the subject of legislation before a legislative body, so long as such discussion does not address itself to the merits of a specific legislative proposal. For example, a private foundation may, without incurring tax under section 4945, present discussions of problems such as environmental pollution or population growth which are being considered by Congress and various State legislatures, but only if the discussions are not directly addressed to specific legislation being considered.

§ 53.4945–3 Influencing elections and carrying on voter registration drives.

(a) *Expenditures to influence elections or carry on voter registration drives*—(1) *In general.* Under section 4945(d)(2), the term "taxable expenditure" includes any amount paid or incurred by a private foundation to influence the outcome of any specific public election or to carry on, directly or indirectly, any voter registration drive, unless such amount is paid or incurred by an organization described in section 4945(f). However, for treatment of nonearmarked grants to public organizations, see § 53.4945–2(a)(5) and for treatment of certain earmarked grants to organizations described in section 4945(f), see paragraph (b)(2) of this section.

(2) *Influencing the outcome of a specific public election.* For purposes of this section, an organization shall be considered to be influencing the outcome of any specific public election if it participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office. The term "candidate for public office" means an individual who offers himself, or is proposed by others, as a contestant for an elective public office, whether such office be national, State or local. Activities which constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to:

(i) Publishing or distributing written or printed statements or making oral statements on behalf of or in opposition to such a candidate;

(ii) Paying salaries or expenses of campaign workers; and

(iii) Conducting or paying the expenses of conducting a voter-registration drive limited to the geographic area covered by the campaign.

(b) *Nonpartisan activities carried on by certain organizations*—(1) *In general.* If an organization meets the requirements described in section 4945(f), an amount paid or incurred by such organization shall not be considered a taxable expenditure even though the use of such amount is otherwise described in section 4945(d)(2). Such requirements are:

(i) The organization is described in section 501(c)(3) and exempt from taxation under section 501(a);

(ii) The activities of the organization are nonpartisan, are not confined to one specific election period, and are carried on in five or more States;

(iii) The organization expends at least 85 percent of its income directly for the active conduct (within the meaning of section 4942(j)(3) and the regulations thereunder) of the activities constituting the purpose or function for which it is organized and operated;

(iv) The organization receives at least 85 percent of its support (other than gross investment income as defined in section 509(e)) from exempt organizations, the general public, governmental units described in section 170(c)(1), or any combination of the foregoing; the organization does not receive more than 25 percent of its support (other than gross investment income) from any one exempt organization (for this purpose treating private foundations which are described in section 4946(a)(1)(H) with respect to each other as one exempt organization); and not more than half of the support of the organization is received from gross investment income; and

(v) Contributions to the organization for voter registration drives are not subject to conditions that they may be used only in specified States, possessions of the United States, or political subdivisions or other areas of any of the foregoing, or the District of Columbia, or that they may be used in only one specific election period.

(2) *Grants to section 4945(f) organizations.* If a private foundation makes a grant to an organization described in section 4945(f) (whether or not such grantee is a private foundation as defined in section 509(a)), such grant will not be treated as a taxable expenditure under section 4945(d) (2) or (4). Even if a grant to such an organization is earmarked for voter registration purposes generally, such a grant will not be treated as a taxable expenditure under section 4945(d) (2) or (4) as long as such earmarking does not violate section 4945(f)(5).

(3) *Period for determining support*—(i) *In general.* The determination whether an organization meets the support test in section 4945(f)(4) for any taxable year is to be made by aggregating all amounts of support received by the organization during the taxable year and the immediately preceding received in any taxable year which begins before January 1, 1970, shall be excluded.

(ii) *New organizations and organizations with no preceding taxable years beginning after December 31, 1969.* Except as provided in subparagraph (4) of this paragraph, in the case of a new organization or an organization with no taxable years that begin after December 31, 1969, and immediately precede the taxable year in question, the requirements of the support test in section 4945(f)(4) will be considered as met for the taxable year if such requirements are met by the end of the taxable year.

(iii) *Organization with three or fewer preceding taxable years.* In the case of an organization which has been in existence for at least 1 but fewer than 4 preceding taxable years beginning after December 31, 1969, the determination whether such organization meets the requirements of the support test in section 4945(f)(4) for the taxable year is to be made by taking into account all the support received by such organization during the taxable year and during each

preceding taxable year beginning after December 31, 1969.

(4) *Advance rulings.* An organization will be given an advance ruling that it is an organization described in section 4945(f) for its first taxable year of operation beginning after October 30, 1972, or for its first taxable year of operation beginning after December 31, 1969, if it submits evidence establishing that it can reasonably be expected to meet the tests under section 4945(f) for such taxable year. An organization which, pursuant to this subparagraph, has been treated as an organization described in section 4945(f) for a taxable year (without withdrawal of such treatment by notification from the Internal Revenue Service during such year), but which actually fails to meet the requirements of section 4945(f) for such taxable year, will not be treated as an organization described in section 4945(f) as of the first day of its next taxable year (for purposes of making any determination under the internal revenue laws with respect to such organization) and until such time as the organization does meet the requirements of section 4945(f). For purposes of section 4945, the status of grants or contributions with respect to grantors or contributors to such organization will not be affected until notice of change of status of such organization is made to the public (such as by publication in the Internal Revenue Bulletin). The preceding sentence shall not apply, however, if the grantor or contributor was responsible for, or was aware of, the fact that the organization did not satisfy section 4945(f) at the end of the taxable year with respect to which the organization had obtained an advance ruling or a determination letter that it was a section 4945(f) organization, or acquired knowledge that the Internal Revenue Service had given notice to such organization that it would be deleted from classification as a section 4945(f) organization.

§ 53.4945–4 Grants to individuals.

(a) *Grants to individuals*—(1) *In general.* Under section 4945(d)(3) the term "taxable expenditure" includes any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual unless the grant satisfies the requirements of section 4945(g). Grants to individuals which are not taxable expenditures because made in accordance with the requirements of section 4945(g) may result in the imposition of excise taxes under other provisions of chapter 42.

(2) *"Grants" defined.* For purposes of section 4945, the term "grants" shall include, but is not limited to, such expenditures as scholarships, fellowships, internships, prizes, and awards. Grants shall also include loans for purposes described in section 170(c)(2)(B) and "program related investments" (such as investments in small businesses in central cities or in businesses which assist in neighborhood renovation). Similarly, "grants" include such expenditures as payments to exempt organizations to be used in furtherance of such recipient organizations' exempt purposes whether or not such payments are solicited by such recipient organizations. Conversely, "grants" do not ordinarily include salaries or other compensation to employees. For example, "grants" do not ordinarily include educational payments to employees which are includible in the employees' incomes pursuant to section 61. In addition, "grants" do not ordinarily include payments (including salaries, consultants' fees and reimbursement for travel expenses such as transportation, board, and lodging) to persons (regardless of whether such persons are individuals) for personal services in assisting a foundation in planning, evaluating or developing projects or areas of program activity by consulting, advising, or participating in conferences organized by the foundation.

(3) *Requirements for individual grants*—(i) *Grants for other than section 4945(d)(3) purposes.* A grant to an individual for purposes other than those described in section 4945(d)(3) is not a taxable expenditure within the meaning of section 4945(d)(3). For example, if a foundation makes grants to indigent individuals to enable them to purchase furniture, such grants are not taxable expenditures within the meaning of section 4945(d)(3) even if the requirements of section 4945(g) are not met.

(ii) *Grants for section 4945(d)(3) purposes.* Under section 4945(g), a grant to an individual for travel, study, or other similar purposes is not a "taxable expenditure" only if:

(*a*) The grant is awarded on an objective and nondiscriminatory basis (within the meaning of paragraph (b) of this section);

(*b*) The grant is made pursuant to a procedure approved in advance by the Commissioner; and

(*c*) It is demonstrated to the satisfaction of the Commissioner that:

(*1*) The grant constitutes a scholarship or fellowship grant which is excluded from gross income under section 117(a) and is to be utilized for study at an educational institution described in section 151(e)(4);

(*2*) The grant constitutes a prize or award which is excluded from gross income under section 74(b), and the recipient of such prize or award is selected from the general public (within the meaning of section 4941(d)(2)(G)(i) and the regulations thereunder); or

(*3*) The purpose of the grant is to achieve a specific objective, produce a report or other similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

If a grant is made to an individual for a purpose described in section 4945(g)(3) and such grant otherwise meets the requirements of section 4945(g), such grant shall not be treated as a taxable expenditure even if it is a scholarship or a fellowship grant which is not excludable from income under section 117 or if it is a prize or award which is includible in income under section 74.

(iii) *Renewals.* A renewal of a grant which satisfied the requirements of subdivision (ii) of this subparagraph shall not be treated as a grant to an individual which is subject to the requirements of this section, if—

(*a*) The grantor has no information indicating that the original grant is being used for any purpose other than that for which it was made,

(*b*) Any reports due at the time of the renewal decision pursuant to the terms of the original grant have been furnished, and

(*c*) Any additional criteria and procedures for renewal are objective and nondiscriminatory.

For purposes of this section, an extension of the period over which a grant is to be paid shall not itself be regarded as a grant or a renewal of a grant.

(4) *Certain designated grants*—(i) *In general.* A grant by a private foundation to another organization, which the grantee organization uses to make payments to an individual for purposes described in section 4945(d)(3), shall not be regarded as a grant by the private foundation to the individual grantee if the foundation does not earmark the use of the grant for any named individual and there does not exist an agreement, oral or written, whereby such grantor foundation may cause the selection of the individual grantee by the grantee organization. For purposes of this subparagraph, a grant described herein shall not be regarded as a grant by the foundation to an individual grantee even though such foundation has reason to believe that certain individuals would derive benefits from such grant so long as the grantee organization exercises control, in fact, over the selection process and actually makes the selection completely independently of the private foundation.

(ii) *Certain grants to "public charities".* A grant by a private foundation to an organization described in section 509(a)(1), (2), or (3), which the grantee organization uses to make payments to an individual for purposes described in section 4945(d)(3), shall not be regarded as a grant by the private foundation to the individual grantee (regardless of the application of subdivision (i) of this subparagraph) if the grant is made for a project which is to be undertaken under the supervision of the section 509(a)(1), (2), or (3) organization and such grantee organization controls the selection of the individual grantee. This subdivision shall apply regardless of whether the name of the individual grantee was first proposed by the private foundation, but only if there is an objective manifestation of the section 509(a), (1), (2), or (3) organization's control over the selection process, although the selection need not be made completely independently of the private foundation. For purposes of this subdivision, an organization shall be considered a section 509(a)(1) organization if it is

treated as such under subparagraph (4) of § 53.4945–5(a).

(iii) *Grants to governmental agencies.* If a private foundation makes a grant to an organization described in section 170(c)(1) (regardless of whether it is described in section 501(c)(3)) and such grant is earmarked for use by an individual for purposes described in section 4945(d)(3), such grant is not subject to the requirements of section 4945(d)(3) and (g) and this section (regardless of the application of subdivision (i) of this subparagraph) if the section 170(c)(1) organization satisfies the Commissioner in advance that its grant-making program:

(*a*) Is in furtherance of a purpose described in section 170(c)(2)(B),

(*b*) Requires that the individual grantee submit reports to it which would satisfy paragraph (c)(3) of this section, and

(*c*) Requires that the organization investigate jeopardized grants in a manner substantially similar to that described in paragraph (c)(4) of this section.

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

Example (1). M, a university described in section 170(b)(1)(A)(ii), requests that P, a private foundation, grant it $100,000 to enable M to obtain the services of a particular scientist for a research project in a special field of biochemistry in which he has exceptional qualifications and competence. P, after determining that the project deserves support, makes the grant to M to enable it to obtain the services of this scientist. M is authorized to keep the funds even if it is unsuccessful in attempting to employ the scientist. Under these circumstances P will not be treated as having made a grant to the individual scientist for purposes of section 4945(d)(3) and (g), since the requirements of subdivision (i) of this subparagraph have been satisfied. Even if M were not authorized to keep the funds if it is unsuccessful in attempting to employ the scientist, P would not be treated as having made a grant to the individual scientist for purposes of section 4945(d)(3) and (g), since it is clear from the facts and circumstances that the selection of the particular scientist was made by M and thus the requirements of subdivision (ii) of this subparagraph would have been satisfied.

Example (2). Assume the same facts as Example (1), except that there are a number of scientists who are qualified to administer the research project, P suggests the name of the particular scientist to be employed by M, and M is not authorized to keep the funds if it is unsuccessful in attempting to employ the particular scientist. For purposes of section 4945(d)(3) and (g), P will be treated as having made a grant to the individual scientist whose name it suggested, since it is clear from the facts and circumstances that selection of the particular scientist was made by P.

Example (3). X, a private foundation, is aware of the exceptional research facilities at Y University, an organization described in section 170(b)(1)(A)(ii). Officials of X approach officials of Y with an offer to give Y a grant of $100,000 if Y will engage an adequately qualified physicist to conduct a specific research project. Y's officials accept this proposal, and it is agreed that Y will administer the funds. After examining the qualifications of several research physicists, the officials of Y agree that A, whose name was first suggested by officials of X and who first suggested the specific research project to X, is uniquely qualified to conduct the project. X's grant letter provides that X has the right to renegotiate the terms of the grant if there is a substantial deviation from such terms, such as breakdown of Y's research facilities or termination of the conduct of the project by an adequately qualified physicist. Under these circumstances, X will not be treated as having made a grant to A for purposes of section 4945(d)(3) and (g), since the requirements of subdivision (ii) of this subparagraph have been satisfied.

Example (4). Professor A, a scholar employed by University Y, an organization described in section 170(b)(1)(A)(ii), approaches Foundation X to determine the availability of grant funds for a particular research project supervised or conducted by Professor A relevant to the program interests of Foundation X. After learning that Foundation X would be willing to consider the project if University Y were to submit the project to X, Professor A submits his proposal to the appropriate administrator of University Y. After making a determination that it should assume responsibility for the project, that Professor A is qualified to conduct the project, and that his participation would be consistent with his other faculty duties, University Y formally adopts the grant proposal and submits it to Foundation X. The grant is made to University Y which, under the terms of the grant, is responsible for the expenditure of the grant funds and the grant project. In such a case, and even if Foundation X retains the right to renegotiate the terms of the grant if the project ceases to be conducted by Professor A, the grant shall not be regarded as a grant by Foundation X to Professor A since University Y has retained control over the selection process within the meaning of subdivision (ii) of this subparagraph.

(5) *Earmarked grants to individuals.* A grant by a private foundation to an individual, which meets the requirements of section 4945(d)(3) and (g), is a taxable expenditure by such foundation under section 4945(d) only if—

(i) The grant is earmarked to be used for any activity described in section 4945(d)(1), (2), or (5), or is earmarked to be used in a manner which would violate section 4945(d)(3) or (4),

(ii) There is an agreement, oral or written, whereby such grantor foundation may cause the grantee to engage in any such prohibited activity and such grant is in fact used in a manner which violates section 4945(d), or

(iii) The grant is made for a purpose other than a purpose described in section 170(c)(2)(B).

For purposes of this subparagraph, a grant by a private foundation is earmarked if such grant is given pursuant to an agreement, oral or written, that the grant will be used for specific purposes.

(b) *Selection of grantees on "an objective and nondiscriminatory basis"*—(1) *In general.* For purposes of this section, in order for a foundation to establish that its grants to individuals are made on an objective and nondiscriminatory basis, the grants must be awarded in accordance with a program which, if it were a substantial part of the foundation's activities, would be consistent with:

(i) The existence of the foundation's exempt status under section 501(c)(3);

(ii) The allowance of deductions to individuals under section 170 for contributions to the granting foundation; and

(iii) The requirements of subparagraphs (2), (3), and (4) of this paragraph.

(2) *Candidates for grants.* Ordinarily, selection of grantees on an objective and nondiscriminatory basis requires that the group from which grantees are selected be chosen on the basis of criteria reasonably related to the purposes of the grant. Furthermore, the group must be sufficiently broad so that the giving of grants to members of such group would be considered to fulfill a purpose described in section 170(c)(2)(B). Thus, ordinarily the group must be sufficiently large to constitute a charitable class. However, selection from a group is not necessary where taking into account the purposes of the grant, one or several persons are selected because they are exceptionally qualified to carry out these purposes or it is otherwise evident that the selection is particularly calculated to effectuate the charitable purpose of the grant rather than to benefit particular persons or a particular class of persons. Therefore, consistent with the requirements of this subparagraph, the foundation may impose reasonable restrictions on the group of potential grantees. For example, selection of a qualified research scientist to work on a particular project does not violate the requirements of section 4945(d)(3) merely because the foundation selects him from a group of three scientists who are experts in that field.

(3) *Selection from within group of potential grantees.* The criteria used in selecting grant recipients from the potential grantees should be related to the purpose of the grant. Thus, for example, proper criteria for selecting scholarship recipients might include (but are not limited to) the following: Prior academic performance; performance on tests designed to measure ability and aptitude for college work; recommendations from instructors; financial need; and the conclusions which the selection committee might draw from a personal interview as to the individual's motivation, character, ability, and potential.

(4) *Persons making selections.* The person or group of persons who select recipients of grants should not be in a position to derive a private benefit, directly or indirectly, if certain potential grantees are selected over others.

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

Example (1). X company employs 100,000 people of whom 1,000 are classified by the company as executives. The company has organized the X company foundation which, as its sole activity, provides 100 4-year college scholarships per year for children of the company's employees. Children of all employees (other than disqualified persons with respect to the foundation) who have worked for the X company for at least 2 years are eligible to apply for these scholarships. In

previous years, the number of children eligible to apply for such scholarships has averaged 2,000 per year. Selection of scholarship recipients from among the applicants is made by three prominent educators, who have no connection (other than as members of the selection committee) with the company, the foundation or any of the employees of the company. The selections are made on the basis of the applicants' prior academic performance, performance on certain tests designed to measure ability and aptitude for college work, and financial need. No disproportionate number of scholarships has been granted to relatives of executives of X company. Under these circumstances, the operation of the scholarship program by the X company foundation: (1) Is consistent with the existence of the foundation's exempt status under section 501(c)(3) and with the allowance of deductions under section 170 for contributions to the foundation; (2) utilizes objective and nondiscriminatory criteria in selecting scholarship recipients from among the applicants; and (3) utilizes a selection committee which appears likely to make objective and nondiscriminatory selections of grant recipients.

Example (2). Assume the same facts as Example (1), except that the foundation establishes a program to provide 20 college scholarships per year for members of a certain ethnic minority. All members of this minority group (other than disqualified persons with respect to the foundation) living in State Z are eligible to apply for these scholarships. It is estimated that at least 400 persons will be eligible to apply for these scholarships each year. Under these circumstances, the operation of this scholarship program by the foundation: (1) Is consistent with the existence of the foundation's exempt status under section 501(c)(3) and with the allowance of deductions under section 170 for contributions to the foundation; (2) utilizes objective and nondiscriminatory criteria in selecting scholarship recipients from among the applicants; and (3) utilizes a selection committee which appears likely to make objective and nondiscriminatory selections of grant recipients.

(c) *Requirements of a proper procedure*—(1) *In general.* Section 4945(g) requires that grants to individuals must be made pursuant to a procedure approved in advance. To secure such approval, a private foundation must demonstrate to the satisfaction of the Commissioner that—

(i) Its grant procedure includes an objective and nondiscriminatory selection process (as described in paragraph (b) of this section);

(ii) Such procedure is reasonably calculated to result in performance by grantees of the activities that the grants are intended to finance; and

(iii) The foundation plans to obtain reports to determine whether the grantees have performed the activities that the grants are intended to finance.

No single procedure or set of procedures is required. Procedures may vary depending upon such factors as the size of the foundation, the amount and purpose of the grants and whether one or more recipients are involved.

(2) *Supervision of scholarship and fellowship grants.* Except as provided in subparagraph (5) of this paragraph, with respect to any scholarship or fellowship grants, a private foundation must make arrangements to receive a report of the grantee's courses taken (if any) and grades received (if any) in each academic period. Such a report must be verified by the educational institution attended by the grantee and must be obtained at least once a year. In cases of grantees whose study at an educational institution does not involve the taking of courses but only the preparation of research papers or projects, such as the writing of a doctoral thesis, the foundation must receive a brief report on the progress of the paper or project at least once a year. Such a report must be approved by the faculty member supervising the grantee or by another appropriate university official. Upon completion of a grantee's study at an educational institution, a final report must also be obtained.

(3) *Grants described in section 4945(g)(3).* With respect to a grant made under section 4945(g)(3), the private foundation shall require reports on the use of the funds and the progress made by the grantee toward achieving the purposes for which the grant was made. Such reports must be made at least once a year. Upon completion of the undertaking for which the grant was made, a final report must be made describing the grantee's accomplishments with respect to the grant and accounting for the funds received under such grant.

(4) *Investigation of jeopardized grants.* (i) Where the reports submitted under this paragraph or other information (including the failure to submit such reports) indicates that all or any part of a grant is not being used in furtherance of the purposes of such grant, the foundation is under a duty to investigate. While conducting its investigation, the foundation must withhold further payments to the extent possible until any delinquent reports required by this paragraph have been submitted and where required by subdivision (ii) or (iii) of this subparagraph.

(ii) In cases in which the grantor foundation determines that any part of a grant has been used for improper purposes and the grantee has not previously diverted grant funds to any use not in furtherance of a purpose specified in the grant, the foundation will not be treated as having made a taxable expenditure solely because of the diversion so long as the foundation—

(*a*) Is taking all reasonable and appropriate steps either to recover the grant funds or to insure the restoration of the diverted funds and the dedication (consistent with the requirements of (*b*) (*1*) and (2) of this subdivision) of other grant funds held by the grantee to the purposes being financed by the grant, and

(*b*) Withholds any further payments to the grantee after the grantor becomes aware that a diversion may have taken place (hereinafter referred to as "further payments") until it has—

(*1*) Received the grantee's assurances that future diversions will not occur, and

(2) Required the grantee to take extraordinary precaution to prevent future diversions from occurring.

If a foundation is treated as having made a taxable expenditure under this subparagraph in a case to which this subdivision applies, then unless the foundation meets the requirements of (*a*) of this subdivision the amount of the taxable expenditure shall be the amount of the diversion plus the amount of any further payments to the same grantee. However, if the foundation complies with the requirements of (*a*) of this subdivision but not the requirements of (*b*) of this subdivision, the amount of the taxable expenditure shall be the amount of such further payments.

(iii) In cases where a grantee has previously diverted funds received from a grantor foundation, and the grantor foundation determines that any part of a grant has again been used for improper purposes, the foundation will not be treated as having made a taxable expenditure solely by reason of such diversion so long as the foundation—

(*a*) Is taking all reasonable and appropriate steps to recover the grant funds or to insure the restoration of the funds and the dedication (consistent with the requirements of (*b*) (2) and (3) of this subdivision) of other grant funds held by the grantee to the purposes being financed by the grant, and

(*b*) Withholds further payments until—

(*1*) Such funds are in fact so recovered or restored,

(2) It has received the grantee's assurances that future diversions will not occur, and

(3) It requires the grantee to take extraordinary precautions to prevent future diversions from occurring.

If a foundation is treated as having made a taxable expenditure under this subparagraph in a case to which this subdivision applies, then unless the foundation meets the requirements of (*a*) of this subdivision, the amount of the taxable expenditure shall be the amount of the diversion plus the amount of any further payments to the same grantee. However, if the foundation complies with the requirements of (*a*) of this subdivision, but fails to withhold further payments until the requirements of (*b*) of this subdivision are met, the amount of the taxable expenditure shall be the amount of such further payments.

(iv) The phrase "all reasonable and appropriate steps" in subdivisions (ii) and (iii) of this subparagraph includes legal action where appropriate but need not include legal action if such action would in all probability not result in the satisfaction of execution on a judgment.

(5) *Supervision of certain scholarship and fellowship grants.* Subparagraphs (2) and (4) of this paragraph shall be considered satisfied with respect to

scholarship or fellowship grants under the following circumstances:

(i) The scholarship or fellowship grants are described in section 4945(g)(1);

(ii) The grantor foundation pays the scholarship or fellowship grants to an educational institution described in section 151(e)(4); and

(iii) Such educational institution agrees to use the grant funds to defray the recipient's expenses or to pay the funds (or a portion thereof) to the recipient only if the recipient is enrolled at such educational institution and his standing at such educational institution is consistent with the purposes and conditions of the grant.

(6) *Retention of records.* A private foundation shall retain records pertaining to all grants to individuals for purposes described in section 4945(d)(3). Such records shall include:

(i) All information the foundation secures to evaluate the qualification of potential grantees;

(ii) Identification of grantees (including any relationship of any grantee to the foundation sufficient to make such grantee a disqualified person of the private foundation within the meaning of section 4946(a)(1));

(iii) Specification of the amount and purpose of each grant; and

(iv) The follow-up information which the foundation obtains in complying with subparagraphs (2), (3), and (4) of this paragraph.

(7) *Example.* The provisions of paragraphs (b) and (c) of this section may be illustrated by the following example:

Example. The X foundation grants 10 scholarships each year to graduates of high schools in its area to permit the recipients to attend college. It makes the availability of its scholarships known by oral or written communications each year to the principals of three major high schools in the area. The foundation obtains information from each high school on the academic qualifications, background, and financial need of applicants. It requires that each applicant be recommended by two of his teachers or by the principal of his high school. All application forms are reviewed by the foundation officer responsible for making the awards and scholarships are granted on the basis of the academic qualifications and financial need of the grantees. The foundation obtains annual reports on the academic performance of the scholarship recipient from the college or university which he attends. It maintains a file on each scholarship awarded, including the original application, recommendations, a record of the action taken on the application, and the reports on the recipient from the institution which he attends. The described procedures of the X foundation for the making of grants to individuals qualify for Internal Revenue Service approval under section 4945(g). Furthermore, if the X foundation's scholarship program meets the requirements of subparagraph (5) of this paragraph, X foundation will not have to obtain reports on the academic performance of the scholarship recipients.

(d) *Submission of grant procedure—*(1) *Contents of request for approval of grant procedures.* A request for advance approval of a foundation's grant procedures must fully describe the foundation's procedures for awarding grants and for ascertaining that such grants are used for the proper purposes. The approval procedure does not contemplate specific approval of particular grant programs but instead one-time approval of a system of standards, procedures, and follow-up designed to result in grants which meet the requirements of section 4945(g). Thus, such approval shall apply to a subsequent grant program as long as the procedures under which it is conducted do not differ materially from those described in the request to the Commissioner. The request must contain the following items:

(i) A statement describing the selection process. Such statement shall be sufficiently detailed for the Commissioner to determine whether the grants are made on an objective and nondiscriminatory basis under paragraph (b) of this section.

(ii) A description of the terms and conditions under which the foundation ordinarily makes such grants, which is sufficient to enable the Commissioner to determine whether the grants awarded under such procedures would meet the requirements of paragraph (1), (2), or (3) of section 4945(g).

(iii) A detailed description of the private foundation's procedure for exercising supervision over grants, as described in paragraph (c)(2) and (3) of this section.

(iv) A description of the foundation's procedures for review of grantee reports, for investigation where diversion of grant funds from their proper purposes is indicated, and for recovery of diverted grant funds, as described in paragraph (c)(4) of this section.

(2) *Place of submission.* Request for approval of grant procedures shall be submitted to the District Director.

(3) *Internal Revenue Service action on request for approval of grant procedures.* If, by the 45th day after a request for approval of grant procedures has been properly submitted to the Internal Revenue Service, the organization has not been notified that such procedures are not acceptable, such procedures shall be considered as approved from the date of submission until receipt of actual notice from the Internal Revenue Service that such procedures do not meet the requirements of this section. If a grant to an individual for a purpose described in section 4945(d)(3) is made after notification to the organization by the Internal Revenue Service that the procedures under which the grant is made are not acceptable, such grant is a taxable expenditure under this section.

(e) *Effective dates—*(1) *In general.* This section shall apply to all grants to individuals for travel, study, or other similar purposes which are made by private foundations more than 90 days after October 30, 1972.

(2) *Transitional rules—*(i) *Grants committed prior to January 1, 1970.* Section 4945(d)(3) and (g) and this section shall not apply to a grant for section 170(c)(2)(B) purposes made on or after January 1, 1970, if the grant was made pursuant to a commitment entered into prior to such date, but only if such commitment was made in accordance with the foundation's usual practices and is reasonable in amount in light of the purposes of the grant. For purposes of this subdivision, a commitment will be considered entered into prior to January 1, 1970, if prior to such date, the amount and nature of the payments to be made and the name of the payee were entered on the records of the payor, or were otherwise adequately evidenced, or the notice of the payment to be received was communicated to the payee in writing.

(ii) *Grants awarded on or after January 1, 1970.* In the case of a grant awarded on or after January 1, 1970, but prior to the expiration of 90 days after October 30, 1972, and paid within 48 months after the award of such grant, the requirements of section 4945(g) that an individual grant be awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the Commissioner will be deemed satisfied if the grantor utilizes any procedure in good faith in awarding a grant to an individual which, in fact, is reasonably calculated to provide objectivity and nondiscrimination in the awarding of such grant and to result in a grant which complies with the conditions of section 4945(g)(1), (2), or (3).

§ 53.4945–5 Grants to organizations.

(a) *Grants to nonpublic organizations—*(1) *In general.* Under section 4945(d)(4) the term "taxable expenditure" includes any amount paid or incurred by a private foundation as a grant to an organization (other than an organization described in section 509(a)(1), (2) or (3)), unless the private foundation exercises expenditure responsibility with respect to such grant in accordance with section 4945(h). However, the granting foundation does not have to exercise expenditure responsibility with respect to amounts granted to organizations described in section 4945(f).

(2) *"Grants" described.* For a description of the term "grants", see § 53.4945–4(a)(2).

(3) *Section 509(a)(1), (2), and (3) organizations.* See section 508(b) and the regulations thereunder for rules relating to when a grantor may rely on a potential grantee's characterization of its status as set forth in the notice described in section 508(b).

(4) *Certain "public" organizations.* For purposes of this section, an organization will be treated as a section 509(a)(1) organization if:

(i) It qualifies as such under paragraph (a) of § 1.509(a)–2 of this chapter;

(ii) It is an organization described in section 170(c)(1) or 511(a)(2)(B), even if it is not described in section 501(c)(3); or

(iii) It is a foreign government, or any agency or instrumentality thereof, or an international organization desig-

nated as such by Executive order under 22 U.S.C. 288, even if it is not described in section 501(c)(3).

However, any grant to an organization referred to in this subparagraph must be made exclusively for charitable purposes as described in section 170(c)(2)(B).

(5) *Certain foreign organizations.* If a private foundation makes a grant to a foreign organization which does not have a ruling or determination letter that it is an organization described in section 509(a)(1), (2), or (3), such grant will not be treated as a grant made to an organization other than an organization described in section 509(a)(1), (2), or (3) if the grantor private foundation has made a good faith determination that the grantee organization is an organization described in section 509(a)(1), (2), or (3). Such a "good faith determination" ordinarily will be considered as made where the determination is based on an affidavit of the grantee organization or an opinion of counsel (of the grantor or the grantee) that the grantee is an organization described in section 509(a)(1), (2), or (3). Such an affidavit or opinion must set forth sufficient facts concerning the operations and support of the grantee for the Internal Revenue Service to determine that the grantee would be likely to qualify as an organization described in section 509(a)(1), (2), or (3). See paragraphs (b)(5) and (b)(6) of this section for other special rules relating to foreign organizations.

(6) *Certain earmarked grants*—(i) *In general.* A grant by a private foundation to a grantee organization which the grantee organization uses to make payments to another organization (the secondary grantee) shall not be regarded as a grant by the private foundation to the secondary grantee if the foundation does not earmark the use of the grant for any named secondary grantee and there does not exist an agreement, oral or written, whereby such grantor foundation may cause the selection of the secondary grantee by the organization to which it has given the grant. For purposes of this subdivision, a grant described herein shall not be regarded as a grant by the foundation to the secondary grantee even though such foundation has reason to believe that certain organizations would derive benefits from such grant so long as the original grantee organization exercises control, in fact, over the selection process and actually makes the selection completely independently of the private foundation.

(ii) *To governmental agencies.* If a private foundation makes a grant to an organization described in section 170(c)(1) and such grant is earmarked for use by another organization, the granting foundation need not exercise expenditure responsibility with respect to such grant if the section 170(c)(1) organization satisfies the Commissioner in advance that:

(*a*) Its grant-making program is in furtherance of a purpose described in section 170(c)(2)(B), and

(*b*) The section 170(c)(1) organization exercises "expenditure responsibility" in a manner that would satisfy this section if it applied to such section 170(c)(1) organization.

However, with respect to such grant, the granting foundation must make the reports required by section 4945(h)(3) and paragraph (d) of this section, unless such grant is earmarked for use by an organization described in section 509(a)(1), (2), or (3).

(b) *Expenditure responsibility*—(1) *In general.* A private foundation is not an insurer of the activity of the organization to which it makes a grant. Thus, satisfaction of the requirements of sections 4945(d)(4) and (h) and of subparagraph (3) or (4) of this paragraph, will ordinarily mean that the grantor foundation will not have violated section 4945(d)(1) or (2). A private foundation will be considered to be exercising "expenditure responsibility" under section 4945(h) as long as it exerts all reasonable efforts and establishes adequate procedures—

(i) To see that the grant is spent solely for the purpose for which made,

(ii) To obtain full and complete reports from the grantee on how the funds are spent, and

(iii) To make full and detailed reports with respect to such expenditures to the Commissioner.

In cases in which pursuant to paragraph (a)(6) of this section a grant is considered made to a secondary grantee rather than the primary grantee, the grantor foundation's obligation to obtain reports from the grantee pursuant to section 4945(h)(2) and this section will be satisfied if appropriate reports are obtained from the secondary grantee. For rules relating to expenditure responsibility with respect to transfers of assets described in section 507(b)(2), see section 507(b)(2) and the regulations thereunder.

(2) *Pregrant inquiry*—(i) Before making a grant to an organization with respect to which expenditure responsibility must be exercised under this section, a private foundation should conduct a limited inquiry concerning the potential grantee. Such inquiry should be complete enough to give a reasonable man assurance that the grantee will use the grant for the proper purposes. The inquiry should concern itself with matters such as: (*a*) The identity, prior history and experience (if any) of the grantee organization and its managers; and (*b*) any knowledge which the private foundation has (based on prior experience or otherwise) of, or other information which is readily available concerning, the management, activities, and practices of the grantee organization. The scope of the inquiry might be expected to vary from case to case depending upon the size and purpose of the grant, the period over which it is to be paid, and the prior experience which the grantor has had with respect to the capacity of the grantee to use the grant for the proper purposes. For example, if the grantee has made proper use of all prior grants to it by the grantor and filed the required reports substantiating such use, no further pregrant inquiry will ordinarily be necessary. Similarly, in the caseo f an organization, such as a trust described in section 4947(a)(2), which is required by the terms of its governing instrument to make payments to a specified organization exempt from taxation under section 501(a), a less extensive pregrant inquiry is required than in the case of a private foundation possessing discretion with respect to the distribution of funds.

(ii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). Officials of M, a newly established organization which is described in section 501(c)(4), request a grant from X foundation to be used for a proposed program to combat drug abuse by establishing neighborhood clinics in certain ghetto areas of a city. Before making a grant to M, X makes an inquiry concerning the identity, prior history and experience of the officials of M. X obtains information pertaining to the officials of M from references supplied by these officials. Since one of the references indicated that A, an official of M, has an arrest record, police records are also checked and A's probation officer is interviewed.

The inquiry also shows M has no previous history of administering grants and that the officials of M have had no experience in administering programs of this nature. However, in the opinion of X's managers, M's officials (including A who appears to be fully rehabilitated after having been convicted of a narcotics violation several years ago) are well qualified to conduct this program since they are members of the communities in which the clinics are to be established and are more likely to be trusted by drug users in these communities than are outsiders. Under these circumstances X has complied with the requirements of this subparagraph and a grant to M for its proposed program will not be treated as a taxable expenditure solely because of the operation of this subparagraph.

Example (2). Foundation Y wishes to make a grant to foundation R for use in R's scholarship program. Y has made similar grants to R annually for the last several years and knows that R's managers have observed the terms of the previous grants and have made all requested reports with respect to such grants. No changes in R's management have occurred during the past several years. Under these circumstances, Y has enough information to have such assurance as a reasonable man would require that the grant to R will be used for proper purposes. Consequently, Y is under no obligation to make any further pregrant inquiry pursuant to this subparagraph.

Example (3). S foundation requests a grant from Z foundation for use in S's program of providing medical research fellowships. S has been engaged in this program for several years and has received large numbers of grants from other foundations. Z's managers know that the reputations of S and of S's officials are good. Z's managers also have been advised by managers of W foundation that W had recently made a grant to S and that W's managers were satisfied that such grant has been used for the purposes for which it was made. Under these circumstances Z has enough information to have such assurance as a reasonable man would require that the grant to S will be used for

proper purposes. Consequently, Z is under no obligation to make any further pregrant inquiry pursuant to this subparagraph.

(3) *Terms of grants.* Except as provided in subparagraph (4) of this paragraph, in order to meet the expenditure responsibility requirements of section 4945(h), a private foundation must require that each grant to an organization, with respect to which expenditure responsibility must be exercised under this section, be made subject to a written commitment signed by an appropriate officer, director, or trustee of the grantee organization. Such commitment must include an agreement by the grantee—

(i) To repay any portion of the amount granted which is not used for the purposes of the grant,

(ii) To submit full and complete annual reports on the manner in which the funds are spent and the progress made in accomplishing the purposes of the grant, except as provided in paragraph (c)(2) of this section,

(iii) To maintain records of receipts and expenditures and to make its books and records available to the grantor at reasonable times, and

(iv) Not to use any of the funds—

(*a*) To carry on propaganda, or otherwise to attempt, to influence legislation (within the meaning of section 4945(d)(1)),

(*b*) To influence the outcome of any specific public election, or to carry on, directly or indirectly, any voter registration drive (within the meaning of section 4945(d)(2)),

(*c*) To make any grant which does not comply with the requirements of section 4945(d)(3) or (4), or

(*d*) To undertake any activity for any purpose other than one specified in section 170(c)(2)(B).

The agreement must also clearly specify the purposes of the grant. Such purposes may include contributing for capital endowment, for the purchase of capital equipment, or for general support provided that neither the grants nor the income therefrom may be used for purposes other than those described in section 170(c)(2)(B).

(4) *Terms of program-related investments.* In order to meet the expenditure responsibility requirements of section 4945(h), with regard to the making of a program-related investment (as defined in section 4944 and the regulations thereunder), a private foundation must require that each such investment with respect to which expenditure responsibility must be exercised under section 4945(d)(4) and (h) and this section be made subject to a written commitment signed by an appropriate officer, director, or trustee of the recipient organization. Such commitment must specify the purpose of the investment and must include an agreement by the organization—

(i) To use all the funds received from the private foundation (as determined under paragraph (c)(3) of this section) only for the purposes of the investment and to repay any portion not used for such purposes, provided that, with respect to equity investments, such repayment shall be made only to the extent permitted by applicable law concerning distributions to holders of equity interests,

(ii) At least once a year during the existence of the program-related investment, to submit full and complete financial reports of the type ordinarily required by commercial investors under similar circumstances and a statement that it has complied with the terms of the investment,

(iii) To maintain books and records adequate to provide information ordinarily required by commercial investors under similar circumstances and to make such books and records available to the private foundation at reasonable times, and

(iv) Not to use any of the funds—

(*a*) To carry on propaganda, or otherwise to attempt, to influence legislation (within the meaning of section 4945(d)(1)),

(*b*) To influence the outcome of any specific public election, or to carry on, directly or indirectly, and voter registration drive (within the meaning of section 4945(d)(2)), or

(*c*) With respect to any recipient which is a private foundation (as defined in section 509(a)), to make any grant which does not comply with the requirements of section 4945(d)(3) or (4).

(5) *Certain grants to foreign organizations.* With respect to a grant to a foreign organization (other than an organization described in section 509(a)(1), (2), or (3) or treated as so described pursuant to paragraph (a)(4) or (a)(5) of this section), subparagraph (3)(iv) or (4)(iv) of this paragraph shall be deemed satisfied if the agreement referred to in subparagraph (3) or (4) of this paragraph imposes restrictions on the use of the grant substantially equivalent to the limitations imposed on a domestic private foundation under section 4945(d). Such restrictions may be phrased in appropriate terms under foreign law or custom and ordinarily will be considered sufficient if an affidavit or opinion of counsel (of the grantor or grantee) is obtained stating that, under foreign law or custom, the agreement imposes restrictions on the use of the grant substantially equivalent to the restrictions imposed on a domestic private foundation under subparagraph (3) or (4) of this paragraph.

(6) *Special rules for grants by foreign private foundations.* With respect to activities in jurisdictions other than those described in section 170(c)(2)(A), the failure of a foreign private foundation which is described in section 4948(b) to comply with subparagraph (3) or (4) of this paragraph with respect to a grant to an organization shall not constitute an act or failure to act which is a prohibited transaction (within the meaning of section 4948(c)(2)).

(7) *Expenditure responsibility with respect to certain transfers described in section 507.* [Reserved]

(8) *Restrictions on grants (other than program related investments) to organizations not described in section 501(c)(3).* [Reserved]

(c) *Reports from grantees*—(1) *In general.* In the case of grants described in section 4945(d)(4), except as provided in subparagraph (2) of this paragraph, the granting private foundation shall require reports on the use of the funds, compliance with the terms of the grant, and the progress made by the grantee toward achieving the purposes for which the grant was made. The grantee shall make such reports as of the end of its annual accounting period within which the grant or any portion thereof is received and all such subsequent periods until the grant funds are expended in full or the grant is otherwise terminated. Such reports shall be furnished to the grantor within a reasonable period of time after the close of the annual accounting period of the grantee for which such reports are made. Within a reasonable period of time after the close of its annual accounting period during which the use of the grant funds is completed, the grantee must make a final report with respect to all expenditures made from such funds (including salaries, travel, and supplies), and indicating the progress made toward the goals of the grant. The grantor need not conduct any independent verification of such reports unless it has reason to doubt their accuracy or reliability.

(2) *Capital endowment grants to exempt private foundations.* If a private foundation makes a grant described in section 4945(d)(4) to a private foundation which is exempt from taxation under section 501(a) for endowment, for the purchase of capital equipment, or for other capital purposes, the grantor foundation shall require reports from the grantee on the use of the principal and the income (if any) from the grant funds. The grantee shall make such reports annually for its taxable year in which the grant was made and the immediately succeeding 2 taxable years. Only if it is reasonably apparent to the grantor that, before the end of such second succeeding taxable year, neither the principal, the income from the grant funds, nor the equipment purchased with the grant funds has been used for any purpose which would result in liability for tax under section 4945(d), the grantor may then allow such reports to be discontinued.

(3) *Grantees' accounting and recordkeeping procedures.* (i) A private foundation grantee exempt from taxation under section 501(a) (or the recipient of a program-related investment) need not segregate grant funds physically nor separately account for such funds on its books unless the grantor requires such treatment of the grant funds. If such a grantee neither physically segregates grant funds nor establishes separate accounts on its books, grants received within a given taxable year beginning after December 31, 1969, shall be deemed, for purposes of section 4945, to be ex-

pended before grants received in a succeeding taxable year. In such case expenditures of grants received within any such taxable year shall be prorated among all such grants.

In accounting for grant expenditures, private foundations may make the necessary computations on a cumulative annual basis (or, where appropriate, as of the date for which the computations are made). The rules set forth in the preceding three sentences shall apply to the extent they are consistent with the available records of the grantee and with the grantee's treatment of qualifying distributions under section 4942(h) and the regulations thereunder. The records of expenditures, as well as copies of the reports submitted to the grantor, must be kept for at least 4 years after completion of the use of the grant funds.

(ii) For rules relating to accounting and recordkeeping requirements for grantees other than those described in subdivision (i) of this subparagraph, see §§ 53.4945–5(b)(8) and 53.4945–6(c).

(4) *Reliance on information supplied by grantee.* A private foundation exercising expenditure responsibility with respect to its grants may rely on adequate records or other sufficient evidence supplied by the grantee organization (such as a statement by an appropriate officer, director or trustee of such grantee organization) showing, to the extent applicable, the information which the grantor must report to the Internal Revenue Service in accordance with paragraph (d)(2) of this section.

(d) *Reporting to Internal Revenue Service by grantor*—(1) *In general.* To satisfy the reportmaking requirements of section 4945(h)(3), a granting foundation must provide the required information on its annual information return, required to be filed by section 6033, for each taxable year with respect to each grant made during the taxable year which is subject to the expenditure responsibility requirements of section 4945(h). Such information must also be provided on such return with respect to each grant subject to such requirements upon which any amount or any report is outstanding at any time during the taxable year. However, with respect to any grant made for endowment or other capital purposes, the grantor must provide the required information only for any taxable year for which the grantor must require a report from the grantee under paragraph (c)(2) of this section. The requirements of this subparagraph with respect to any grant may be satisfied by submission with the foundation's information return of a report received from the grantee, if the information required by subparagraph (2) of this paragraph is contained in such report.

(2) *Contents of report.* The report required by this paragraph shall include the following information:

(i) The name and address of the grantee.

(ii) The date and amount of the grant.

(iii) The purpose of the grant.

(iv) The amounts expended by the grantee (based upon the most recent report received from the grantee).

(v) Whether the grantee has diverted any portion of the funds (or the income therefrom in the case of an endowment grant) from the purpose of the grant (to the knowledge of the grantor).

(vi) The dates of any reports received from the grantee.

(vii) The date and results of any verification of the grantee's reports undertaken pursuant to and to the extent required under paragraph (c)(1) of this section by the grantor or by others at the direction of the grantor.

(3) *Record-keeping requirements.* In addition to the information included on the information return, a granting foundation shall make available to the Internal Revenue Service at the foundation's principal office each of the following items:

(i) A copy of the agreement covering each "expenditure responsibility" grant made during the taxable year.

(ii) A copy of each report received during the taxable year from each grantee on any "expenditure responsibility" grant.

(iii) A copy of each report made by the grantor's personnel or independent auditors of any audits or other investigations made during the taxable year with respect to any "expenditure responsibility" grant.

(4) *Reports received after the close of grantor's accounting year.* Data contained in reports required by this paragraph which reports are received by a private foundation after the close of its accounting year but before the due date of its information return (Form 990) for that year need not be reported on such return, but may be reported on the grantor's information return for the year in which such reports are received from the grantee.

(e) *Violations of expenditure responsibility requirements*—(1) *Diversions by grantee.* (i) Any diversion of grant funds (including the income therefrom in the case of an endowment grant) by the grantee to any use not in furtherance of a purpose specified in the grant may result in the diverted portion of such grant being treated as a taxable expenditure of the grantor under section 4945(d)(4). However, for purposes of this section, the fact that a grantee does not use any portion of the grant funds as indicated in the original budget projection shall not be treated as a diversion if the use to which the funds are committed is consistent with the purpose of the grant as stated in the grant agreement and does not result in a violation of the terms of such agreement required to be included by paragraph (b)(3) or (b)(4) of this section.

(ii) In any event, a grantor will not be treated as having made a taxable expenditure under section 4945(d)(4) solely by reason of a diversion by the grantee, if the grantor has complied with subdivision (iii) (*a*) and (*b*) or (iv) (*a*) and (*b*) of this subparagraph, whichever is applicable.

(iii) In cases in which the grantor foundation determines that any part of a grant has been used for improper purposes and the grantee has not previously diverted grant funds, the foundation will not be treated as having made a taxable expenditure solely by reason of the diversion so long as the foundation—

(*a*) Is taking all reasonable and appropriate steps either to recover the grant funds or to insure the restoration of the diverted funds and the dedication (consistent with the requirements of (*b*)(*1*) and (2) of this subdivision) of the other grant funds held by the grantee to the purposes being financed by the grant, and

(*b*) Withholds any further payments to the grantee after the grantor becomes aware that a diversion may have taken place (hereinafter referred to as "further payments") until it has—

(*1*) Received the grantee's assurances that future diversions will not occur, and

(2) Required the grantee to take extraordinary precautions to prevent future diversions from occurring.

If a foundation is treated as having made a taxable expenditure under this subparagraph in a case to which this subdivision applies, then unless the foundation meets the requirements of (*a*) of this subdivision the amount of the taxable expenditure shall be the amount of the diversion (for example, the income diverted in the case of an endowment grant, or the rental value of capital equipment for the period of time for which diverted) plus the amount of any further payments to the same grantee. However, if the foundation complies with the requirements of (*a*) of this subdivision but not the requirements of (*b*) of this subdivision, the amount of the taxable expenditure shall be the amount of such further payments.

(iv) In cases where a grantee has previously diverted funds received from a grantor foundation, and grant has again been used for improper purposes, the foundation will not be treated as having made a taxable expenditure solely by reason of such diversion so long as the foundation—

(*a*) Is taking all reasonable and appropriate steps to recover the grant funds or to insure the restoration of the diverted funds and the dedication (consistent with the requirements of (*b*)(2) and (3) of this subdivision) of other grant funds held by the grantee to the purposes being financed by the grant, except that if, in fact, some or all of the diverted funds are not so restored or recovered, then the foundation must take all reasonable and appropriate steps to recover all of the grant funds, and

(*b*) Withholds further payments until—

(*1*) Such funds are in fact so recovered or restored,

(2) It has received the grantee's assurances that future diversions will not occur, and

(3) It requires the grantee to take extraordinary precautions to prevent future diversions from occurring.

If a foundation is treated as having made a taxable expenditure under this subparagraph in a case to which this subdivision applies, then unless the foundation meets the requirements of (a) of this subdivision, the amount of the taxable expenditure shall be the amount of the diversion plus the amount of any further payments to the same grantee. However, if the foundation complies with the requirements of (a) of this subdivision, but fails to withhold further payments until the requirements of (b) of this subdivision are met, the amount of the taxable expenditure shall be the amount of such further payments.

(v) The phrase "all reasonable and appropriate steps" (as used in subdivisions (iii) and (iv) of this subparagraph) includes legal action where appropriate but need not include legal action if such action would in all probability not result in the satisfaction of execution on a judgment.

(2) *Grantee's failure to make reports.* A failure by the grantee to make the reports required by paragraph (c) of this section (or the making of inadequate reports) shall result in the grant's being treated as a taxable expenditure by the grantor unless the grantor:

(i) Has made the grant in accordance with paragraph (b) of this section,

(ii) Has complied with the reporting requirements contained in paragraph (d) of this section,

(iii) Makes a reasonable effort to obtain the required report, and

(iv) Withholds all future payments on this grant and on any other grant to the same grantee until such report is furnished.

(3) *Violations by the grantor.* In addition to the situations described in subparagraphs (1) and (2) of this paragraph, a grant which is subject to the expenditure responsibility requirements of section 4945(h) will be considered a taxable expenditure of the granting foundation if the grantor—

(i) Fails to make a pregrant inquiry as described in paragraph (b)(2) of this section,

(ii) Fails to make the grant in accordance with a procedure consistent with the requirements of paragraph (b)(3) or (4) of this section, or

(iii) Fails to report to the Internal Revenue Service as provided in paragraph (d) of this section.

(f) *Effective dates*—(1) *In general.* This section shall apply to all grants which are subject to the expenditure responsibility requirements of section 4945(d)(4) and (h) and which are made by private foundations more than 90 days after October 30, 1972.

(2) *Transitional rules*—(i) *Certain grants awarded prior to May 27, 1969.* Section 4945(d)(4) and (h) and this section shall not apply to a grant to a private foundation which is not controlled, directly or indirectly, by the grantor foundation or one or more disqualified persons (as defined in section 4946) with respect to the grantor foundation, provided that such grant—

(a) Is made pursuant to a written commitment which was binding on May 26, 1969, and at all times thereafter,

(b) Is made for one or more of the purposes described in section 170(c)(2)(B), and

(c) Is to be paid out to such grantee foundation on or before December 31, 1974.

(ii) *Grants or expenditures committed prior to January 1, 1970.* Except as provided in paragraph (e)(2)(i) of § 53.4945–4, section 4945 shall not apply to a grant or an expenditure for section 170(c)(2)(B) purposes made on or after January 1, 1970, if the grant or expenditure was made pursuant to a commitment entered into prior to such date, but only if (in the case of a grant or an expenditure other than an unlimited general-purpose grant to an organization) such commitment is reasonable in amount in light of the purposes of the grant. For purposes of this subdivision, a commitment will be considered entered into prior to January 1, 1970, if prior to such date, the amount and nature of the payments to be made and the name of the payee were entered on the records of the payor, or were otherwise adequately evidenced, or the notice of the payment to be received was communicated to the payee in writing.

(iii) *Grants awarded on or after January 1, 1970.* Paragraphs (b), (c), and (d) of this section shall not apply to grants awarded on or after January 1, 1970, but prior to the expiration of 90 days after October 30, 1972, if the grantor has made reasonable efforts, and has established adequate procedures such as a prudent man would adopt in managing his own property, to see that the grant is spent solely for the purpose for which made, to obtain full and complete reports from the grantee on how the funds are spent, and to make full and detailed reports with respect to such grant to the Commissioner. With respect to any return filed with the Internal Revenue Service before the expiration of 90 days after October 30, 1972, the grantor may treat reports which satisfy the requirements of the statement to be attached to Form 4720 for the year 1970 under "Specific Instructions—Question B" (items (1) through (5)) as satisfying the grantor reporting requirements with respect to "expenditure responsibility" grants. In the case of a private foundation required to file an annual return for a taxable year ending after January 1, 1970, and before December 31, 1970, the reporting requirements imposed by section 4945(h)(3) for such period shall be regarded as satisfied if such reports are made on the annual return for its first taxable year beginning after December 31, 1969.

§ 53.4945–6 Expenditures for noncharitable purposes.

(a) *In general.* Under section 4945(d)(5) the term "taxable expenditure" includes any amount paid or incurred by a private foundation for any purpose other than one specified in section 170(c)(2)(B). Thus, ordinarily only an expenditure for an activity which, if it were a substantial part of the organization's total activities, would cause loss of tax exemption is a taxable expenditure under section 4945(d)(5). For purposes of this section and §§ 53.4945–1 through 53.4945–5, the term "purposes described in section 170(c)(2)(B)" shall be treated as including purposes described in section 170(c)(2)(B) whether or not carried out by an organization described in section 170(c).

(b) *Particular expenditures.* (1) The following types of expenditures ordinarily will not be treated as taxable expenditures under section 4945(d)(5):

(i) Expenditures to acquire investments entered into for the purpose of obtaining income or funds to be used in furtherance of purposes described in section 170(c)(2)(B),

(ii) Reasonable expenses with respect to investments described in subdivision (i) of this subparagraph,

(iii) Payment of taxes,

(iv) Any expenses which qualify as deductions in the computation of unrelated business income tax under section 511,

(v) Any payment which constitutes a qualifying distribution under section 4942(g) or an allowable deduction under section 4940,

(vi) Reasonable expenditures to evaluate, acquire, modify, and dispose of program-related investments, or

(vii) Business expenditures by the recipient of a program-related investment.

(2) Conversely, any expenditures for unreasonable administrative expenses, including compensation, consultant fees, and other fees for services rendered, will ordinarily be taxable expenditures under section 4945(d)(5) unless the foundation can demonstrate that such expenses were paid or incurred in the good faith belief that they were reasonable and that the payment or incurrence of such expenses in such amounts was consistent with ordinary business care and prudence. The determination whether an expenditure is unreasonable shall depend upon the facts and circumstances of the particular case.

(c) *Grants to "noncharitable" organizations.* [Reserved]

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

Approved: October 26, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.72–18555 Filed 10–30–72;8:49 am]

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7214]

PART 301—PROCEDURE AND ADMINISTRATION

Receipts Issued for Cash Payment of Taxes Received by Mail

In order to revise the regulations on Procedure and Administration (26 CFR Part 301) under section 6314 of the Internal Revenue Code of 1954, relating to receipts for taxes and to conform such regulations to section 6091 of the Code, relating to the place for filing returns, such regulations are amended as follows:

SEPTEMBER 28, 1972.

PARAGRAPH 1. Section 301.6314–1 is amended to read as set forth below.

Because this Treasury decision revises departmental policy and procedure, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under section 533(b) of title 5 of the United States Code, or subject to the effective date of limitations of subsection (d) of such section.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

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

Approved: October 25, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

§ 301.6314–1 Receipt for taxes.

(a) *In general.* The district director or the director of a service center shall upon request, issue a receipt for each tax payment made (other than a payment for stamps sold and delivered). In addition, the district director or the director of a service center shall issue a receipt for each payment of 1 dollar or more made in cash, whether or not requested. In the case of payments made by check, the canceled check is usually a sufficient receipt. No receipt shall be issued in lieu of a stamp representing a tax, whether the payment is in cash or otherwise.

(b) *Duplicate receipt for payment of estate taxes.* Upon request, the district director or the director of a service center will issue duplicate receipts to the person paying the estate tax, either of which will be sufficient evidence of such payment and entitle the executor to be credited with the amount by any court having jurisdiction to audit or settle his accounts. For definition of the term "executor", see section 2203.

[FR Doc.72–18484 Filed 10–30–72;8:47 am]

Title 7—AGRICULTURE

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

[Milk Order 106; Docket No. AO 210–A34]

PART 1106—MILK IN THE OKLAHOMA METROPOLITAN MARKETING AREA

Order Amending Order

FINDINGS AND DETERMINATIONS

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

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

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

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

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

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

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

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

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

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

ORDER RELATIVE TO HANDLING

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

Section 1106.53 is revised as follows:

§ 1106.53 Location adjustment to handlers.

(a) At a plant in the State of Oklahoma, north of Beckham, Washita, Caddo, Canadian, Oklahoma, Pottawatomie, and Seminole Counties or east of Seminole, Pontotoc, Johnston, and Marshall Counties, and 50 miles or more from the city hall in Oklahoma City, the Class I price for milk received from producers shall be reduced 10 cents plus 1.5 cents for each 10 miles or fraction thereof that such plant is more than 150 miles from Oklahoma City.

(b) At a plant outside the States of Oklahoma and Texas, the Class I price for milk received from producers shall be the price applicable at Tulsa or Ponca City, Okla., pursuant to paragraph (a) of this section reduced by 1.5 cents for each 10 miles or fraction thereof that such plant is from the nearer of the city halls in Tulsa or Ponca City.

(c) The distances applied pursuant to paragraphs (a) and (b) of this section shall be the shortest hard-surfaced highway distances as determined by the market administrator.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraphs (a) and (b) of this section.

(e) For purposes of calculating location adjustments, transfers between pool plants shall be assigned to Class I disposition at the transferee plant in an amount not in excess of that by which 105 percent of Class I disposition at the transferee plant exceeds the sum of receipts at such plant from producers and cooperative associations pursuant to § 1106.11(c), and the pounds assigned to Class I to receipts from other order plants and unregulated supply plants.

Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1106.81 [Amended]

2. In § 1106.81, replace the three references therein to "§ 1106.53(a)" with "§ 1106.53."

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

Effective date: December 1, 1972.

Signed at Washington, D.C., on October 27, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72–18599 Filed 10–30–72;8:54 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72–SO–102]

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

Alteration of Control Zone and Transition Areas

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Raleigh, N.C., control zone and the Greensboro and Kinston, N.C., transition areas.

The Raleigh control zone is described in § 71.171 (37 F.R. 2056) and the Greensboro and Kinston transition areas are described in § 71.181 (37 F.R. 2143).

U.S. Standards for Terminal Instrument Procedures (TERP's), issued after extensive consideration and discussion with Government agencies concerned and affected industry groups, are now being applied to update the criteria for instrument approach procedures. The criteria for the designation of controlled airspace protection for these procedures were revised to conform to TERP's and achieve increased and efficient utilization of airspace.

Because of this revised criteria, it is necessary to alter the Raleigh control zone and the Greensboro and Kinston transition areas to reflect the required extension designations.

In consideration of the foregoing, notice and public procedure hereon are unnecessary and Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (37 F.R. 2056), the Raleigh, N.C., control zone is amended as follows:

All after "78°47'02" W.);" is deleted and "within 3.5 miles each side of Raleigh VOR TAC 034° and 231° radials, extending from the 5-mile radius zone to 10.5 miles northeast and southwest of the VORTAC." is substituted therefor.

In § 71.181 (37 F.R. 2143), the Greensboro and Kinston, N.C., transition areas are amended as follows:

GREENSBORO, N.C.

All between "79°56'34" W.);" and "within 9.5 miles southwest" is deleted and "within 5 miles each side of Greensboro VORTAC 035° radial, extending from the 8.5-mile radius area to 17.5 miles northeast of the VORTAC; within 4 miles each side of Greensboro VORTAC 207° radial, extending from the 8.5-mile radius area to 8.5 miles southwest of the VORTAC." is substituted therefor.

KINSTON, N.C.

All after "77°36'55" W.);" is deleted and "within 4.5 miles each side of the Kinston VORTAC 048° radial, extending from the 8.5-mile radius area to 10.5 miles northeast of the VORTAC." is substituted therefor.

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

Issued in East Point, Ga., on October 17, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72–18500 Filed 10–30–72;8:51 am]

[Airspace Docket No. 72–SO–103]

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

Alteration of Control Zones and Transition Areas

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Charleston and Florence, S.C., control zones and the Charleston, Florence, and Spartanburg, S.C., transition areas.

The Charleston and Florence control zones are described in § 71.171 (37 F.R. 2056). The Charleston transition area is described in § 71.181 (37 F.R. 2143 and 7689) and the Florence and Spartanburg transition areas are described in § 71.181 (37 F.R. 2143).

U.S. Standards for Terminal Instrument Procedures (TERP's), issued after extensive consideration and discussion with Government agencies concerned and affected industry groups, are now being applied to update the criteria for instrument approach procedures. The criteria for the designation of controlled airspace protection for these procedures were revised to conform to TERP's and achieve increased and efficient utilization of airspace.

Because of this revised criteria, it is necessary to alter the Charleston and Florence control zones and the Charleston, Florence, and Spartanburg transition areas to reflect the required extension designations.

In consideration of the foregoing, notice and public procedure hereon are unnecessary and Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (37 F.R. 2056), the Charleston, S.C., control zone is amended to read:

CHARLESTON, S.C.

Within a 5-mile radius of Charleston AFB/Municipal Airport (lat. 32°53'55" N., long. 80°02'20" W.); within 3.5 miles each side of Charleston VORTAC 018° and 332° radials, extending from the 5-mile radius zone to 10 miles north and northwest of the VORTAC; within 2.5 miles each side of Charleston VOR TAC 135° radial, extending from the 5-mile radius zone to 5.5 miles southeast of the VORTAC; within 3.5 miles each side of Charleston VORTAC 211° radial, extending from the 5-mile radius zone to 10.5 miles southwest of the VORTAC.

In § 71.171 (37 F.R. 2056), the Florence, S.C., control zone is amended as follows:

All after "79°43'28" W.);" is deleted and "within 3.5 miles each side of Florence VORTAC 049° and 229° radials, extending from the 5-mile radius zone to 8 miles northeast of the VORTAC." is substituted therefor.

In § 71.181 (37 F.R. 2143), the Charleston, S.C., transition area (37 F.R. 7689) and the Florence and Spartanburg, S.C., transition areas are amended as follows:

CHARLESTON, S.C.

All between "80°02'20" W.);" and "within a 6.5-mile radius of Johns Island Airport" is deleted and "within 3.5 miles each side of Charleston VORTAC 018°, 211°, and 332° radials, extending from the 9-mile radius area to 11.5 miles north, southwest and northwest of the VORTAC; within 3.5 miles each side of Charleston VORTAC 135° radial, extending from the 9-mile radius area to 10.5 miles southeast of the VORTAC;" is substituted therefor.

FLORENCE, S.C.

* * * 79°43'28" W.); * * *" is deleted and "* * * 79°43'28" W.); within 4 miles each side of Florence VORTAC 049° radial, extending from the 8.5-mile radius area to 9 miles northeast of the VORTAC." is substituted therefor.

SPARTANBURG, S.C.

* * * within 3 miles each side of Spartanburg VORTAC 016° and 196° radials, extending from 8.5 miles north of the VORTAC to 22 miles south of the VORTAC; * * *" is deleted and "* * * 3.5 miles each side of Spartanburg VORTAC 016° radial, extending from the 6.5-mile radius area to 9 miles north of the VORTAC; within 3.5 miles each side of Spartanburg VORTAC 191° radial, extending from the 6.5-mile radius area to 16.5 miles south of the VORTAC; * * *" is substituted therefor.

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

Issued in East Point, Ga., on October 17, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72–18501 Filed 10–30–72;8:52 am]

[Airspace Docket No. 72–SO–104]

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 Nashville, Tenn., control zone.

The Nashville control zone is described in § 71.171 (37 F.R. 2056).

U.S. Standards for Terminal Instrument Procedures (TERP's), issued after extensive consideration and discussion with government agencies concerned and affected industry groups, are now being applied to update the criteria for instrument approach procedures. The criteria for the designation of controlled airspace protection for these procedures were revised to conform to TERP's and achieve increased and efficient utilization of airspace.

Because of this revised criteria, it is necessary to alter the Nashville control zone to reflect the required extension designations.

In consideration of the foregoing, notice and procedure hereon are unnecessary and Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (37 F.R. 2056), the Nashville, Tenn., control zone is amended as follows:

* * * within 3 miles each side of Nashville VORTAC 109° radial, extending from the 5-mile radius zone to 8.5 miles east of the VORTAC * * * is deleted and * * * within 3.5 miles each side of Nashville VORTAC 109° radial, extending from the 5-mile radius zone to 10 miles east of the VORTAC * * * is substituted therefor.

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

Issued in East Point, Ga., on October 17, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72-18502 Filed 10-30-72;8:52 am]

[Airspace Docket No. 72-CE-17]

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

Alteration of Transition Area

On pages 14318 and 14319 of the FEDERAL REGISTER dated July 19, 1972, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Marshalltown, Iowa.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

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

This amendment shall be effective 0901 G.m.t., January 4, 1973.

(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 Kansas City, Mo., on October 5, 1973.

JOHN M. CYROCKI,
Director, Central Region.

In § 71.181 (37 F.R. 2143), the following transition area is amended to read:

MARSHALLTOWN, IOWA

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Marshalltown Municipal Airport (latitude 42°06'45" N., longitude 92°54'50" W.); and within 2 miles each side of the 321° bearing from Marshalltown Municipal Airport, extending from the 6-mile-radius area to 8 miles northwest of the airport and within 3.5 miles each side of the 135° radial of the Marshalltown VOR, extending from the 6-mile radius to 11.5 miles southeast of the airport, and that airspace extending upward from 1,200 feet above the surface within 5 miles northeast and 8 miles southwest of the 321° bearing from Marshalltown Municipal Airport, extending from the airport to 12 miles northwest of the airport, excluding the airspace within the Waterloo, Iowa transition area.

In § 71.181 (37 F.R. 2143), the Muskogee, Okla., transition area is amended to read:

MUSKOGEE, OKLA.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Davis Field, Muskogee, Okla. (latitude 35°39'25" N., longitude 95°21'40" W.), and within 10 miles southwest and 5 miles northeast of the Muskogee VOR 137° T. (130° M.) radial extending from the VOR to 20 miles southeast.

[FR Doc.72-18499 Filed 10-30-72;8:51 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release Nos. 34-9784, 35-17701, IC-7375]

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

Solicitations of Proxies

The Securities and Exchange Commission has adopted certain amendments to Rules 14a-5 (17 CFR 240.14a-5) and 14a-8 (17 CFR 240.14a-8) of the Commission's proxy rules pursuant to sections 14(a) and 23(a) of the Securities Exchange Act of 1934. These rules are also applicable to the solicitation of proxies under the Public Utility Holding Company Act of 1935 and the Investment Company Act of 1940 by virtue of the authority provided in sections 12(e) and 20(a) of the 1935 Act and sections 20(a) and 38(a) of the 1940 Act. Notice of the proposed amendments was published December 22, 1971, in Securities Exchange Act Release No. 9432 (36 F.R. 25432). A number of helpful comments were received and were given careful consideration in connection with the preparation of the final revisions. A brief description of the changes is set forth below.

Paragraph (b) of Rule 14a-8 has provided that if the management opposes a security holder's proposal, it shall, if requested by the security holder, include in its proxy statement a statement of the security holder not exceeding 100 words in support of the proposal. This provision has been amended to increase the 100-word limit to 200 words so that a security holder may more fully present the reasons for submitting his proposal to security holders. In connection with the increase in the word limitation supporting statements, the Commission has further amended paragraph (b) to provide that any statements in the text of a proposal, such as a preamble or "whereas" clause, which are in effect arguments in support of the proposal, shall be considered part of the supporting statement and subject to the 200-word limitation thereon. Although this amendment was previously noticed for adoption in the form of a note to paragraph (b), the Commission determined to incorporate it into the text of the paragraph itself since it pertains directly to the requirement contained therein that a security holder's supporting statement be limited to 200 words. The purpose of the change is to curtail the growing tendency of security holders to evade the word limitation on supporting statements by submitting lengthy proposals which contain supporting argumentation within the text of the proposals themselves.

In Securities Exchange Act Release No. 9432 the Commission pointed out that it regards as an abuse of Rule 14a-8 the practice whereby a security holder submits a number of identical proposals to a number of companies and thereafter fails to appear at the meetings of the companies involved to present the proposals for action. When a security holder submits proposals and then, without good cause, does not appear at the meetings of the respective companies, all security holders have been put to considerable expense to no purpose. Accordingly, the Commission reiterates that in submitting a proposal, a security holder must in good faith make the statement required by Rule 14a-8(a) that he intends to present his proposal for action at the meeting.

Paragraph (c)(2) of the rule has been revised to replace the subjective terms of the provision with objective standards to the extent feasible and thereby create greater certainty in the application of the rule. The paragraph as amended provides for the omission of proposals which either are not significantly related to the business of the issuer or not within its control. Proposals not within an issuer's control are those which are beyond its power to effectuate, and henceforth they may be omitted under this provision. The revised paragraph will apply to all pro-

posals and will not be limited to those which involve general economic, political, racial, religious, social, or similar causes. Also, the provision is not intended to serve as a basis for the omission of traditional shareholder proposals dealing with stockholder relationships with the management, such as cumulative voting, annual meetings, and ratification of auditors, since all these matters can be considered significantly related to the issuer's business or within its control.

Paragraph (c)(2) has been further amended to permit the omission of all proposals which relate to the enforcement of a personal claim or the redress of a personal grievance against any person. Formerly, the rule allowed the omission of such proposals only when the personal claim or grievance was against the issuer or its management. The Commission, however, believes that any proposal which relates to such matters is inappropriate for shareholder consideration.

The Commission has amended paragraph (d) of the rule to provide that whenever the management asserts that any security holder's proposal may properly be omitted from its proxy statement and form of proxy, it shall furnish the materials specified in that paragraph to the Commission 30 days prior to the filing of the management's preliminary proxy material. Formerly, the rule required that the materials be filed 20 days in advance of the preliminary proxy material, but experience has shown that this did not allow sufficient time for the Commission's staff to give due consideration to what action, if any, might be appropriate with respect to a management's refusal to include a proposal in its proxy materials. The Commission believes that the revision will also be beneficial to both managements and shareholders. Heretofore, managements have occasionally had to disrupt the printing schedules for their proxy material in those instances in which the staff was unable to expedite its letter on the matter due to its workload. Shareholders who submit proposals will also benefit from the revision because they will have more time, if they so elect, to enforce their rights in court in the event managements decide to omit their proposals.

In connection with the foregoing, the Commission also has determined to amend paragraph (a) of the rule so that a proposal by a security holder must now be received by the management at the issuer's principal executive office not less than 70 days (rather than 60 days, as formerly required), prior to a date corresponding to the date set forth on the management's proxy statement for the previous year's annual meeting. The comments indicated that since the time period for filing materials under paragraph (d) was being advanced by 10 days, a corresponding change was needed in paragraph (a) in order to provide a management with an amount of time comparable to the former rule for reviewing and evaluating a proposal and, if necessary, to prepare the documents required to be filed with the Commission under Rule 14a–8(d). In view of the fact that this change is technical in nature, the Commission finds that notice and procedure pursuant to the Administrative Procedure Act with respect to it is not necessary in the public interest or for the protection of investors.

The Commission also has added a note to paragraph (a) suggesting that security holders submit their proposals by certified mail—return receipt requested. It is believed that the submission of proposals in such a manner will curtail controversies with respect to the date that a security holder's proposal was received by the management.

Rule 14a–5 has been amended to require that the first page of the proxy statement be dated and include the address of the principal executive offices of the issuer. This amendment will furnish a definite date which the security holder may use in computing the date prior to which his proposal must be received by the management and will give the address where the proposal must be received.

The foregoing amendments shall apply to all proxy solicitations commenced on or after January 1, 1973.

Commission action. Pursuant to authority set forth in sections 14(a) and 23(a) of the Securities Exchange Act of 1934, as amended, sections 12(e) and 20(a) of the Public Utility Holding Company Act of 1935, and sections 20(a) and 38(a) of the Investment Company Act of 1940, the Securities and Exchange Commission hereby adds new paragraph (e) to § 240.14a–5 and amends § 240.14a–8, in Chapter II of Title 17 of the Code of Federal Regulations to read as set forth below:

§ 240.14a–5 Presentation of information in proxy statement.

* * * * *

(e) All proxy statements shall disclose on the first page thereof the complete mailing address, including ZIP code, of the principal executive offices of the issuer and the approximate date on which the proxy statement and form of proxy are first sent or given to security holders.

§ 240.14a–8 Proposals of security holders.

(a) If any security holder entitled to vote at a meeting of security holders of the issuer shall submit to the management of the issuer, within the time hereinafter specified, a proposal which is accompanied by notice of his intention to present the proposal for action at the meeting, the management shall set forth the proposal in its proxy statement and shall identify it in its form of proxy and provide means by which security holders can make the specification provided for by § 240.14a–4(b). The management of the issuer shall not be required by this section to include the proposal in its proxy statement or form of proxy for an annual meeting unless the proposal is received by the management at the issuer's principal executive offices not less than 70 days in advance of a date corresponding to the date set forth on the management's proxy statement released to security holders in connection with the last annual meeting of security holders, except that if the date of the annual meeting has been changed as a result of a change in the fiscal year, a proposal shall be received by the management a reasonable time before the solicitation is made. A proposal to be presented at any other meeting shall be received by the management of the issuer a reasonable time before the solicitation is made. This section does not apply, however, to elections to office or to counter proposals to matters to be submitted by the management.

NOTE. In order to curtail controversy as to the date that a security holder's proposal was received by the management, it is suggested that security holders submit their proposals by certified mail—return receipt requested.

(b) If the management opposes any proposal received from a security holder, it shall also, at the request of the security holder, include in its proxy statement a statement of the security holder, in not more than 200 words, in support of the proposal, which statement shall not include the name and address of the security holder. Any statements in the text of a proposal, such as a preamble or "whereas" clauses, which are in effect arguments in support of the proposal, shall be deemed part of the supporting statement and subject to the 200-word limitation thereon. The proxy statement shall also include either the name and address of the security holder or a statement that such information will be furnished by the issuer or by the Commission to any person, orally or in writing as requested, promptly upon the receipt of any oral or written request therefor. If the name and address of the security holder is omitted from the proxy statement, it shall be furnished to the Commission at the time of filing the management's preliminary proxy material pursuant to § 240.14a–6(a). The statement and request of the security holder shall be furnished to the management at the time that the proposal is furnished. Neither the management nor the issuer shall be responsible for such statement.

(c) Notwithstanding the foregoing, the management may omit a proposal and any statement in support thereof from its proxy statement and form of proxy under any of the following circumstances:

(1) If the proposal as submitted is, under the laws of the issuer's domicile, not a proper subject for action by security holders; or

(2) If the proposal:

(i) Relates to the enforcement of a personal claim or the redress of a personal grievance against the issuer, its management, or any other person; or

(ii) Consists of a recommendation, request, or mandate that action be taken with respect to any matter, including a general economic, political, racial, religious, social, or similar cause, that is not significantly related to the business of the issuer or is not within the control of the issuer; or

(3) If the management has at the security holder's request included a pro-

posal in its proxy statement and form of proxy relating to either of the last two annual meetings of security holders or any special meeting held subsequent to the earlier of such two annual meetings and such security holder has failed without good cause to present the proposal, in person or by proxy, for action at the meeting; or

(4) If substantially the same proposal has previously been submitted to security holders in the management's proxy statement and form of proxy relating to any annual or special meeting of security holders held within the preceding 5 calendar years, it may be omitted from the management's proxy material relating to any meeting of security holders held within the 3 calendar years after the latest such previous submission: *Provided*, That—

(i) If the proposal was submitted at only one meeting during such preceding period, it received less than 3 percent of the total number of votes cast in in regard thereto; or

(ii) If the proposal was submitted at only two meetings during such preceding period, it received at the time of its second submission less than 6 percent of the total number of votes cast in regard thereto; or

(iii) If the proposal was submitted at three or more meetings during such preceding period, it received at the time of its latest submission less than 10 percent of the total number of votes cast in regard thereto; or

(5) If the proposal consists of a recommendation or request that the management take action with respect to a matter relating to the conduct of the ordinary business operations of the issuer.

NOTE. Proposals not within issuer's control are those which are beyond its power to effectuate.

(d) Whenever the management asserts that a proposal and any statement in support thereof received from a security holder may properly be omitted from its proxy statement and form of proxy, it shall file with the Commission, not later than 30 days prior to the date the preliminary copies of the proxy statement and form of proxy are filed pursuant to § 240.14a–6(a) or such shorter period prior to such date as the Commission may permit, a copy of the proposal and any statement in support thereof as received from the security holder, together with a statement of the reasons why the management deems such omission to be proper in the particular case, and where such reasons are based on matters of law, a supporting opinion of counsel. The management shall at the same time, if it has not already done so, notify the security holder submitting the proposal of its intention to omit the proposal from its proxy statement and form of proxy and shall forward to him a copy of the statement of reasons why the management deems the omission of the proposal to be proper and a copy of such supporting opinion of counsel.

(Secs. 14(a), 23(a), 48 Stat. 895, 901, sec. 5, 78 Stat. 569, 570, secs. 203(a), 8, 49 Stat. 704, 1379, 15 U.S.C. 78n(a), 78w(a); secs. 12(e), 29(a), 49 Stat. 823, 833, 15 U.S.C. 79*l*(e), 79t (a); secs. 20(a), 38(a), 54 Stat. 822, 841, 15 U.S.C. 80a–20(a), 80a–37(a))

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

SEPTEMBER 22, 1972.

[FR Doc.72–18467 Filed 10–30–72;8:46 am]

[Release No. 33–5306]

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

Corporation Finance Division; Interpretations of Rules

Since Rule 144 (17 CFR 230.144), which defines the term distribution for purposes of determining who is an underwriter under sections 4(1) and 2(11) of the Securities Act of 1933 (Act), was adopted on January 11, 1972 (37 F.R. 591), the Commission's Division of Corporation Finance has received a number of requests for interpretations of various provisions of the rule. Therefore, the Commission is releasing today certain of the Division's interpretations of the rule in the interest of assisting holders of restricted securities, controlling persons, brokers and others in complying with the rule's provisions. Experience in administering the rule and observing its operations has led to several modifications of interpretations previously expressed by the staff orally or in writing. The interpretations herein are deemed controlling at this time.

Since the Commission considers that Rule 144 is in the nature of an experiment, it intends to continue to monitor the rule's operation for the protection of investors and the public interest. As a result of this monitoring additional interpretations may be released from time to time. Also, the Commission has adopted today an amendment to paragraph (h) of Rule 144 and clarifying amendments to certain provisions of Forms 10–K (17 CFR 249.310) and 10–Q (17 CFR 249.308a) which relate to Rule 144. In addition the Commission published for comment a proposed amendment to paragraph (g) of Rule 144. (Release No. 33–5307) (37 F.R. 20576).

Set forth below is a series of illustrations of certain interpretations of the Division in question and answer form.

All interested persons are invited to submit their views and comments on improving the operation of Rule 144 to Alan B. Levenson, Director, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549.

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N.B. The following interpretations assume that all the other conditions of Rule 144 can and will be met.

I—AVAILABILITY OF RULE 144 AT VARIOUS STAGES OF THE REGISTRATION PROCESS

Illustration 1—Facts. X, pursuant to so-called "piggy back" provisions, has the contractual right to include his restricted securities in a future registration statement filed by the issuer, or has the contractual right to compel the issuer to file a registration statement covering his restricted securities. No such statement has been filed with the Commission to date.

Question. Is Rule 144 available to X for sale of his restricted securities?

Interpretative response. Yes, Rule 144 is available to X.

Illustration 2—Facts. The facts are the same as in Illustration 1 except there have been or are discussions between X and the issuer about registration.

Question. Is rule 144 available to X for sale of his restricted securities?

Interpretative response. Yes, Rule 144 is available to X.

Illustration 3—Facts. The issuer has filed a registration statement covering the restricted securities owned by X. The registration statement is pending but has not been ordered effective.

Question A. Can the issuer withdraw X's securities from registration by a pre-effective amendment?

Interpretative response. Yes.

Question B. If such securities are in fact withdrawn from registration, will Rule 144 be available to X for sale of these restricted securities?

Interpretative response. Yes, Rule 144 is available to X. The underlying policies and purposes of the Act are best served by encouraging registration of securities. The holder of restricted securities should not have to be concerned that he will be "locked in" if the registration statement does not become effective. X, in selling pursuant to Rule 144, should note especially the representation he must make in executing Form 144 that he does not know any material adverse information in regard to the current and prospective operations of the issuer which has not been publicly disclosed.

Illustration 4. Facts. A registration statement covering restricted securities owned by X has been ordered effective and is current under the requirements of the Act.

Question. If the issuer deregisters X's securities, will Rule 144 be available to X for sale of his restricted securities?

Interpretative response. No. Rule 144 will not be available to X. He has a means of selling his restricted securities pursuant to the "live" registration statement. To permit use of Rule 144 under such circumstances would be inconsistent with the broad remedial purposes of the Act and with public policy which strongly supports registration. The contention that Rule 144 should be available to X so that he may avoid possible section 11 liability under the Act and the requirements of Rule 10b-6 under the Securities Exchange Act of 1934 (Exchange Act) is contrary to those policies and purposes.

Illustration 5—Facts. The registration statement covering restricted securities owned by X has become effective, but due to the lapse of time or material changes in the affairs of the issuer is not current under the requirements of the Act.

Question. If the issuer deregisters X's securities by a post-effective amendment, will Rule 144 be available to X for sale of his restricted securities?

Interpretative response. Yes, Rule 144 will be available to X. To provide otherwise would discourage persons from using the registration process for fear of becoming "locked in."

II—Securities Acquired by Finders and Underwriters in Connection With a Public Offering

Illustration 1—Facts. An underwriter acquires securities in connection with a registered public offering.

Question. Is Rule 144 available for sale of the securities acquired by the underwriter?

Interpretative response. No, Rule 144 is not available. The securities acquired by the underwriter are not restricted securities as defined in paragraph (a) (3) of the rule since they were not acquired by the underwriter "in a transaction or a chain of transactions not involving any public offering." Guide 10 of the Guides for the Preparation and Filing of Registration Statements (Securities Act Release No. 4936, December 9, 1968) (33 F.R. 18617) provides that transferrable options, warrants or rights and the stock to be issued upon the exercise thereof, as well as stock, or securities convertible into another security, which are issued or sold to the underwriter in connection with a registered public offering are to be considered part of such public offering. Accordingly, as Guide 10 states, such securities must be registered along with the securities offered to the public, notwithstanding that it is represented that such securities have been acquired for investment and not with a view to distribution thereof.

Illustration 2—Facts. A finder receives securities in connection with a public offering as consideration for his services.

Question. Can the finder sell such securities pursuant to Rule 144?

Interpretative response. No, Rule 144 is not available. Securities received by the finder do not fall within the definition of restricted securities set forth in paragraph (a) (3) of the rule since they were not acquired by the finder "in a transaction or chain of transactions not involving any public offering." Guide 11 of the guides for the preparation of filing registration statements states that if a finder receives securities for his services, such securities should be registered.

III—Sales of Securities by an Affiliate

Illustration—Facts. X is an affiliate of the issuer and wants to sell some securities of the issuer.

Question. How can X sell his securities?

Interpretative response. If X's securities are restricted, all the provisions of Rule 144 must be complied with. If X's securities are not restricted, all the provisions of Rule 144 must be complied with except for the holding period provision. Note, however, the short-swing profit recovery provisions of section 16(b) under the Exchange Act. X also might sell his securities pursuant to a registration statement or a Regulation A offering circular or in some other exempt transaction, such as a private placement. This interpretation is applicable to securities acquired by an affiliate both before and after April 15, 1972.

IV—Sales by a Subsidiary of its Parent's Securities

Illustration—Facts. A subsidiary of the issuer owns restricted or other securities of that issuer.

Question. Is Rule 144 available for sales of such securities by this subsidiary?

Interpretative response. No, Rule 144 is not available. The parent-issuer could not directly sell its own securities pursuant to the rule. The rule is not available to permit the parent-issuer to do indirectly through a subsidiary what it could not do directly. From the standpoint of substance over form, the subsidiary and parent must be deemed to be the same entity.

V—Definition of the Term "Person": Rule 144(a) (2) (B)

Illustration—Facts. A foundation, organized as a corporation under a State nonprofit corporation law, owns securities of Y company. X, a director of the foundation, is a large security holder of Y.

Question. Is a director of a foundation deemed to act in a capacity similar to that of an executor or trustee within the meaning of paragraph (a) (2) (B) of Rule 144 so that sales of Y's securities by X would be aggregated with those of the foundation?

Interpretative response. No, such a director is not deemed by analogy to serve as a trustee, executor, or in any similar capacity within the meaning of paragraph (a) (2) (B) of Rule 144. Accordingly, sales of restricted securities by the foundation and X will not be aggregated. However, if the foundation and X agree to act in concert in connection with the sale of restricted securities of Y, such sales will be aggregated under paragraph (e) (3) (F) of the rule.

VI—Current Public Information: Rule 144(c)

A. Filing of Reports: Rule 144 (c) (1)

Illustration 1—Facts. Y, a nonpublic company, goes public through a 1933 Act registration statement on July 1, 1972. X owns restricted securities of Y which he wants to sell on July 5, 1972.

Question. Is Rule 144 available to X for sale of his restricted securities?

Interpretative response. No, Rule 144 is not available because, to satisfy paragraph (c) (1) of the rule, Y must have been subject to the reporting requirements of section 13 or 15(d) of the Exchange Act for a period of at least 90 days immediately preceding the sale of the securities and must have filed all reports required by those sections. Thus, Rule 144 will not be available to X until at least 90 days after the effective date of Y's 1933 Act registration statement.

Illustration 2—Facts. Y, a nonpublic company, goes public through a 1933 Act registration statement on June 1, 1971. Y's fiscal year ends on December 31. X owns restricted securities of Y and he wants to sell such securities in November 1971.

Question. Is Rule 144 available to X for sale of his restricted securities?

Interpretative response. Yes, Rule 144 is available to X if Y has filed the reports required to be filed under section 13 or 15 (d) of the Exchange Act. In November 1971, Y would not have been required to file its annual report on Form 10-K (17 CFR 249.-310) since its fiscal year ends on December 31. Such report would be required to be filed by March 30, 1972.

Illustration 3—Facts. Y, a company subject to the reporting requirements of the Exchange Act, has failed to file its last three quarterly reports on Form 10-Q (17 CFR 249.308a). The only report under the Exchange Act required to be filed by Y within the last 90 days was a current report on Form 8-K (17 CFR 249.308), which Y filed. X owns restricted securities of Y and wants to sell such securities.

Question. Is Rule 144 available to X for sale of his restricted securities?

Interpretative response. No, Rule 144 is not available to X. Y has not filed all the reports required under the Exchange Act, namely, its last three quarterly reports on Form 10-Q. In order to satisfy the requirements of paragraph (c) (1) of the rule, the issuer must have filed all the required reports under the Exchange Act and must have been subject to the reporting requirements of that Act for a period of at least 90 days immediately prior to the proposed sale.

Illustration 4—Facts. Y company has been subject to the reporting requirements of the Exchange Act for at least 90 days and its annual report on Form 10-K was due to be filed on March 30, 1972. Y was delinquent in filing such report but files a late report on July 1, 1972, at which time Y has filed all reports required to be filed under the Exchange Act. X owns restricted securities of Y and wants to sell such securities on July 15, 1972.

Question. Is Rule 144 available to X for sale of his restricted securities?

Interpretative response. Yes, Rule 144 is available to X. On July 15, 1972, Y had filed all required reports under the Exchange Act and had been subject to the reporting requirements under that Act for at least 90 days immediately prior thereto.

Illustration 5—Facts. Y company has securities registered pursuant to section 12 of the Exchange Act but has not filed the reports required to be filed by section 13 of that Act. X owns restricted securities of Y and wants to sell such securities.

Question. In determining whether Rule 144 is available to X, can paragraph (c) of the Rule be met by satisfying the provisions of paragraph (c) (2) of the rule?

Interpretative response. No, Rule 144 is not available because paragraph (c) (2) is only applicable if the issuer is not subject to section 13 or 15(d) of the Exchange Act. In this situation, Y is subject to section 13 of the Exchange Act.

Illustration 6—Facts. On June 1, 1972, Y company files a registration statement on Form 10 (17 CFR 249.210) under the Exchange Act. X owns restricted securities of Y and wants to sell such securities on July 1, 1972.

Question. Is Rule 144 available to X for the sale of his restricted securities?

Interpretative response. No, Rule 144 is not available to X. Y's securities do not become registered under the Exchange Act until its Form 10 registration becomes effective on July 31, 1972, 60 days after it was filed.

Illustration 7—Facts. The facts are the same as in Illustration 6, but X wants to sell his restricted securities on August 15, 1972.

Question. Is Rule 144 available to X for sale of his restricted securities?

Interpretative response. No, Rule 144 is not available to X. On August 15, 1972, the 90-day requirement contained in paragraph (c)(1) of the rule would not have been satisfied. This period starts on the effective date of the Form 10 registration statement—July 31, 1972—and will not be met until on or after October 29, 1972.

B. OTHER PUBLIC INFORMATION: RULE 144(c)(2)

Illustration 1—Facts. Y company is not subject to section 13 or 15(d) of the Exchange Act. Y has issued reports to its security holders containing the information specified in clauses (1) to (14) and (16) of paragraph (a)(4) of Rule 15c2-11 (17 CFR 240.15c2-11) under the Exchange Act. Y has also distributed such information to certain brokers and market makers. Financial information about Y is published by a recognized financial service. X owns restricted securities of Y and wants to sell such securities.

Question. Is Rule 144 available to X for sale of his restricted securities? Has the "other public information" condition contained in paragraph (c)(2) of the rule been met?

Interpretative response. Yes, Rule 144 is available to X in such situation and paragraph (c)(2) has been met.

Illustration 2—Facts. Y company is not subject to section 13 or 15(d) of the Exchange Act. X owns restricted securities of Y and wants to sell such securities. Y has furnished the information specified in Rule 15c2-11 under the Exchange Act to the broker for X.

Question. Is Rule 144 available to X for sale of his restricted securities?

Interpretative response. No, Rule 144 is not available to X. Furnishing the specified information solely to the broker through whom X proposes to sell his restricted securities does not make such information publicly available.

VII—HOLDING PERIOD FOR RESTRICTED SECURITIES: RULE 144(d)

A. DISTRIBUTIONS BY A PARTNERSHIP TO THE PARTNERS: RULE 144(d)(1)

Illustration—Facts. Y is a private limited partnership which was formed to make venture capital and other investments. On April 15, 1970, Y acquired 200,000 shares of restricted common stock of Z company. On April 15, 1972, Y distributed to its limited partners on a pro-rata basis its 200,000 shares of restricted common stock of Z. X, a limited partner in Y, wants to sell his restricted common stock of Z on August 1, 1972.

Question. In computing the 2-year holding period under Rule 144, can X tack to his holding period that period during which Y held the restricted securities?

Interpretative response. Yes, but X can tack to his holding period that of Y in computing the 2-year holding period requirement under paragraph (d)(1) of Rule 144. But, the restricted common stock of Z publicly sold by Y and by all the other limited partners of Y, including X, must be aggregated for 2 years for the purpose of determining the amount of securities which X, any of the other limited partners, or Y, may sell under the rule.

B. IDENTIFICATION OF SECURITIES SOLD

Illustration—Facts. On July 1, 1970, X acquired 5,000 shares of restricted securities of Y company. On December 1, 1970, X acquired an additional 5,000 shares of restricted securities of Y. X wants to sell 4,000 shares of his restricted securities on August 1, 1972.

Question. Is Rule 144 available to X for the sale of 4,000 shares of restricted securities of Y?

Interpretative response. Yes, Rule 144 is available to X, but X must sell the particular restricted securities acquired on July 1, 1970, in order to meet the 2-year holding period requirement. Thus, X must be able to trace the specific securities.

C. PROMISSORY NOTES, OTHER OBLIGATIONS OR INSTALLMENT CONTRACTS: RULE 144(d)(2)

Illustration 1—Facts. X purchases 100,000 shares of restricted securities of Y company and gives the person from whom he purchases such securities a promissory note for the purchase price. The note is secured by collateral in the form of the restricted securities of Y that X purchased having a fair market value at least equal to the purchase price. The note is a non-recourse note. Two years later X wants to sell these restricted securities. The note has not been paid.

Question. Is Rule 144 available to X for sale of his restricted securities?

Interpretative response. No, Rule 144 is not available to X for the reason that he does not satisfy the conditions of paragraph (d)(1) of the rule. The full payment requirement has not been satisfied in that the note did not provide for full recourse against X, the purchaser, as required by paragraph (d)(2)(A) of the rule. Even if the note did provide for full recourse against X, the requirement would not be satisfied because the note, in order to satisfy the conditions of paragraph (d)(2)(B), must be secured by collateral, other than the securities purchased, having a fair market value at least equal to the purchase price of the securities purchased. The holding period requirement is tolled during the period that the conditions of paragraph (d)(2)(A) or (d)(2)(B) are not met. Assuming that it was a full recourse note and there was collateral meeting the conditions set forth in paragraph (d)(2)(B) of the rule, the requirement would only be satisfied if X discharged his obligation under the note by payment in full prior to the sale of his restricted securities as specified in paragraph (d)(2)(C) of the rule.

Illustration 2—Facts. X purchases 100,000 shares of restricted securities of X company and gives the person from whom the securities were purchased a promissory note for the purchase price. The note provides for full recourse against X. The note is secured by collateral, other than the securities purchased, having a fair market value at the time of purchase at least equal to the purchase price of the securities. Two months after X purchases the securities, the fair market value of the collateral increases to $50,000 in excess of the outstanding obligation on the note. The purchase agreement permits the withdrawal of collateral.

Question. Can X withdraw the excess collateral without affecting the holding period under paragraph (d) of Rule 144?

Interpretative response. Yes.

Illustration 3—Facts. The facts are the same as in Illustration 2, except that after 2 months the fair market value of the collateral decreases to $50,000 less than the outstanding obligation on the note. X does not deposit additional collateral.

Question. Is the holding period in paragraph (d) of Rule 144 tolled in this situation?

Interpretative response. Yes, the fair market value of the collateral for the note for the purchase price must at all times be equal to the outstanding obligation. If the fair market value of the collateral falls below the amount of the outstanding obligation, the holding period in paragraph (d) of Rule 144 will be tolled until the fair market value of the collateral is at least equal to the amount of the outstanding obligation.

D. SHORT SALES, PUTS OR OTHER OPTIONS TO SELL SECURITIES: RULE (144)(d)(3)

Illustration 1—Facts. On April 15, 1970, X acquired 10,000 shares of restricted common stock of Y company. On January 1, 1972, X acquired 2,000 shares of common stock of Y in the open market. On February 1, 1972, X sold short "against the box" 2,000 shares of common stock of Y. On July 1, 1972, X covered his short with the securities that he purchased in the open market.

Question. Is the holding period in paragraph (d) of Rule 144 affected by X having sold short common stock of Y and then having covered the short with the securities purchased in the open market?

Interpretative response. Yes, X's short sale does affect the 2-year holding period requirement of paragraph (d) of Rule 144 even though X's short sale was "against the box" and he covered his short with securities purchased in the open market. The 5 months during which X had a short position in Y's common stock would be excluded from the computation of the 2-year holding period, pursuant to paragraph (d)(3)(A) of the rule.

Illustration 2—Facts. X acquired 10,000 shares of restricted common stock of Y company on August 2, 1969. In connection with such acquisition, X obtained an option to sell 5,000 shares back to the seller. On August 2, 1972, X wants to sell his restricted securities under Rule 144.

Question. Is Rule 144 available to X for sale of his restricted securities?

Interpretative response. No, Rule 144 is not available to X because he does not meet the 2-year holding period requirement. Such holding period is tolled during the time X holds the option, pursuant to paragraph (d)(3)(A) of the rule.

Illustration 3—Facts. X acquired 10,000 shares of restricted common stock of Y company on August 2, 1970. On July 1, 1972, X purchased 2,000 shares of common stock of Y in the open market. X sells short 1,500 shares of common stock of Y on August 5, 1972.

Question. Do the provisions of paragraph (d)(3) of Rule 144 affect the computation of X's required holding period under the rule?

Interpretative response. No, X had satisfied the holding period for his restricted securities of Y on August 2, 1972. A short sale after that date does not affect the holding period of X's 10,000 shares of restricted common stock.

E. CHANGE OF STATE OF INCORPORATION: RULE 144(d)

Illustration—Facts. Y company, incorporated in State A, changes its domicile to State B by organizing company Z for this purpose. The percentage of ownership of stock of Z is identical to that of Y. There is no change in the nature of the business or control of the management of Y. X owned 10,000 shares of restricted securities of Y and now owns 10,000 shares of restricted securities of Z.

Question. Can X in computing the holding period for his restricted securities of Z tack to such period the time he held his restricted securities of Y?

Interpretative response. Yes, tacking is permitted when there is solely a change of State of incorporation.

F. CHANGE IN PAR VALUE: RULE 144(d)(4)(A)

Illustration—Facts. X owns 10,000 shares of restricted common stock of Y company which he acquired on July 1, 1970. On August 1, 1971, there is a recapitalization of Y to change the par value of the common stock. X wants to sell his restricted securities on July 5, 1972.

Question. Does the recapitalization affect X's holding period under Rule 144?

Interpretative response. No, X's holding period is not affected by a recapitalization to change the par value of the common stock, under paragraph (d)(4)(A) of the rule. The security that X acquired as a result of the recapitalization is deemed to have been acquired by X at the time—July 1, 1970—he acquired the 10,000 shares of restricted securities of Y. Tacking of holding period also will be permitted if there were a recapitalization that changed par value to no par or vice-versa.

G. CONVERSIONS: RULE 144(d)(4)(B)

Illustration—Facts. On July 1, 1970, X acquires restricted notes and restricted warrants. On July 2, 1972, X exercises his warrants for the underlying common stock and surrenders a partial amount of his notes in payment. On July 10, 1972, X wants to sell the restricted common stock which he acquired upon the exercise of his restricted warrants.

Question. Is Rule 144 available to X for sale of his restricted common stock?

Interpretative response. No, Rule 144 is not available to X because he has not satisfied the 2-year holding period requirement of Rule 144. The exercise by X of his warrants for common stock constituted the acquisition by X of a new restricted security and tacking of the time period during which he held the warrants is not permitted. Paragraph (d)(4)(B) of the rule pertains only to a convertible security and not to a warrant.

VIII—LIMITATION ON AMOUNT OF SECURITIES SOLD: RULE 144(e)

A. SALES OF LISTED SECURITIES RULE 144(e)(1)(A) AND (e)(2)

Illustration—Facts. On June 30, 1972, X files Form 144 relating to the sale of his restricted common stock of Y company. The common stock of Y is listed on a national securities exchange. The average weekly reported volume of trading in the common stock of Y on all securities exchanges was 20,000 shares during the 4 calendar weeks preceding the filing of the form. By July 30, 1972, 10,000 shares of X's restricted common stock have been sold. The trading volume in Y's common stock during the month of July increased over that in June. X wants to sell additional restricted shares of common stock of Y on August 1, 1972.

Question. In computing the limitation on amount of securities sold, is such number fixed as of the date X filed his Form 144?

Interpretative response. No, but. In determining the limitation on amount of securities sold as specified in paragraphs (e)(1)(A) and (e)(2) of Rule 144, X, on August 1, 1972, is not limited to the average weekly reported volume of trading during the 4 calendar weeks which immediately preceded the filing of his Form 144 on June 30, 1972. X may recompute such average on August 1, but, in determining the new limitation on amount, X must exclude from the computation that amount of securities which he sold during the new period. In addition, X must file an amended Form 144 indicating the amount of additional securities he wants to sell. In no event may X sell during any 6-month period an amount of securities in excess of 1 percent of the shares of common stock of Y outstanding.

B. 6-MONTH PERIOD: RULE 144(e)(1) AND (e)(2)

Illustration—Facts. X owns restricted common stock of Y company. The common stock of Y is not listed on any national securities exchange. On May 1, 1972, X files Form 144 covering 1 percent of the outstanding common stock of Y and on June 1, 1972, such stock is sold.

Question. Can X sell additional shares of restricted common stock of Y on November 1, 1972, pursuant to Rule 144?

Interpretative response. No, Rule 144 would not be available to X. In computing the 6-month period in paragraphs (e)(1) and (e)(2) of Rule 144, all sales by X in the 6-month period preceding November 1, 1972, must be included. The date of the sale, i.e., June 1, 1972, and not the date of filing Form 144, i.e., May 1, 1972, is determinative in this regard. Thus, Rule 144 would only be available to X for additional sales on or after December 1, 1972.

C. DETERMINATION OF AMOUNT: RULE 144(e)(3)(A)

Illustration—Facts. X acquired restricted convertible debentures of Y company. The debentures and common stock of Y are listed for trading on a national securities exchange. In computing the amount of the securities that can be sold pursuant to Rule 144, X realizes that if the quantity limitations of paragraph (e)(3)(A) of the rule were to apply he would be able to sell a greater quantity of debentures than if the limitations of paragraph (e)(1)(A) of the rule applied. Accordingly, X devises a plan to convert one of his debentures and sell a few shares of the underlying common at the same time that he sells his debentures.

Question. In determining the amount of debentures that X can sell, is the limitation of paragraph (e)(3)(A) or (e)(1)(A) of Rule 144 applicable?

Interpretative response. The quantity limitation as provided in paragraph (e)(1)(A) of Rule 144 would be applicable. X's device to convert a debenture and sell a few of the underlying common shares concurrently with the debentures is a plan to circumvent the quantity limitations provided for in paragraph (e)(1)(A) of Rule 144 and is not permissible under the rule.

D. CONCURRENT SALES OF REGISTERED AND UNREGISTERED SECURITIES: RULE (e)(3)(G)

Illustration—Facts. X proposes to sell 10,000 shares of restricted common stock pursuant to Rule 144 and at the same time sell 10,000 shares of restricted common stock pursuant to a registration statement under the Act.

Question. Is Rule 144 available to X for the sale of these restricted securities?

Interpretative response. Yes, Rule 144 is available to X. Paragraph (e)(3)(G) of the rule provides that securities sold pursuant to an effective registration statement need not be included in determining the amount of securities which may be sold under the rule. This provision does not preclude the simultaneous sale of securities under a registration statement and the sale of restricted securities under Rule 144.

IX—BROKERS' TRANSACTIONS: RULE 144(g)

A. BROKER'S COMMISSION: RULE 144(g)(1)

Illustration 1—Facts. X acts as broker for both the seller of restricted securities and the buyer and charges each side no more than the usual and customary commission for the transaction.

Question. Is Rule 144 available for the sale of the restricted securities?

Interpretative response. Yes, Rule 144 is available. Paragraph (g)(1) of Rule 144, requiring that the broker "receives no more than the usual and customary broker's commission," does not preclude the receipt of a commission by the broker from both the buyer and seller in a cross transaction when the commissions received in such transaction are usual and customary.

Illustration 2—Facts. X owns restricted common stock of Z company. Z's common stock is listed on a national securities exchange. X wants to sell his restricted common stock of Z and negotiates a portion of the Commission with the broker in accordance with the rules of the securities exchange.

Question. Is Rule 144 available for sale of X's restricted securities?

Interpretative response. Yes, Rule 144 is available. Paragraph (g)(1) of the rule does not preclude the receipt of negotiated commissions if such commissions are negotiated in the usual and customary manner.

B. SOLICITATION OF CUSTOMER'S ORDERS: RULE 144(g)(2)

Illustration—Facts. X, a broker, receives an order from a person who wishes to sell restricted securities. X telephones his customer, Y, who had previously indicated an unsolicited interest in that security.

Question. Is Rule 144 available for the sale of restricted securities to Y?

Interpretative response. Yes, if Rule 144 is available if the prior indication of interest by Y was received in the last 10 business days, was unsolicited, was bona fide, and was not part of plan to evade the provisions of paragraph (g)(2) of Rule 144. X, the broker, should maintain written records of such prior indications of interest to establish the bona fide nature of the indication. Paragraph (g)(2) of Rule 144, which requires that X "neither solicits nor arranges for the solicitation of customers' orders to buy the securities in anticipation of or in connection with the transaction," does not preclude inquiries by X of customers who in the prior 10 business days have indicated without any solicitation a bona fide interest in the securities.

X—NOTICE OF PROPOSED SALE: RULE 144(h) AND FORM 144

Illustration 1—Facts. X sells 600 shares of restricted common stock at $1 per share.

Question. Must X file Form 144?

Interpretative response. Yes, paragraph (h) of Rule 144 requires that Form 144 "need not be filed if the amount of securities to be sold during any period of 6 months does not exceed 500 shares or other units, *and* the aggregate sale price thereof does not exceed $10,000." (emphasis added) Since the number of shares exceeds 500, the form must be filed.

Illustration 2—Facts. X pledges restricted securities as collateral for a loan. The pledgor defaults and the pledgee proposes to sell the restricted securities pursuant to Rule 144 to satisfy the debt.

Question. Can Form 144 be signed by the pledgee?

Interpretative response. Yes, the pledgee can sign Form 144. To require that the pledgor sign the form would create practical difficulties since the pledgor is in default and may be uncooperative. Therefore, the pledgee can sign and file the form subject to the other provisions of the rule, keeping in mind that sales by the pledgor and pledgee will be aggregated for purposes of determining the amount of securities which may be sold.

Illustration 3—Facts. X sells some of the restricted securities covered by a notice on Form 144 that identifies A and B as brokers. X wants to place his order for the sale of the remaining restricted securities covered by the form with a different broker, C.

Question. Can X use a broker other than A or B for sale of his remaining restricted securities?

Interpretative response. Yes. But X is not limited to brokers A and B and may use the services of broker C, but X must file an amendment to his Form 144 identifying broker C.

XI—MISCELLANEOUS

Illustration—Facts. X acquired 10,000 shares of restricted common stock of Y company on July 1, 1970. On January 1, 1972, X acquired an additional 10,000 shares of restricted common stock of Y. On August 1, 1972, X wants to sell short 10,000 shares of Y for tax reasons and wants to cover the short with the restricted securities he acquired on July 1, 1970. The broker for X wants the flexibility to cover the short with any available common stock of Y.

Question. Is Rule 144 available to X for such purpose?

Interpretative response. Yes. But Rule 144 would be available to X for this purpose, but only if X delivers to the broker the specific securities he had acquired on July 1, 1970, and those specific securities are eventually used by the broker to cover the short.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

SEPTEMBER 26, 1972.

[FR Doc.72-18562 Filed 10-30-72;8:54 am]

Title 32—NATIONAL DEFENSE

Chapter XVI—Selective Service System

PART 1604—SELECTIVE SERVICE OFFICERS

Oath of Witnesses; Revocation

Whereas, on September 21, 1972, the Director of Selective Service published a notice of proposed amendments to Selective Service Regulations 37 F.R. 19652 of September 21, 1972; and

Whereas more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered.

Now therefore by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.) and § 1604.1 of Selective Service Regulations (32 CFR 1604.1), the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m., e.s.t., on October 31, 1972, as follows: § 1604.57 *Oath of witnesses,* is revoked.

BYRON V. PEPITONE, *Acting Director.*

OCTOBER 24, 1972.

[FR Doc.72-18504 Filed 10-30-72;8:51 am]

PART 1631—ALLOCATIONS OF INDUCTIONS

Action of Local Board Upon Receipt of Allocations

Whereas, on September 21, 1972, the Director of Selective Service published a notice of proposed amendments to Selective Service Regulations, 37 F.R. 19652 of September 21, 1972; and

Whereas such publication complied with the publication requirement of section 13(b) of the Military Selective Service Act (50 App. U.S.C. sections 451 et seq.) in that more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered; and I certify that I have requested the views of officials named in section 2(a) of Executive Order 11623 and none of them has timely requested that the matter be referred to the President for decision.

Now therefore by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.) and Executive Order 11623 of October 12, 1971, the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m., e.s.t., on October 31, 1972, as follows:

The first sentences of paragraph (b) and paragraph (d)(5) of § 1631.6 are amended to read as follows:

§ 1631.6 Action by local board upon receipt of allocation.

* * * * *

(b) Registrants shall be selected and ordered to report for induction in the following categories and in the order indicated: *Provided,* That a registrant who has been identified, in accord with procedures prescribed by the Director of Selective Service, as one who will become a member of category (2) or (3) on the next January 1 may, prior to December 31, be selected and ordered to report for induction in January, and such order to report for induction shall be canceled if such registrant does not become a member of either category on January 1:

* * * * *

(d) * * *

(5) Any registrant who for 90 consecutive days remains a member of the Extended Priority Selection Group, fully available for induction or alternate service, and whose RSN is not reached in the Extended Priority Selection Group during those 90 days, shall be assigned to the Second Priority Selection Group. A registrant will be deemed to be fully available for induction or alternate service on any day in calendar year 1972 that he is a member of the Extended Priority Selection Group.

* * * * *

BYRON V. PEPITONE, *Acting Director.*

OCTOBER 24, 1972.

[FR Doc.72-18505 Filed 10-30-72;8:51 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

SUBCHAPTER B—LAND RESOURCE MANAGEMENT (2000)

[Circular No. 2337]

PART 2530—INDIAN ALLOTMENTS

Subpart 2530—Indian Allotments: General

On page 16198 of the FEDERAL REGISTER of August 11, 1972, there was published a notice and text of a proposed amendment to subpart 2530 of Title 43, Code of Federal Regulations. The purpose of the amendment is to clarify the regulations concerning Indian allotments.

Interested persons were given until September 11, 1972, to submit comments, suggestions, or objections to the proposed amendment. No comments were received.

The proposed amendment is hereby adopted without change, and is set forth below. This amendment shall become effective October 31, 1972.

HARRISON LOESCH, *Assistant Secretary of the Interior.*

OCTOBER 24, 1972.

Part 2530 of Chapter II, Title 43 of the Code of Federal Regulations is amended as follows:

1. The second paragraph of paragraph (b) of § 2530.0-3 is designated as paragraph (c) and revised to read as follows:

§ 2530.0-3 Authority.

* * * * *

(c) *Executive Orders 6910 and 6964, Taylor Grazing Act of June 28, 1934.* Public land withdrawn by Executive Orders 6910 and 6964 of November 26, 1934, and February 5, 1935, respectively, and land within grazing districts established under section 1 of the Taylor Grazing Act of June 28, 1934 (43 U.S.C. 315), is not subject to settlement under Section 4 of the General Allotment Act of February 8, 1887, as amended, until such settlement has been authorized by classification. See Parts 2410, 2420, and 2430 of this chapter.

§§ 2531.1 and 2531.2 [Amended]

2. Subpart 2531 is corrected as follows: In § 2531.1(d) the words "entitled upon application to have" are changed to read "eligible upon application for." In lines 2 and 7 of § 2531.1(b), lines 17 and 18 of § 2531.1(d), line 4 of § 2531.1(e)(2) and line 12 of § 2531.2(a) the words "entitled to" are changed to read "eligible for." In line 12 of § 2531.1(d) and line 9 of § 2531.1(e)(2) the word "entitled" is changed to read "eligible."

3. In § 2531.1(e)(1) the words "white man or other person not entitled to an allotment" are changed to read "non-Indian not eligible for an allotment."

4. In § 2531.2 the words "manager of the land office for the district in which the land is situated" are changed to read "authorized officer."

5. Section 2531.3 is revised to read as follows:

§ 2531.3 Effect of application.

(a) Where an allotment application under the fourth section of the Act of February 8, 1887, as amended, 25 U.S.C. 334 (is not accompanied by the requisite certification from the Bureau of Indian Affairs showing the applicant to be eligible for an allotment, and the applicant is given time to furnish such certificate, the application does not segregate the land, and other applications therefor may be received and held to await final action on the allotment application.

(b) Where an allotment application is approved by the authorized officer, it operates as a segregation of the land, and subsequent application for the same land will be rejected.

[FR Doc.72-18458 Filed 10-30-72;8:45 am]

Title 45—PUBLIC WELFARE

Chapter VII—Commission on Civil Rights

PART 701—ORGANIZATION AND FUNCTIONS OF THE COMMISSION

Miscellaneous Amendments

Section 701.1 of Part 701 is amended by deleting the word "and" following immediately after "(1967)" and substituting therefor a comma; the section is also amended by deleting the period following immediately after "(1970)" and substituting therefor the following: "and by 86 Stat. 813 (1972)."

Subparagraphs (1) and (4) of paragraph (a) of § 701.2 of Part 701 are each amended by inserting immediately after "religion," the following: "sex,".

Paragraph (b) of § 701.2 of Part 701 is amended by deleting "January 31, 1973" and substituting therefor the following: "the last day of fiscal year 1978".

Section 702.15 of Part 702 is amended by deleting the following:

Pursuant to section 102(j) of the Act: A witness attending any session of the Commission shall receive $6 for each day's attendance and for the time necessarily occupied in going to and returning from the same, and 10 cents per mile for going from and returning to his place of residence; witnesses who attend at points so far removed from their respective residences as to prohibit return thereto from day to day shall be entitled to an additional allowance of $10 per day for expenses of subsistence, including the time necessarily occupied in going to and returning from the place of attendance; and,

and by substituting the following:

Pursuant to section 102(j) of the Act: A witness attending any session of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

The section is amended further by capitalizing the word "Mileage".

Paragraph (a) of § 703.2 of Part 703 is amended by inserting immediately after "religion," the following: "sex,".

These amendments shall become effective on the date of their publication in the FEDERAL REGISTER.

THEODORE M. HESBURGH,
Chairman.

[FR Doc.72-18550 Filed 10-30-72;8:48 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER D—TARIFFS AND SCHEDULES

[Docket No. 35613]

PART 1309—TARIFFS AND CLASSIFICATIONS OF FREIGHT FORWARDERS

Transmission of Tariffs and Schedules to Subscribers and Other Interested Parties

Correction

In F.R. Doc. 72-15672 appearing at page 18550 of the issue for Wednesday, September 13, 1972, in § 1309.5(a)(1), the following material should be inserted after the word "Service," in the penultimate line of the certification: "etc. If the U.S. Postal Service,".

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 130—NEW DRUGS

Subpart A—Procedural and Interpretive Regulations

APPLICABILITY OF DESI NOTICES AND NOTICES OF OPPORTUNITY FOR HEARING TO IDENTICAL, RELATED, AND SIMILAR DRUG PRODUCTS

In the FEDERAL REGISTER of February 10, 1972 (37 F.R. 2969), a notice was published proposing to delineate the applicability of Drug Efficacy Study Implementation Notices and Notices of Opportunity for Hearing to identical, related, and similar drug products. Interested persons were invited to submit comments on the proposal within 60 days. Comments were received from seven pharmaceutical manufacturers, three associations of pharmaceutical manufacturers, and one individual. The principal comments were as follows:

1. The most frequently occurring comment was that the definition of identical, related, or similar drugs is so broad that it is meaningless, and could result in drugs being subject to regulatory actions because of some vague unrecognized similarity to reviewed drugs. A further comment noted that the definition of identical, related, or similar drugs is essentially the same as that which appears in 21 CFR 130.1(k) of the New Drug Regulations, and that this definition deals only with side effects and contraindications, and not with a relationship with respect to effectiveness. The Commissioner of Food and Drugs finds that it is in the public interest for conclusions of the Drug Efficacy Study to apply to all identical drug products, and to reasonably related and similar drug products. It is necessary that the definition be broad so that manufacturers are alerted to the possibility of their products being affected. The drug efficacy findings are clearly applicable to other brands of an identical drug. Other examples are equally clear, such as different salts of the same active moiety, or use of the same ingredient in a different combination. There will be, however, areas where the judgment of experts must determine the applicability of the efficacy findings. The determination will be based on the chemical structure of the drug, recommended use, route of administration, its pharmacological properties and any other information available on the action or properties of the drug.

The Commissioner recognizes that apparent slight differences in drugs such as a salt, an ester, an isomer, and others, may produce very different effects. This regulation is not intended to impute properties or lack of properties to a similar or related drug when there is evidence of different effects. The policy makes it incumbent on the sponsor of the drug to have data showing that his similar or related drug does in fact have different actions or effects. In the absence of such data it is reasonable to conclude that the drug efficacy conclusions are applicable. It is also clear that there will be instances in which the effectiveness evaluations on an oral dosage form will in no way apply to any other dosage form of the same drug. The Commissioner concludes that the principles involved in applying efficacy evaluations and adverse effect information to identical, similar, or related drug products are essentially the same, and it is therefore appropriate for the definition in this section to be essentially the same as that in § 130.1(k).

2. Several comments asked how a manufacturer could determine whether or not his drug product was related to a primary drug with a new drug application (NDA) approval that had become the subject of a drug efficacy notice. The Food and Drug Administration is actively engaged in attempting to identify all related drug products for which drug efficacy notices apply. If a manufacturer is not certain whether his product is covered by the new drug application subject to the notice he should request an opinion from the Bureau of Drugs of the FDA. The regulation has been clarified in this respect.

3. Several comments stated that the proposal ignored the basic distinction between old and new drugs and the protection of the grandfather clause. The Commissioner concludes that this view is without merit. Information as to a

drug's safety and effectiveness is applicable no matter what the status of the product is under the law. If a drug is found to lack substantial evidence of effectiveness for any of its claims and the manufacturer can establish that his product is exempted from the efficacy provisions by the grandfather provisions in the act, it is required that action be taken against that product through the misbranding procedures rather than under the new drug provisions. The FDA is still obligated to proceed against the product. The final order has been clarified to reflect this.

4. There was a comment that it was contrary to the Food and Drug Administration's recent policy statement on combination drug products to apply to such products containing an identical, related, or similar drug products, a notice relating to a single-drug product. The FDA believes that this policy is in full agreement with the combination policy. It is true that, in evaluating a combination preparation, the interaction or combined effect of two or more drugs must be taken into account. However, when an individual drug has been evaluated as less than effective, the inclusion of that drug, or a related or similar drug, in a combination preparation for the same indications for which it has been evaluated as less than effective, causes the drug efficacy evaluation to be applicable to the combination product. It cannot be presumed, in the absence of any conclusive data, that the interaction or combined effect of the two or more drugs will alter the less than effective evaluation of the individual drug.

5. One comment noted that the proposal does not exempt OTC preparations, and that they should be exempted since they are subject to a separate study. The FDA published as a proposal a clarification of the status of over-the-counter preparations reviewed in the Drug Efficacy Study in the FEDERAL REGISTER on April 20, 1972 (37 F.R. 7807). That proposal informed manufacturers that deferral for review by the OTC panels was not appropriate for OTC products for which evaluations were published and finalized, classifying these drugs as lacking either substantial evidence of effectiveness or as not shown to be safe. Other OTC products for which deferral of implementation was not considered appropriate were also listed in the same publication. Other than these specific OTC products, OTC products will not be the subject of drug efficacy implementation notices unless the FDA notifies manufacturers by public notice or letter. The FEDERAL REGISTER proposal of April 20, 1972, received no adverse comment and will be promulgated shortly. The OTC drug monographs published pursuant to the OTC panel reviews will indicate their applicability to similar or related drug products (see FEDERAL REGISTER order published May 11, 1972 (37 F.R. 9464)). A new paragraph (f) has been added to § 130.40 to clarify the effect of this order on OTC preparations.

6. Several comments objected to the burden the proposal would place on purchasing agents when applying the same purchasing policy to identical, related, or similar drug products as to those named in the drug efficacy notices. This proposal does not place a significant burden on purchasing agents. In many instances a determination can readily be made by an individual who is familiar with drugs and their indications for use. Where the relationships are more subtle and not readily recognized except by experts, the purchasing agent may request an opinion from the FDA. The FDA maintains close liaison with purchasing agents of Federal agencies with major drug purchasing programs. To assure a clear procedure for obtaining an opinion by a purchasing agent, the final order is revised to include instructions on how to obtain such opinions.

7. Comments were received on paragraph (d) of the proposal, objecting to what was described as the FDA's encouraging of informers, and transferring its responsibilities to others. FDA presently has no means by which to readily determine what products are on the market that may be identical, related or similar to drugs subject to drug efficacy notices. In the interest of equitable application of the drug efficacy notices to all applicable products, the regulation provides a means for interested persons to bring to the FDA's attention related products. The FDA will then arrive at a decision based on scientific judgment as to the applicability of the drug efficacy notices to such products. This does not in any way transfer the FDA's responsibility to any other person.

8. Other comments argued that if less than effective drug efficacy notice conclusions apply to related products, then effective ratings should also apply. The Commissioner agrees that efficacy notices may be applied to a similar or related drug product provided that experts would conclude that the drug in question is sufficiently similar to the drug subject to the drug efficacy notices to justify a reasonable application of the efficacy conclusions. Present drug efficacy notices reflect this by requiring only abbreviated NDA's in many instances. It is possible that, with limited confirmatory testing, a related drug product may also be evaluated as safe and effective for its indications. Efficacy ratings do apply to identical drugs manufactured by a different firm; except that where questions of bioavailability between different formulations are present, evidence to establish bioavailability may be necessary. Until the safety and effectiveness of a drug become sufficiently recognized to justify an abbreviated NDA or no NDA, however, the law requires complete testing for each new drug.

9. There was comment that there is nothing in the act to authorize the FDA to extrapolate the findings of the Drug Efficacy Study to related products nor was such the intent of Congress. It is the opinion of the FDA that it was not the intent of Congress to restrict the Drug Efficacy Study to a study of drugs by "brand name" rather than by generic drug. There is nothing in the statute indicating that identical, related or similar products should be handled differently depending upon who holds an NDA. Such an interpretation is contrary to the public interest and inconsistent with the concepts of justice and fair competition. It would result in a severe penalty to those products that had complied with the law and were cleared through the established new drug procedures, and would reward those products which were marketed without clearance.

10. One comment stated that "the Commissioner has no jurisdiction to adjudicate the effectiveness of a drug not covered by an NDA." The comment further stated that drug efficacy notices are proceedings under section 505(e) of the Food, Drug, and Cosmetic Act, and the effect of such withdrawal of approval extends only to the NDA under review, and is not binding on a product not subject to an NDA. The FDA's position is that an identical, similar, or related drug product is covered by the NDA for the basic product and thus is directly affected by a drug efficacy notice. Any required changes specified in the notice, therefore, apply to the identical, related, or similar drug product as appropriate; for example, requests for new drug applications, abbreviated new drug applications, bioavailability data, or labeling changes.

11. A comment stated that the ex post facto decision to apply the drug efficacy conclusions to "similar drugs" deprives the industry of due process of law, in that there was no duty imposed on industry to offer information on related drugs to the review panel, and no opportunity was afforded industry to do so. The comment further stated that the proponents of "similar drugs" were not parties to the regulatory hearings withdrawing approval of NDAs. The Commissioner concludes that the FDA has given manufacturers and distributors of identical, similar, or related drug products ample opportunity to submit data and be heard. The responsibility for determining whether a product is legally marketed rests with the sponsor. The FDA continues to take measures to notify drug manufacturers and distributors of drugs that may be affected by a Notice of Opportunity for Hearing. In the FEDERAL REGISTER notices announcing the results of the NAS–NRC and FDA evaluations of the drugs, the FDA has uniformly requested information from all manufacturers. The regulation has been revised to make this clear. In the case of drugs lacking substantial evidence of effectiveness past notices have stated that sponsors or any interested person who might be adversely affected by the removal of the drug from the market could submit data bearing on the proposal. No one in the regulated industry can now claim surprise on this matter.

12. There was comment that the FDA should list all products that it considers subject to a particular drug efficacy notice by name, dosage form, and strength, so that every manufacturer/distributor would know what products the FDA has concluded that the an-

nouncement covers. As was stated in the proposal, this is not feasible at this time. In the absence of a requirement in the past that all marketed drugs be listed with the FDA, the FDA does not have knowledge of every product that is on the market. Any list that could be compiled would be incomplete. The FDA does try to identify and notify those manufacturers or distributors of drugs found lacking substantial evidence of effectiveness, giving them the opportunity for voluntary compliance prior to initiating any legal action.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701(a), 52 Stat. 1050–1051 as amended, 1052–1053 as amended, 1055; 21 U.S.C. 352, 355, 371(a)) and the Administrative Procedure Act (5 U.S.C. 554) and under authority delegated to the Commissioner (21 CFR 2.120), Part 130 is amended by adding the following new section:

§ 130.40 Applicability of Drug Efficacy Study Implementation Notices and Notices of Opportunity for Hearing to identical, related, and similar drug products.

(a) The Food and Drug Administration's conclusions on the effectiveness of drugs are currently being published in the FEDERAL REGISTER as Drug Efficacy Study Implementation (DESI) Notices and as Notices of Opportunity for Hearing. The specific products listed in these notices include only those that were introduced into the market through the new-drug procedures from 1938–62 and were submitted for review by the National Academy of Sciences-National Research Council (NAS–NRC), Drug Efficacy Study Group. Many products which are identical to, related to, or similar to the products listed in these notices have been marketed under different names or by different firms during this same period or since 1962 without going through the new-drug procedures or the Academy review. Even though these products are not listed in the notices, they are covered by the new drug applications reviewed and thus are subject to these notices. All persons with an interest in a product that is identical, related, or similar to a drug listed in a drug efficacy notice or a notice of opportunity for a hearing will be given the same opportunity as the applicant to submit data and information, to request a hearing, and to participate in any hearing. It is not feasible for the Food and Drug Administration to list all products which are covered by an NDA and thus subject to each notice. However, it is essential that the efficacy conclusions be applied to all identical, related, and similar drug products to which those conclusions are reasonably applicable. Any product not in compliance with an applicable drug efficacy notice is in violation of section 505 (new drugs) and/or section 502 (misbranding) of the act.

(b) An identical, related, or similar drug includes other brands, potencies, dosage forms, salts, and esters of the same drug moiety as well as of any drug moiety related in chemical structure or known pharmacological properties. Where experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs would conclude that the findings in a drug efficacy notice or notice of opportunity for hearing concerning effectiveness are applicable to an identical, related, or similar drug product, such product is affected by the notice. A combination drug product containing an identical, related, or similar drug is also subject to the conclusions contained in the notice. Any person may request an opinion on the applicability of such a notice to a specific product by writing to the Food and Drug Administration at the address shown in paragraph (e) of this section.

(c) Manufacturers and distributors of drugs should review their products as drug efficacy notices are published and assure that identical, related, or similar products comply with all the provisions of the notices.

(d) The published notices and summary lists of the conclusions are of particular interest to drug purchasing agents. These agents should take particular care to assure that the same purchasing policy applies to drug products that are identical, related, or similar to those named in the drug efficacy notices. The Food and Drug Administration applies the same regulatory policy to all such products. In many instances a determination can readily be made as to the applicability of a drug efficacy notice by an individual who is knowledgeable about drugs and their indications for use. Where the relationships are more subtle and not readily recognized, the purchasing agent may request an opinion by writing to the Food and Drug Administration at the address shown in paragraph (e) of this section.

(e) Interested parties may submit to the Food and Drug Administration, Bureau of Drugs, Office of Compliance, BD–300, 5600 Fishers Lane, Rockville, MD 20852, the names of drug products, and of their manufacturers or distributors, that should be the subject of the same purchasing and regulatory policies as those reviewed by the Drug Efficacy Study Group. Appropriate action, including referral to purchasing officials of various government agencies, will be taken.

(f) This regulation does not apply to OTC drugs identical, similar, or related to a drug in the Drug Efficacy Study unless there has been or is notification in the FEDERAL REGISTER that a drug will not be subject to an OTC panel review pursuant to § 130.301.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–31–72).

(Secs. 502, 505, 701(a), 52 Stat. 1050–1051, as amended, 1052–1053, as amended, 1055, 21 U.S.C. 352, 355, 371(a); 5 U.S.C. 554)

Dated: October 27, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.72–18654 Filed 10–30–72;10:03 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Parts 8, 19]

DISTILLED SPIRITS

Proposed Procedures for Entry Into Customs Bonded Warehouse for Withdrawal by Diplomatic Personnel, Foreign Military Personnel, and Others

Notice is hereby given that under the authority of 5 U.S.C. 301, Revised Statute 251, as amended (19 U.S.C. 66), and sections 311, 557, and 624 of the Tariff Act of 1930, as amended (19 U.S.C. 1311, 1557, 1624), it is proposed to amend Parts 8 and 19 of the Customs regulations to provide for the entry into and the withdrawal from Customs bonded warehouses of distilled spirits in accordance with section 3 of Public Law 91-659 (26 U.S.C. 5066), enacted on January 8, 1971.

Section 5066 of the Internal Revenue Code, provides in paragraph (a) for the entry into Customs bonded warehouse of distilled spirits bottled in bond for export under section 5233 of the Internal Revenue Code and of distilled spirits stamped, or restamped and marked, especially for export under the provisions of section 5062(b) of the Internal Revenue Code. Subsection (b) of this section provides that distilled spirits entered into Customs bonded warehouses under subsection (a), and domestic distilled spirits transferred to such warehouses from Customs bonded manufacturing warehouses, Class 6, may be withdrawn for consumption in the United States by and for the official or family use of such foreign governments, organizations, and individuals who are entitled to withdraw imported distilled spirits from such warehouses free of tax. Subsection (c) would permit distilled spirits entered into Customs bonded warehouses in accordance with subsection (a), if they are withdrawn for domestic consumption, to be treated as American goods exported and returned under item 804.20, Tariff Schedules of the United States, and therefore subject to duty. However, domestic distilled spirits which have been transferred from a Customs bonded manufacturing warehouse to a Customs bonded warehouse could not be withdrawn for domestic consumption.

The proposed regulations in tentative form are set forth below:

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

Section 8.30 is amended by adding new paragraphs (g) and (h) to read as follows:

§ 8.30 Form and contents; articles entitled to entry.

* * * * *

(g) Except as otherwise provided herein, distilled spirits entered into Customs bonded warehouse in accordance with section 5066(a), Internal Revenue Code, as amended (26 U.S.C. 5066(a)), shall be treated in the same manner as any other merchandise entered for warehouse. Distilled spirits so entered may be withdrawn from warehouse for domestic consumption under section 5066(c) of the Internal Revenue Code, as amended, in which event they will be subject to duty as American goods exported and returned under item 804.20, Tariff Schedules of the United States. The recital clause of the warehouse entry bond, Customs Form 7555, shall be modified to show that the distilled spirits were entered in accordance with section 5066(a), Internal Revenue Code, as amended. The following new condition shall be added to the bond, or to the general term bond, Customs Form 7595, prior to its approval: "And if said articles shall be withdrawn in accordance with the provisions of section 5066 (b) or (c) of the Internal Revenue Code, as amended, or in default thereof, if the obligors shall pay to the district director as liquidated damages an amount equal to the aggregate sum of double the duties assessable on such part of the shipment as shall not have been so withdrawn, plus the amount of any internal revenue tax assessable thereon."

(h) Domestic distilled spirits which have been transferred from a Customs bonded manufacturing warehouse, Class 6, to a Customs bonded storage warehouse, may not be withdrawn under section 5066(c) of the Internal Revenue Code, as amended, for domestic consumption. For procedure concerning the transfer of such distilled spirits from Customs bonded manufacturing warehouse, Class 6, to Customs bonded storage warehouse, see § 19.15(g)(2) of this chapter.

(R.S. 251, as amended, secs. 557, 624, 46 Stat. 744, as amended, 759; 19 U.S.C. 66, 1557, 1624)

PART 19—CUSTOMS WAREHOUSES AND CONTROL OF MERCHANDISE THEREIN

In § 19.15, paragraph (g) is amended to read as follows:

§ 19.15 Withdrawal for exportation of articles manufactured in bond; waste or byproducts of consumption.

* * * * *

(g)(1) Articles may be withdrawn for transportation and delivery to a bonded storage warehouse at an exterior port under the provisions of section 311, Tariff Act of 1930, as amended (19 U.S.C. 1311), for the sole purpose of immediate export or may be withdrawn pursuant to section 309(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1309(a)). Such withdrawal shall be effected on Customs Form 7512, as provided for in § 18.16 of this chapter. A rewarehouse entry shall be made at the exterior port in accordance with § 8.33 of this chapter, supported by a bond on Customs Form 7555 in an amount equal to the aggregate sum of double the estimated amount of ordinary Customs duties on the merchandise (including any taxes imposed thereon which are required by law to be treated as duty imposed by the Tariff Act of 1930), plus the estimated amount of any other tax or taxes on the merchandise collectible by the district director of Customs. The recital clause of such bond shall be modified to show that the merchandise is the product of a bonded manufacturing warehouse, Class 6, and that it has been rewarehoused at the exterior port for the sole purpose of immediate export or withdrawal pursuant to section 309(a) of the Tariff Act of 1930, as amended. The following new condition shall be added to the warehouse entry bond on Customs Form 7555, or to the general term bond, Customs Form 7595, prior to its approval: "And if said articles shall be exported or withdrawn in accordance with the provisions of section 311 or 309(a), Tariff Act of 1930, as amended, in the manner prescribed by the regulations; or, in default thereof, if the obligors shall pay to the district director as liquidated damages an amount equal to the aggregate sum of double the duties assessable on such part of the shipment as shall not have been so exported or withdrawn, plus the amount of any internal revenue tax assessable thereon."

(2) Domestic distilled spirits transferred from a Customs bonded manufacturing warehouse, Class 6, to a Customs bonded storage warehouse, Class 2 or 3, in accordance with section 5521 of the Internal Revenue Code, as amended, and section 311, Tariff Act of 1930, as amended (19 U.S.C. 1311), shall be rewarehoused in accordance with the procedure for withdrawal and rewarehousing set forth in subparagraph (1) of this section. The recital clause of the warehouse entry bond, Customs Form 7555, shall be amended to show the circumstances of such entry. The following condition shall be added to the warehouse entry bond, Customs Form 7555, or to the general term bond, Customs Form 7595, prior to its approval: "And if said articles shall be withdrawn in accordance with section 5066(b), Internal Revenue Code, as amended; or, in default thereof, if the obligors shall pay to the district director as liquidated damages an amount equal to the aggregate sum of double the duties assessable on such part of the shipment as shall not have been withdrawn plus the amount of

any internal revenue tax assessable thereon." For regulations concerning the limitation on the withdrawal of such merchandise from a Customs bonded storage warehouse for consumption, see § 8.30(h) of this chapter.

* * * * *

(R.S. 251, as amended, secs. 311, 624, 46 Stat. 691, as amended, 759; 19 U.S.C. 66, 1311, 1624)

Consideration will be given to relevant data, views, or arguments pertaining to the proposed amendments which are submitted to the Commissioner of Customs, Washington, D.C. 20226, and received not later than 30 days after the date of publication of this notice in the FEDERAL REGISTER.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs regulations (19 CFR 103.3 (b)), at the Division of Regulations, Bureau of Customs, Washington, D.C., during regular business hours.

[SEAL] LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: October 18, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-18537 Filed 10-30-72;8:51 am]

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Basis of Property Received on Liquidation of Subsidiary

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 November 30, 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 November 30, 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 certain provisions of section 202 of the Act of November 13, 1966 (Public Law 89-809, 80 Stat. 1576), relating to basis of property received on liquidation of subsidiary, such regulations are amended as follows:

PARAGRAPH 1. Secton 1.334 is amended by revising section 334(b)(2)(B), by adding a new sentence at the end of section 334(b)(3), and by adding a historical note, to read as follows:

§ 1.334 Statutory provisions: basis of property received in liquidations.

SEC. 334. *Basic of property received in liquidations.* * * *

(b) *Liquidation of subsidiary.* * * *

(2) *Exception.* * * *

(B) Stock of the distributing corporation possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote, and at least 80 percent of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends), was acquired by the distributee by purchase (as defined in paragraph (3)) during a 12-month period beginning with the earlier of—

(i) The date of the first acquisition by purchase of such stock, or

(ii) If any of such stock was acquired in an acquisition which is a purchase within the meaning of the second sentence of paragraph (3), the date on which the distributee is first considered under section 318(a) as owning stock owned by the corporation from which such acquisition was made,

* * * * *

(3) *Purchase defined.* * * * Notwithstanding subparagraph (C) of this paragraph, for purposes of paragraph (2)(B), the term "purchase" also means an acquisition of stock from a corporation when ownership of such stock would be attributed under section 318(a) to the person acquiring such stock, if the stock of such corporation by reason of which such ownership would be attributed was acquired by purchase (within the meaning of the preceding sentence).

* * * * *

(Sec. 334 as amended by sec. 202(a) and (b), Act of Nov. 13, 1966 (Public Law 89-809, 80 Stat. 1576))

PAR. 2. Paragraph (c) of § 1.334-1 is amended by revising so much of subparagraph (6) as precedes subdivision (i) thereof, by redesignating subparagraph (7) as subparagraph (8), and by inserting a new subparagraph (7). These revised and added provisions read as follows:

§ 1.334-1 Basis of property received in liquidations.

* * * * *

(c) *Application of stock basis to property.* * * *

(6) Except as provided in subparagraph (7) of this paragraph, for purposes of section 334(b)(2) the term "purchase" means any acquisition of stock, but only if—

* * * * *

(7)(i) Notwithstanding subdivision (iii) of subparagraph (6) of this paragraph, the term "purchase" includes an acquisition of stock after December 31, 1965, from a related corporation if at least 50 percent in value of the stock of such related corporation was acquired after December 31, 1965, by purchase (within the meaning of subparagraph (6) of this paragraph without regard to this subparagraph). For purposes of this subparagraph, a corporation is a related corporation if stock owned by the corporation would be considered as owned by the distributee under section 318(a).

(ii) If subdivision (i) of this subparagraph applies and if all distributions by the distributing corporation under section 332 are made after November 13, 1966, then the amount of stock required by section 334(b)(2)(B) must be acquired during a 12-month period beginning with the earlier of—

(*a*) The date of the first acquisition by purchase (within the meaning of subparagraph (6) of this paragraph without regard to this subparagraph) of any of such stock, or

(*b*) The date on which the distributee first would be considered under section 318(a) as owning any of such stock owned by the related corporation, taking into account in applying section 318(a) only stock of the related corporation purchased after December 31, 1965 (within the meaning of subparagraph (6) of this paragraph without regard to this subparagraph).

(iii) Since a purchase of stock within the meaning of subdivision (i) of this subparagraph necessarily involves a transaction between two related corporations, the purchase price will be subjected to close scrutiny to ascertain whether the price reflects the fair market value of the stock. If it is determined that the price paid exceeds the fair market value of the stock purchased, then for purposes of section 334(b)(2) the cost of such stock for purposes of computing its adjusted basis shall be its fair market value.

(iv) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). (*a*) On January 1, 1967, in an exchange to which section 351 applies, corporation R acquires 40 percent of the stock of corporation S, which owns 100 percent of the stock of corporation T. On July 1, 1967, R acquires 10 percent of the stock of S for cash. On December 31, 1967, R causes S to sell to it the 100 percent of T stock which S owns.

(*b*) Since R owns at least 50 percent of the stock of S at the time it acquires the T stock from S, the acquisition will qualify as a purchase only if the requirements of this subparagraph are met. The acquisition of the T stock does not qualify under this subparagraph as a purchase because R has acquired only 10 percent of the stock of S by purchase (within the meaning of subparagraph (6) without regard to this subparagraph).

Example (2). (*a*) Assume the same facts as in example (1), plus the further fact that on November 1, 1967, R acquires an additional 45 percent of the stock of S for cash.

(*b*) The acquisition by R of the 100 percent of T stock does qualify as a purchase under this subparagraph because R has acquired 55 percent (at least 50 percent) of

the stock of S by purchase (within the meaning of subparagraph (6) without regard to this subparagraph).

(c) During a 12-month period beginning on November 1, 1967 (the date on which R first would be considered under section 318(a) as owning any stock owned by S, taking into account only stock of S that R has purchased within the meaning of subparagraph (6) without regard to this subparagraph), R has acquired by purchase the amount of stock required by section 334(b)(2)(B).

Example (3). (a) On January 1, 1968, corporation X acquires for cash 10 percent of the stock of corporation Z. On February 1, 1968, X acquires for cash at least 50 percent of the stock of corporation Y, which owns 45 percent of the stock of Z. On March 1, 1968, X causes corporation Y to sell to it the 45 percent of Z stock which Y owns. On April 1, 1968, corporation X acquires for cash 25 percent of the stock of Z.

(b) Since X owns at least 50 percent of the stock of Y at the time of its acquisition of the 45 percent of Z stock from Y, the acquisition will qualify as a purchase only if the requirements of this subparagraph are met. The acquisition of the Z stock does qualify as a purchase under this subparagraph because X acquired at least 50 percent of the stock of Y by purchase (within the meaning of subparagraph (6) without regard to this subparagraph). Therefore, X has acquired by purchase the amount of stock required by section 334(b)(2)(B) during a 12-month period beginning on January 1, 1968, the date of the first acquisition by purchase (within the meaning of subparagraph (6) without regard to this subparagraph) of any of such stock.

(c) The result would be the same if X purchased at least 80 percent of the Y stock on February 1, 1968, and caused Y to be completely liquidated on March 1, 1968, receiving the 45 percent interest in Z in the liquidation.

(8) Section 334(b) does not apply to minority shareholders. The basis of property, other than cash, received by such shareholders shall be determined under section 334(a), section 334(c), or section 358.

[FR Doc.72-18485 Filed 10-30-72;8:48 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration)

[24 CFR Part 201]

[Docket No. R-72-195]

PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Manufacturer's Warranty

On June 8, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 2248) proposing an amendment to the Property Improvement and Mobile Home Loan Regulations. The proposed amendment would require that a manufacturer's warranty be furnished to the purchaser of a mobile home that is purchased with an FHA insured loan. Comments on the proposed regulation questioned the failure to publish a proposed warranty form. Other comments proposed material that the commentators felt should be included or excluded in the proposed warranty. In view of the comments requesting that a proposed warranty be published, the proposed regulation is being republished together with a proposed warranty form.

All interested persons are invited to submit written comments or suggestions in triplicate with respect to this proposal, on or before November 30, 1972, addressed to the Rules Docket Clerk, Office of the General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. All relevant material will be considered before adoption of a final rule. A copy of each communication will be available for public inspection during regular business hours at the above address.

The proposed rule is issued pursuant to 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Part 201 is proposed to be amended as follows:

1. Section 201.520(c) is redesignated as paragraph (d) and a new paragraph (c) is added to read:

§ 201.520 Structural design and standards.

* * * * *

(c) *Manufacturer's warranty.* When a new mobile home purchased with financing insured under 12 U.S.C. 1703 is delivered to the purchaser, the purchaser shall be supplied a written warranty by the manufacturer on a form prescribed by the Commissioner. Such warranty shall be in addition to, and not in derogation of all other rights and privileges which the purchaser may have under any law or instrument and the warranty instrument shall so provide. A copy of the warranty instrument shall be retained in the loan file.

* * * * *

Issued at Washington, D.C., October 26, 1972.

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

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, FEDERAL HOUSING ADMINISTRATION

MOBILE HOME WARRANTY

Mobile home description

Model Number Date of purchase

Name and address of dealer/seller

Purchaser(s):

For good and valuable consideration, and to induce purchase of the above identified mobile home by the above named Purchaser(s) and to further induce the Secretary of Housing and Urban Development to insure a loan to such Purchaser(s) under The National Housing Act, the undersigned manufacturer of the aforesaid mobile home does hereby warrant to the Purchaser(s) and to his (their) transferee(s), that:

Construction of the mobile home identified above complies with the mobile home standards prescribed by the Secretary of Housing and Urban Development and in effect at the time the mobile home is manufactured, and is free from defects in material or workmanship under normal use with normal maintenance service. This warranty shall obligate the manufacturer to take appropriate corrective action in instances of nonconformity to such standards and/or instances of defects in materials or workmanship which became evident within 1 year from the date of purchase of the mobile home and as to which the Purchaser(s), or his (their) transferee(s), give written notice to the manufacturer not later than 1 year and 10 days after the date of purchase set forth above. Such written notice shall be delivered to the manufacturer/warrantor at the address set forth herein.

The term "Mobile Home" as used herein shall be deemed to include the mobile home structure including the plumbing, heating, and electrical systems and all appliances installed or included therein by the manufacturer.

This warranty shall be in addition to, and not in derogation of, all other rights and privileges which such Purchaser(s) may have under any other law or instrument and the manufacturer agrees that the buyer will not be required to execute a waiver of any warranty rights under the laws of the state of the purchaser's residence.

In testimony whereof, the manufacturer has signed and sealed this warranty this ------ day of ----------, 197-----.

---------- ----------

---------- By----------

(Signature and title of authoribed official)

(Name and address of manufacturer/warrantor)

WARNING

Section 1010 of title 18, U.S.C., "Department of Housing and Urban Development, Federal Housing Administration transactions," provides: "Whoever, for the purpose of—influencing in any way the action of such Department—makes, passes, utters, or publishes any statement, knowing the same to be false—shall be fined not more than $5,000 or imprisoned not more than 2 years, or both."

Notice to Purchaser: Any notice of nonconformity must be delivered to the warrantor not later than 1 year and 10 days from the date of purchase.

Receipt of this warranty is acknowledged this ------ day of ---------- 197-----.

[FR Doc.72-18493 Filed 10-30-72;8:51 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 72-211P]

BARNEGAT BAY, N.J.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering amending the regulations applicable to the Route 37 bridge across Barnegat Bay in Dover Township, N.J., to allow the draw to open only on the hour and half hour from 10 a.m. to 2 p.m. on weekends and holidays from Memorial Day through Labor Day. The draw is presently required to open on signal. The purpose of this proposal is to relieve the traffic congestion caused by the frequent openings of the draw during these periods.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Third Coast Guard District, Governors Island, New York, N.Y. 10004. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Third Coast Guard District.

The Commander, Third Coast Guard District, will forward any comments received before December 5, 1972, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by adding paragraph (p) to § 117.220 to read as follows:

§ 117.220 **New Jersey Intracoastal Waterway and tributaries; bridges.**

* * * * *

(p) Barnegat Bay, New Jersey Route 37 highway bridge between Bay Shore and Seaside Heights.

(i) The draw shall open on signal except that from Memorial Day through Labor Day from 10 a.m. to 2 p.m. on Saturdays, Sundays, and Independence Day, the draw need open only on the hour and half hour.

(ii) The draw shall open at any time on signal for the passage of vessels with tows.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Dated: October 24, 1972.

J. D. McCann,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.72-18508 Filed 10-30-72;8:52 am]

[33 CFR Part 117]

[CGD 72-212P]

MIDDLE BRANCH, PATAPSCO RIVER, MD.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering revising the regulations for the Western Maryland Railroad Co.'s drawbridge across the Middle Branch (Spring Garden Channel), Patapsco River, to require at least 6 hours notice on legal holidays when they occur Monday through Friday. Present regulations require that the draw open on signal from 7 a.m. to 12 noon and 1 p.m. to 4 p.m. Monday through Friday and at all other times if 6 hours advance notice has been given. This change is being considered because of minimum boating activity during this period.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, VA 23705. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Fifth Coast Guard District.

The Commander, Fifth Coast Guard District, will forward any comments received before December 5, 1972, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising § 117.245(f)(5-b) to read as follows:

§ 117.245 **Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.**

* * * * *

(f) * * *

(5-b) Middle Branch, Patapsco River (Spring Garden Channel) Baltimore, Md., Western Maryland Railway bridge. The draw shall open promptly on signal from 7 a.m. to 12 noon and 1 p.m. to 4 p.m. Monday through Friday, except on legal holidays. At all other times including legal holidays at least 6 hours notice is required except for marine fire-fighting equipment which shall be passed as soon as possible but in no event more than 15 minutes after notification that such an opening is required.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Dated: October 24, 1972.

J. D. McCann,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.72-18507 Filed 10-30-72;8:52 am]

[46 CFR Parts 70, 80]

[CGD 72-187P]

SAFETY STANDARDS

Proposed Disclosure

The Coast Guard is considering amending the safety standard regulations to conform with the Act of December 24, 1969 (83 Stat. 427, 46 U.S.C. 362).

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Coast Guard (CMC), Room 8234, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590. Each person submitting comments should identify the notice number, CGD 72-187P, any specific wording recommended, reasons for any recommended change, and the name, address, and organization, if any, of the commenter. Comments received on or before December 4, 1972, will be fully considered and evaluated before final action is taken on this proposal. Copies of all written communications received will be available for examination in Room 8234, Department of Transportation, 400 Seventh Street SW., Washington, DC, both before and after the closing date for the receipt of comments. The proposal contained in this document may be changed in the light of the comments received.

Public Law 89-777 (80 Stat. 1356) approved November 6, 1966, added subsections (b) and (c) to R.S. 4400, as amended (46 U.S.C. 362). Subsection (b) of the Act requires the owner, operator, agent, or any person selling passage on a foreign or domestic passenger vessel of 100 gross tons or over having berth or stateroom accommodations for 50 or more passengers and embarking passengers at U.S. ports for a coastwise or an international voyage to be notified of the safety standards with which the vessel complies. It also requires the inclusion of this information in all promotional literature or advertising, in or over any medium of communication within the

United States, soliciting passengers for ocean voyages anywhere in the world. In addition, the law provides that certain vessels may not depart a U.S. port with passengers who are U.S. nationals if the vessels are found not to comply with the standards set forth in the International Convention for the Safety of Life at Sea, 1960 (June 17, 1960, 16 UST 185, TIAS 5780), as modified by the 1966 fire safety standards.

Public Law 91–154 (83 Stat. 427) approved December 24, 1969, made two amendments to subsection (b) of R.S. 4400, as amended. The first amendment adds the requirement that all promotional literature or advertising in or over any medium of communication in the United States offering passage or soliciting passengers for ocean voyages anywhere in the world shall specify the registry of any vessel named. The second amendment makes the passenger notification of safety standards and the similar information required to be included in all mediums of communication, except the country of registry, not applicable if the named vessel meets the standards set forth in the International Convention for the Safety of Life at Sea, 1960, as modified by the 1966 safety standards amendments.

This document proposes to implement the Act of December 24, 1969, by revising Part 80. The proposed revision of Part 80 would eliminate the present sections that are no longer applicable and assimilate the present interpretative rulings of Subpart 80.15 into appropriate sections. In accordance with the Act of December 24, 1969, it would provide exceptions to the requirements for notification to prospective passengers of safety standards and the inclusion of similar information in advertising and promotional literature information for named vessels meeting the international safety standards. It would also revise the format for printed safety information and country of registry. In addition, it is proposed to revise §§ 70.05–1(b) and 70.05–3(d) to reflect the proposed revision of Part 80.

In consideration of the foregoing, it is proposed to amend Subchapter H of Title 46, Code of Federal Regulations, as follows:

PART 70—GENERAL PROVISIONS

1. By revising § 70.05–1(b) to read as follows:

§ 70.05–1 U.S.-flag vessels.

* * * * *

(b) The requirements for notification of safety standards and for safety information in promotional literature or advertising of a domestic passenger vessel of 100 gross tons or over having berth or stateroom accommodations for 50 or more passengers are contained in Part 80 of this chapter.

2. By amending § 70.05–3 by revising paragraph (d) to read as follows:

§ 70.05–3 Foreign vessels.

* * * * *

(d) The requirements for notification of safety standards and for safety information in promotional literature or advertising of a foreign passenger vessel of 100 gross tons or over having berth or stateroom accommodations for 50 or more passengers are contained in part 80 of this chapter.

* * * * *

PART 80—DISCLOSURE OF SAFETY STANDARDS

3. By revising Part 80 to read as follows:

Sec.
80.01 Purpose.
80.10 Applicability.
80.15 Persons subject to regulations.
80.20 Exception to requirements.
80.25 Notification of safety standards.
80.30 Promotional literature or advertising.
80.40 Civil penalty.

AUTHORITY: The provisions of this Part 80 issued under R.S. 4400, as amended, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 362, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).

§ 80.01 Purpose.

The purpose of the regulations in this part is to implement subsection (b) of R.S. 4400, as amended (46 U.S.C. 362(b)).

§ 80.10 Applicability.

This part applies to—

(a) Except as exempted in § 80.20, domestic or foreign passenger vessels of 100 gross tons or over, having berth or stateroom accommodations for 50 or more passengers, on ocean and United States coastwise voyages; and

(b) All promotional literature or advertising in or over any medium of communication within the United States offering passage or soliciting passengers for ocean voyages anywhere in the world.

§ 80.15 Persons subject to regulations.

Each owner, operator, agent, or person who sells passage on a foreign or a domestic vessel specified in § 80.10 is subject to the provisions of this part.

§ 80.20 Exception to requirements.

(a) This part does not apply to vessels that comply with the safety standards set forth in the International Convention for the Safety of Life at Sea, 1960, as modified by the amendments adopted by the Assembly of the Intergovernmental Maritime Consultative Organization contained in Annexes I through IV of a resolution dated November 30, 1966 A/ES.III/RES. 108 except that the inclusion of the country of registry of the vessel must be specified as required in paragraph (b) of this section.

(b) If the exception in paragraph (a) of this section applies, the country of registry must appear in a type that is the same size as the text in the printed promotional literature or advertising.

§ 80.25 Notification of safety standards.

(a) A person specified in § 80.15 shall give to a prospective passenger, in writing, at the time or before passage is booked, separately from any promotional literature or advertising used, a document containing the following information for each vessel concerned—

(1) The name of the vessel;

(2) The country of registry;

(3) One of the following statements as appropriate:

(i) This vessel complies with all Coast Guard and international safety standards.

(ii) This vessel complies with international safety standards, except the 1966 fire safety standards.

(iii) This vessel complies with international safety standards developed prior to 1960.

There is (*or*, is not) an automatic sprinkler system fitted in the passenger living and public spaces. The hull, decks, deckhouses, structural bulkheads, and internal partitions are (*or*, are not) composed of combustible materials.

(iv) This vessel does not comply with any international safety standard. There is (*or*, is not) an automatic sprinkler system fitted in the passenger living and public spaces. The hull, decks, deckhouses, structural bulkheads, and internal partitions are (*or*, are not) composed of combustible materials.

(b) The information required in paragraph (a) of this section must be printed in a type no smaller than six points, American point system.

(c) The information required in paragraph (a) of this section must be headed—

(1) "SAFETY INFORMATION";

(2) With each letter in the heading capitalized; and

(3) In boldfaced type of a size equal to the size of the text required in paragraph (a) of this section.

§ 80.30 Promotional literature or advertising.

(a) Except as provided in paragraph (f) of this section, all promotional literature or advertising in or over any medium of communication within the United States that offers passage or solicits passengers for ocean voyages anywhere in the world must contain the safety information statement prescribed in paragraph (b) of this section if—

(1) A vessel is named; or

(2) A voyage is described by—

(i) A stated port or area of departure;

(ii) A stated port or area of destination; or

(iii) A schedule of days of departure or arrival.

(b) The safety information statement required in paragraph (a) of this section must include—

(1) The name of the vessel;

(2) The country of registry; and

(3) One of the following statements, as appropriate:

(i) This vessel complies with all Coast Guard and international safety standards.

(ii) This vessel complies with international safety standards, except the 1966 fire safety standards.

(iii) This vessel complies with international safety standards developed prior to 1960. There is (*or*, is not) an automatic sprinkler fitted in the passenger living and public spaces. The hull, decks,

deckhouses, structural bulkheads, and internal partitions are (*or*, are not) composed of combustible materials.

(iv) This vessel does not comply with any international safety standard. There is (*or*, is not) an automatic sprinkler fitted in the passenger living and public spaces. The hull, decks, deckhouses, structural bulkheads, and internal partitions are (*or*, are not) composed of combustible materials.

(c) The safety information statement prescribed in paragraph (b) of this section must be—

(1) Printed in a type no smaller than 6 points, American point system, that is the same size as any other textual matter of the promotional literature or advertising, including any headings;

(2) Headed "SAFETY INFORMATION" in the same size type that is used in the safety information statement; and

(3) Separated from other portions of the text by double spacing or box ruling.

(d) If the promotional literature or advertising lists two or more passenger vessels, the owner or operator shall clearly indicate the safety information prescribed in paragraph (b) of this section for each vessel, but unnecessary repetition is not required.

(e) Each brochure, pamphlet, schedule, and similar publication required in paragraph (a) of this section to contain safety information must—

(1) State the safety information prescribed in paragraph (b) of this section at least once for each vessel named; and

(2) Include a reference in the index of contents or the cover regarding the page number where the safety information for each vessel is located.

(f) The section does not apply to—

(1) An advertising sign that is towed, displayed, or written by aircraft;

(2) An advertisement in a trade publication that is directed to the professional counselors in the travel industry and not intended or used for general distribution to the public for solicitation of passage on a vessel; or

(3) An advertisement within a magazine, newspaper, periodical, or similar publication that is—

(i) Produced outside of the United States;

(ii) Not an American edition; and

(iii) Primarily distributed in the country in which it is produced.

§ 80.40 Civil penalty.

For each violation of the regulations in this part, the owner, operator, agent, or other person involved is subject to the penalties prescribed in 46 U.S.C. 362(b).

(R.S. 4400, as amended, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 362(b), 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: October 25, 1972.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.72-18509 Filed 10-30-72;8:52 am]

[46 CFR Part 151]

[CGD 72-130PH]

UNMANNED BARGES

Hull Construction; Proposed Clarification of Transverse Stability Requirements

The Coast Guard is considering amendments to hull construction regulations for dangerous cargo barges. The amendments concern a formula in § 151.10-5(a)(2) which provides owners with an easy mathematical method to determine the minimum metacentric height necessary to meet transverse stability requirements. The Coast Guard has always assumed that the application of the formula would be limited to barges with conventional hull configurations, that is those whose vertical center of gravity for cargo is below the deck at side. It now proposes to write this restriction into the regulations.

The Coast Guard also proposes to correct an oversight within the formula's calculations for freeboard augmentation, which is an allowance made for barges with watertight trunks on deck. The freeboard augmentation anticipates the tendency of the trunks to reduce falloff in righting energy of the barge when the deck edge is immersed due to heel.

The formula's calculations for freeboard augmentation were derived from a survey of typical barges whose trunks were set in from the sides and ends. The survey did not include barges with trunk walls placed very close to the deck edge at side and at the ends. Consequently, no consideration was given to the possibility that the freeboard augmentation might exceed that of the trunk wall. In an extreme case, such an unsafe condition would threaten the transverse stability of the barge. In recognition of this, the Coast Guard proposes to insert into the formula a provision limiting freeboard augmentation to less than or equal to the trunk height.

The Coast Guard invites public participation in this proposed rule-making proceeding. Interested persons may submit written comments to the U.S. Coast Guard (GCMC/82), Room 8234, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Written comments should include the docket number of this notice, the name and address of the person submitting comments, and the specific section of the proposal to which each comment is addressed.

The Coast Guard will hold a Public Hearing at 9:30 a.m. on December 19, 1972, in Room 8334 at the Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C., to receive written or oral comments from interested persons. The hearing will be conducted by a member or representative of the Marine Safety Council, who may apportion time for presentation. Each person desiring to speak at this hearing is requested to notify the Executive Secretary of the time needed for his presentation and is encouraged to submit a written copy or summary of his oral presentation after the hearing.

All relevant communications received on or before December 29, 1972, will be fully considered before final action is taken on this proposal. This proposal may be changed in the light of comments received; however, acknowledgment of individual comments will not be made. Copies of comments received and a tape recording of the public hearing will be available in Room 8234. Copies of comments will be furnished to interested persons upon request to the Coast Guard (GCMC/82) and payment of the fees prescribed in 49 CFR 7.81.

The Coast Guard proposes to amend Part 151 of Title 46 of the Code of Federal Regulations as follows:

1. By revising § 151.10-5 to read as follows:

§ 151.10-5 Intact transverse stability.

(a) Except as provided in paragraph (b) of this section, the intact transverse stability for each barge up to the angle of maximum righting arm or angle of downflooding, whichever is less, must be at least—

(1) Five-foot degrees for rivers;

(2) Ten-foot degrees for lakes, bays, sounds, and the Great Lakes—summer (April 16–September 30); and

(3) Fifteen-foot degrees for oceans and the Great Lakes—winter (October 1–April 15).

(b) Unless otherwise required by the Commandant, for a barge whose vertical center of gravity for cargo is below the deck at side, the required transverse stability may be determined in terms of metacentric height in feet. The vessel must have at least the minimum metacentric height (GM) as determined at any particular draft by the following formula:

$$GM = \frac{kB}{fe}$$

k = 0.3 for rivers.
= 0.4 for lakes, bays, sounds, and the Great Lakes—summer.
= 0.5 for oceans and the Great Lakes—winter.

B = beam (feet)

fe = Effective freeboard ($f + fa$) in feet. This is freeboard to the deck at side (f) plus a freeboard augmentation (fa) for those barges with a watertight (structural) trunk. When draft (d) is less than fe, it is used in lieu of fe. The freeboard augmentation (fa) may be calculated by the following formula:

$$fa = [(1.25)\left(\frac{l}{L}\right)\left(\frac{2b}{B} - 1\right)$$

(h)] or h, whichever is less where:
l = trunk length (feet).
L = overall length (feet).
b = trunk breadth (feet).
h = trunk height at side (feet).

2. By adding § 151.10-6 to follow § 151.10-5 to read as follows:

§ 151.10-6 Intact longitudinal stability.

The longitudinal stability of each barge must be determined in terms of the minimum longitudinal metacentric height (*GMl*) in feet. The vessel must have at least the minimum longitudinal

metacentric height ($GM1$) as determined at any particular draft by the following formula:

$$GM1=\frac{0.02L^3}{d}$$

where
L=overall length (feet).
d=draft (feet).

(R.S. 4472, as amended, R.S. 4417a, as amended by Public Law 92-340, 86 Stat. 424, 427 (July 10, 1972); sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 170, 391a, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: October 25, 1972.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.72-18510 Filed 10-30-72;8:51 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-SW-70]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Victoria, Tex., terminal area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

1. In § 71.171 (37 F.R. 2056), the Victoria, Tex., control zone is amended to read:

VICTORIA, TEX.

Within a 5-mile radius of the Victoria County-Foster Airport (latitude 28°51'10" N., longitude 96°55'20" W.) and within 3 miles each side of the Victoria, Tex., VOR 313° radial extending from the 5-mile radius zone to 10.5 miles northwest of the VOR. 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.

2. In § 71.181 (37 F.R. 2143), the Victoria, Tex., transition area is amended to read:

VICTORIA, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Victoria County-Foster Airport (latitude 28°51'10" N., longitude 96°55'20" W.) and within 3.5 miles each side of the ILS localizer 131° course extending from the 5-mile-radius area to 14.5 miles southeast of the outer marker.

Amendments to controlled airspace will provide the necessary additional controlled airspace for aircraft executing the proposed ILS RWY 12L, LOC(BC) RWY 30R and revised VOR RWY 12L approaches. It eliminates controlled airspace provided for an NDB approach procedure that has been deleted.

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

Issued in Fort Worth, Tex., on October 19, 1972.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.72-18503 Filed 10-30-72;8:51 am]

National Highway Traffic Safety Administration

[23 CFR Ch. II]

[Dockets Nos. 72-9 through 72-17]

HIGHWAY SAFETY PROGRAM STANDARDS

Extension of Time for Comments

The purpose of this notice is to extend the closing date for comments on the proposed revision of highway safety program standards. A notice of request for comments was published on August 3, 1972[1] with a comment period through November 3, 1972.

In view of the complexity of the document NHTSA has determined to extend the closing date to February 1, 1973, to permit State agencies and other interested parties and organizations an additional 90 days to submit comments.

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

Issued on: October 26, 1972.

CHARLES H. HARTMAN,
Acting Administrator.

[FR Doc.72-18603 Filed 10-30-72;8:54 am]

[1] 37 F.R. 15602.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 906]

[Docket No. 320-A2]

ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Proposed Further Amendment of Marketing Agreement and Order; Postponement of Hearing

On October 17, 1972, the Deputy Administrator, Regulatory Programs, Agricultural Marketing Service, issued a notice of hearing containing proposals to further amend the marketing agreement and order regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas.[2] These proposals were submitted by Texas Citrus Mutual, Edinburg, Tex., the Texas Valley Citrus Committee, Pharr, Tex., Valley Citrus Growers Association, Inc., Alamo, Tex., the Hidalgo County Farm Bureau, Pharr, Tex., and by the Fruit and Vegetable Division, AMS.

On October 26, 1972, the Board of Directors of Texas Citrus Mutual unanimously recommended that the hearing not be held on November 1, 1972, as stated in said notice of hearing, because the industry needs additional time to study the proposals.

In view of the request for postponement, the hearing scheduled to begin on November 1, 1972, is hereby postponed. A new hearing date will be announced later.

Dated: October 27, 1972.

E. L. PETERSON,
Administrator, Agricultural Marketing Service.

[FR Doc.72-18638 Filed 10-30-72;8:55 am]

[2] Published at 37 F.R. 22751, Oct. 21, 1972.

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circular Public Debt Series 11–72]

6¼ PERCENT TREASURY NOTES OF SERIES D–1976

Offering of Notes

OCTOBER 26, 1972.

I. Offering of notes. 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders at a price not less than 99.01 percent of their face value for $3 billion, or thereabouts, of notes of the United States, designated 6¼ percent Treasury notes of Series D–1976. An additional amount of the notes will be allotted by the Secretary of the Treasury to Government accounts and Federal Reserve Banks at the average price of accepted tenders in exchange for 6 percent Treasury notes of Series F–1972, maturing November 15, 1972. Tenders will be received up to 1:30 p.m., e.s.t., Wednesday, November 1, 1972, under competitive and noncompetitive bidding, as set forth in Section III hereof. The 6 percent Treasury notes of Series F–1972, maturing November 15, 1972, will be accepted at par in payment, in whole or in part, to the extent tenders are allotted by the Treasury.

II. Description of notes. 1. The notes now offered will be identical in all respects with the 6¼ percent Treasury notes of Series D–1976 issued pursuant to Department Circular, Public Debt Series—No. 9–71, dated August 26, 1971, and supplement dated August 27, 1971, specifying an interest rate of 6¼ percent per annum, except that interest will accrue from November 15, 1972. With this exception the notes are described in the following quotation from Department Circular No. 9–71:

1. The notes will be dated September 8, 1971, and will bear interest from that date, payable on a semiannual basis on May 15 and November 15, 1972, and thereafter on May 15 and November 15 in each year until the principal amount becomes payable. They will mature November 15, 1976, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1 million. Provision will be made for the interchange of notes of different denominations and of coupon and registered notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

III. Tenders and allotments. 1. Tenders will be received at Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington, D.C. 20220, up to the closing hour, 1:30 p.m., eastern standard time, Wednesday, November 1, 1972. Each tender must state the face amount of notes bid for, which must be $1,000 or a multiple thereof, and the price offered, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a price. In the case of competitive tenders, the price must be expressed on the basis of 100, with two decimals, e.g., 100.00. Tenders at a price less than 99.01 will not be accepted. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed $400,000. It is urged that tenders be made on the printed forms and forwarded in the special envelopes marked "Tender for Treasury Notes", which will be supplied by Federal Reserve Banks on application therefor.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others than commercial banks will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, federally insured savings and loan associations, States, political subdivisions, or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign states, dealers who make primary markets in government securities and report daily to the Federal Reserve Bank of New York their positions with respect to foreign securities and borrowings thereon, and government accounts. Tenders from others must be accompanied by payment (in cash or the 6 percent Treasury notes of Series F–1972, which will be accepted at par) of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and price range of accepted bids. Those submitting tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those at the highest prices will be accepted to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $400,000 or less without stated price from any one bidder will be accepted in full at the average price[1] (in two decimals) of accepted competitive tenders.

4. All bidders are required to agree not to purchase or to sell, or to make any agreements with respect to the purchase or sale or other disposition of any notes of this issue at a specific rate or price, until after 1:30 p.m., eastern standard time, Wednesday, November 1, 1972.

5. Commercial banks in submitting tenders will be required to certify that they have no beneficial interest in any of the tenders they enter for the account of their customers, and that their customers have no beneficial interest in the banks' tenders for their own account.

IV. Payment. 1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before November 15, 1972, at the Federal Reserve Bank or Branch or at the Office of the Treasurer of the United States, Washington, D.C. 20220, in cash, 6 percent Treasury Notes of Series F–1972 (interest coupons dated November 15, 1972, should be detached), or other funds immediately available by that date. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Any qualified depositary will be permitted to make settlement by credit in its Treasury Tax and Loan Account for not more than 75 percent of the amount of notes allotted to it for itself and its customers. When payment is made with securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of se-

[1] Average price may be at, or more or less than $100.00.

curities submitted and the amount payable on the notes allotted.

V. Assignment of registered securities. 1. Registered securities tendered as deposits and in payment for notes allotted hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Department of the Treasury, in one of the forms hereafter set forth. Securities tendered in payment should be surrendered at the Federal Reserve Bank or Branch or at the Office of the Treasurer of the United States, Washington, D.C. 20220. The securities must be delivered at the expense and risk of the holder. If the notes are desired registered in the same name as the securities surrendered, the assignment should be to: "The Secretary of the Treasury for 6¼ percent Treasury Notes of Series D–1976"; if the notes are desired registered in another name, the assignment should be to: "The Secretary of the Treasury for 6¼ percent Treasury Notes of Series D–1976 in the name of _____"; if notes in coupon form are desired, the assignment should be to "The Secretary of the Treasury for 6¼ percent Treasury Notes of Series D–1976 in coupon form to be delivered to _____".

VI. General provisions. 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] CHARLS E. WALKER,
Acting Secretary of the Treasury.

[FR Doc.72–18551 Filed 10–30–72;8:49 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

COMMANDER, SAMTEC, VANDENBERG AIR FORCE BASE, CALIF.

Delegation of Authority To Issue Restricted/Security Area Regulations for Certain of Phoenix Islands and Surrounding Waters

Authority to prescribe regulations under 10 U.S.C. 8012 and Sections 1–4 of the Act of July 9, 1918, chapter 143 (33 U.S.C. 3) with respect to Canton, Enderbury, Birnie, and Hull Islands, and within the adjacent territorial waters surrounding each of those islands is delegated, with power of redelegation, to the Commander, Space and Missile Test Center (SAMTEC), Air Force Systems Command, Vandenberg Air Force Base, Calif., for the purpose of prohibiting:

(1) The stoping or loitering of vessels, without the prior approval of the Commander, SAMTEC, or his designee, but not the innocent passage of vessels through the territorial waters of the aforementioned islands;

(2) Use by aircraft of the airstrip on Canton Island, or landing on the territorial waters by seaplanes, without the prior approval of the Commander, SAM TEC, or his designee, except as provided in the 1939 agreement between United States and the United Kingdom on the joint administration of Canton and Enderbury Islands; and

(3) Visits, other than official visits, to the aforementioned islands, except as authorized by the Commander, SAMTEC, or his designee.

Dated: October 18, 1972.

JOHN M. MCLUCAS,
Under Secretary,
United States Air Force.

[FR Doc.72–18498 Filed 10–30–72;8:52 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

DECLARATION OF TRUST

Sale of Direct Notes on Insured Basis

Pursuant to the delegation of authority in the orders of the Acting Secretary of Agriculture, 36 F.R. 21529 and 37 F.R. 22008, and order of the Assistant Secretary of Agriculture for Rural Development and Conservation, 36 F.R. 21529, notice is hereby given of the execution of the following declaration of trust by the Administrator of the Farmers Home Administration:

This Trust Indenture, executed this 20th day of October 1972, by the United States of America, acting through the Farmers Home Administration, U.S. Department of Agriculture, herein called the "Government," pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. 1921, et seq.);

WITNESSES

Whereas, as a result of the enactment of subsection 115(b) of the Rural Development Act of 1972 (Public Law 92–419), approved August 30, 1972, all direct loans made under section 338(c) of the Consolidated Farm and Rural Development Act, herein called "Act," have become assets of the Agricultural Credit Insurance Fund, herein called the "Fund," and are subject to the provisions of section 309 of the Act; and

Whereas, as a result of the enactment of section 117 of the Rural Development Act of 1972 (Public Law 92–419) all loans made under the Watershed Protection and Flood Prevention Act of title III of the Bankhead-Jones Farm Tenant Act may be insured, or made to be sold and insured, in accordance with and subject to sections 308 and 309 (Agriculture Credit Insurance Fund), the last sentence of section 306(a)(1), and the last sentence of section 307 of the Act; and

Whereas, all such loans made prior to September 1, 1972, herein called the "loans," are secured by real estate mortgages, deeds of trust, security agreements, chattel mortgages, bond ordinances or resolutions, and like security instruments, herein called "security instruments," made in favor of the Government and securing payment of the promissory notes, assumption agreements or bonds described therein, herein called "the notes"; and

Whereas, the loans may be sold by the Government out of the Fund as insured loans under the provisions of said section 309, and in such event legal title to the security instruments would ordinarily pass to the purchasers of the insured notes; and

Whereas, in administering its insured loan programs, the Government acts as collection and servicing agent for the insured noteholder, and for the purpose of retaining legal title to the security instruments so as to enable it to service them after the sale of any of the related loans, the Government, as owner of the security instruments, desires to declare itself as trustee thereof for the benefit of the insured noteholders;

Now therefore, it is hereby declared and convenanted that in the event of any future sale of any of the loans, the Government shall hold the security instruments related to each loan so sold, together with all rights, titles, interests, liens, powers, and options of the mortgagee, grantee, secured party, or beneficiary in, to, and under the security instruments and in, to, and upon the property described therein, in trust for the use and benefit of the holder of the note(s) described therein. The Government shall have full power to manage the trust property covered by this declaration and shall have, use, and enforce all rights, powers, and authority of the mortgagee, grantee, secured party, or beneficiary under such security instruments, including but not limited to the subordination, assignment, release, satisfaction, or other security servicing action may be executed by the Government in its own name, without reference to its capacity as trustee: *Provided further,* That the trust hereby declared shall not be revocable by any holder of such note(s) and shall be subject to the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921, et seq.), as now or hereafter amended or supplemented: *And provided further,* That no holder of any note(s) described in such security instruments shall be liable for compensation to the Government for the exercise by the Government of any rights, power, or authority hereunder or for any expenses incurred in connection herewith.

The declaration of trust shall take effect as to any security instruments covered hereby upon the sale of any note(s) secured thereby, and shall remain effective while any party other than the Government owns such note(s).

In witness whereof, the United States of America has caused this trust indenture to be executed as of the day and year first above written pursuant to delegated authority published in 36 F.R. 21529 and 37 F.R. 22008.

UNITED STATES OF AMERICA

ARTHUR C. HARMAN, JR.,
Acting Administrator, Farmers Home Administration, United States Department of Agriculture.

Signed in the presence of:
GEORGE C. KNAPP
L. A. ISENBERG

ACKNOWLEDGMENT

CITY OF WASHINGTON
DISTRICT OF COLUMBIA } ss:

I, the undersigned notary public in and for the city of Washington, District of Colum-

bia, do hereby certify that on this 20th day of October, 1972, before me personally appeared Arthur C. Harman, Jr., personally known to me and to me personally known to be the person and officer of the Farmers Home Administration, U.S. Department of Agriculture, described in and who executed and delivered the foregoing instrument, and being by me duly sworn (or affirmed), and being informed of the contents of said instrument, he acknowledged to me that as his free act and deed he executed said instrument, in the capacity therein stated and for the purposes and consideration therein contained.

In witness whereof, I hereunto set my hand and official seal.

[NOTARIAL SEAL] BESSIE H. GARLICH,
Notary Public.

My commission expires March 14, 1973.

Dated: October 25, 1972.

DARREL A. DUNN,
Acting Administrator,
Farmers Home Administration.

[FR Doc.72-18496 Filed 10-30-72;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

SCHOOL FACILITIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES

Receipt of Applications; Notice of Cutoff Date, Fiscal Year 1973

Pursuant to the authority vested in me by section 3 of Public Law 81-815 (20 U.S.C. 633) and 45 CFR 114.2, notice is hereby given of the cutoff date:

For the purpose of sections 3 and 14 of Public Law 81-815, February 14, 1973, is hereby set as the first cutoff date during fiscal year 1973 on or before which complete applications for payments to which an applicant may be entitled under the Act from such funds as may be available for such purposes shall be filed.

Dated: October 24, 1972.

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

[FR Doc.72-18556 Filed 10-30-72;8:49 am]

Office of the Secretary

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 3 (Health Services and Mental Health Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (33 F.R. 15963, October 30, 1968), as amended, is hereby amended with regard to section 3-30, *delegations of authority*, as follows:

After subparagraph numbered (16) of the paragraph entitled "Specific delegations," add one new subpararaph reading:

(17) Pursuant to Public Law 92-318, Education Amendments of 1972, signed by the President on June 23, 1972, the authority to perform the functions under title VI, Investigation of Youth Camp Safety.

Dated: October 24, 1972.

STEVEN D. KOHLERT,
Deputy Assistant Secretary
for Management.

[FR Doc.72-18531 Filed 10-30-72;8:53 am]

CHILD DEVELOPMENT NATIONAL ADVISORY COMMITTEE

Notice of Meeting

There will be a meeting of the Child Development National Advisory Committee on November 1 and 2, 1972, in Conference Room No. 5051, Department of Health, Education, and Welfare, 330 Independence Avenue, Washington, DC. The meeting is scheduled for 1:30 p.m. to 5 p.m. on November 1, and from 9 a.m. to 3 p.m. on November 2. The meeting will be open to the public.

The purpose of the Child Development National Advisory Committee is to consult and advise the Secretary of the Department of Health, Education, and Welfare or his designee, the Director of the Office of Child Development, on national policy concerning children and administration of child development programs for which the Office of Child Development has operating and coordinating responsibility. This will be the first meeting of the committee and will focus on introductory presentations by the Office of Child Development and discussions of topics of current national interest in the field of child development.

Dated: October 25, 1972.

JOHN BUSA,
Executive Secretary.

[FR Doc.72-18671 Filed 10-30-72;10:36 am]

TUSKEGEE SYPHILIS STUDY AD HOC ADVISORY PANEL

Notice of Meeting

A meeting of the Tuskegee Syphilis Study Ad Hoc Advisory Panel is to be held on November 2, 1972. This panel was established by the Assistant Secretary for Health and Scientific Affairs to provide advice on the circumstances surrounding the Tuskegee, Ala., Study of Untreated Syphilis in the Male Negro initiated by the U.S. Public Health Service in 1932. The Assistant Secretary for Health and Scientific Affairs requested the panel to advise him on the following specific aspects of the Tuskegee Syphillis Study:

1. Determine whether the study was justified in 1932 and whether it should have been continued when penicillin became generally available.

2. Recommend whether the study should be continued at this point in time, and if not, how it should be terminated in a way consistent with the rights and health needs of its remaining participants.

3. Determine whether existing policies to protect the rights of patients participating in health research conducted or supported by the Department of Health, Education, and Welfare are adequate and effective and to recommend improvements in these policies, if needed.

This meeting is for the sole purpose of considering and formulating the advice which the panel will give to the Assistant Secretary for Health and Scientific Affairs on the three charges outlined above, and will involve exclusively the internal expression of views and judgments of its members. Accordingly, under the authority of the Secretary's notice of determination of September 27, 1972, this meeting is closed to the public. The meeting will begin at 9 a.m. in Conference Room 8, Building 31 at the National Institutes of Health, Bethesda, Md. A summary of the meeting and a roster of panel members may be obtained from Mr. John Blamphin (202—962-7906), Room 5614, HEW North Building, 330 Independence Avenue SW., Washington, DC 20201.

Dated: October 16, 1972.

PAUL COHART,
Acting Executive Secretary,
Tuskegee Syphilis Study Ad
Hoc Advisory Panel.

[FR Doc.72-18670 Filed 10-30-72;10:36 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA-Pet-No. 63]

MASSENA TERMINAL RAILROAD CO.

Petition for Exemption From Hours of Service Act

OCTOBER 24, 1972.

The Massena Terminal Railroad Co. has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a (e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. sections 61, 62, 63, and 64.

Interested persons are invited to participate by submitting written data, views, or comments. Communications should identify the docket number and should be submitted in triplicate to Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: Docket FRA-Pet-No. 63, 400 Seventh Street, SW., Washington, DC 20590. Communications received before November 28, 1972, will be considered by the Federal Railroad Administrator before taking final action. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5428, Nassif Building, 400 Seventh Street SW., Washington, DC.

EDWARD F. CONWAY, Jr.,
Acting Assistant Chief Counsel
for Safety Regulation.

[FR Doc.72-18486 Filed 10-30-72;8:48 am]

[FRA-Pet-No. 64]

TENNESSEE RAILROAD CO.

Petition for Exemption From Hours of Service Act

OCTOBER 26, 1972.

The Tennessee Railroad Co., has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. sections 61, 62, 63, and 64.

Interested persons are invited to participate by submitting written data, views, or comments. Communications should identify the docket number and should be submitted in triplicate to Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: Docket FRA-Pet-No. 64, 400 Seventh Street SW., Washington, DC 20590. Communications received before December 1, 1972, will be considered by the Federal Railroad Administrator before taking final action. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5428, Nassif Building, 400 Seventh Street SW., Washington, DC.

EDWARD F. CONWAY, Jr.,
Acting Assistant Chief Counsel for Safety Regulation.

[FR Doc.72-18487 Filed 10-30-72;8:48 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-321, 50-366]

GEORGIA POWER CO.

Availability of Final Environmental Statement for Edwin I. Hatch Nuclear Plant, Units 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that the "Final Environmental Statement Related to Edwin I. Hatch Nuclear Plant, Units 1 and 2, Georgia Power Co., Dockets Nos. 50-321 and 50-366," prepared by the Directorate of Licensing, U.S. Atomic Energy Commission, is being placed in the following locations where it will be available for inspection by members of the public: The Commission's Public Document Room at 1717 H Street NW., Washington, DC 20545, and at the Appling County Public Library, Parker Street, Baxley, Ga. 31513. The report is also being made available at the Bureau of State Planning and Community Affairs, Room 611, 270 Washington Street SW., Atlanta, GA 30303, and at the Altamaha Area Planning and Development Commission (APDC), Post Office Box 328, Baxley, GA 31513.

The notice of availability of the Draft Environmental Statement for the Edwin I. Hatch Nuclear Plant, Units 1 and 2 facility, and requests for comments from interested persons was published in the FEDERAL REGISTER on June 20, 1972 (37 F.R. 12173). The comments received from Federal, State, local officials and interested members of the public have been included as appendixes to the final statement.

Single copies of the final statement may be obtained by writing the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 25th day of October 1972.

For the Atomic Energy Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Directorate of Licensing.

[FR Doc.72-18431 Filed 10-30-72;8:45 am]

[Docket No. 50-382]

LOUISIANA POWER & LIGHT CO.

Availability of Environmental Reports, and AEC Draft Environmental Statement for Waterford Steam Electric Generating Station Unit No. 3

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations set forth in Appendix D to 10 CFR Part 50, notice is hereby given that documents entitled "Applicant's Environmental Report and Supplements 1 and 2 to Environmental Report" (collectively known as the "reports"), submitted by the Louisiana Power & Light Co. have been placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in St. Charles Parish Library, Hahnville, La. 70057. The reports are also available at the Commission on Intergovernmental Relations, Post Office Box 44316, Baton Rouge, LA 70804, and at the Secretary of the Teche District Clearinghouse, County Agent, Convent Courthouse, Convent, La. 70723.

Notice of availability of the applicant's revised environmental report was published in the FEDERAL REGISTER on July 26, 1972 (37 F.R. 14901).

The reports have been analyzed by the Commission's Directorate of Licensing, and a draft environmental statement, dated October 1972, related to the proposed issuance of a construction license for the Waterford Steam Electric Generating Station Unit No. 3, located on the company site on the west bank of the Mississippi River near the town of Taft in St. Charles Parish, about 20 miles west of New Orleans, La., has been prepared and is available for public inspection at the locations designated above. Copies of the Commission's Draft Environmental Statement 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 Appendix D to 10 CFR Part 50, interested persons may, within forty-five (45) days from the date of publication of this notice in the FEDERAL REGISTER, submit comments for the Commission's consideration on the report and supplements, on the draft environmental statement, and on the proposed action. Federal and State agencies are being provided with copies of the draft environmental 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 environmental statement 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 25th day of October 1972.

For the Atomic Energy Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Directorate of Licensing.

[FR Doc.72-18490 Filed 10-30-72;8:48 am]

[Docket No. 50-16]

POWER REACTOR DEVELOPMENT CO.

Postponement of Prehearing Conference

In the matter of Power Reactor Development Co. (Enrice Fermi Atomic Powerplant No. 1).

By notice dated October 18, 1972 (37 F.R. 22637), this Board set a prehearing conference in the instant proceeding for October 31, 1972.

By motion dated October 21, 1972, Power Reactor Development Co. moved to disqualify one of the members of this Atomic Safety and Licensing Board.

Pending the resolution of this matter, *It is ordered*, That the earlier noticed prehearing conference in this proceeding be, and it hereby is, postponed until further notice.

For the Atomic Safety and Licensing Board.

Issued at Washington, D.C., this 27th day of October 1972.

CHARLES A. HASKINS,
Chairman.

[FR Doc.72-18635 Filed 10-30-72;8:55 am]

[Dockets Nos. 50-272, 50-311]

PUBLIC SERVICE ELECTRIC & GAS CO.

Notice of Availability of AEC Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969, and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a document entitled "Draft Environmental Statement by the Directorate of Licensing, U.S. Atomic Energy Commission, Related to the

Salem Nuclear Generating Station Units 1 and 2, Public Service Electric & Gas Co., Dockets Nos. 50–272 and 50–311," is being placed in the following locations where it will be available for inspection by members of the public: The Commission's Public Document Room at 1717 H Street NW., Washington, DC 20545, and at the Salem Free Public Library, 112 West Broadway, Salem, NJ 08079. The report is also being made available at the Division of State and Regional Planning, Department of Community Affairs, Post Office Box 1978, Trenton, NJ 08625, and at the Wilmington Metropolitan Area Planning and Coordinating Council, 4613 Robert Kirkwood Highway, Wilmington, DE 19808. Copies of the Commission's Draft Environmental Statement may be obtained upon request from the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

The Applicant's Environmental Report, Supplemental Environmental Report, and amendments thereto are also available for public inspection at the above-named locations. The notice of availability of the Environmental Report and Supplemental Environmental Report was published in the FEDERAL REGISTER on December 28, 1971 (36 F.R. 25057).

Pursuant to Appendix D to 10 CFR Part 50, interested persons may, within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, submit comments for the Commission's consideration on the proposed actions, Applicant's Environmental Report, Supplemental Environmental Report, and amendments thereto, and the Draft Environmental Statement. Federal and State agencies are being provided with copies of these reports and the Draft Environmental Statement (local agencies may obtain these documents upon request) and, when any comments thereon by Federal, State, and local officials are received, they will be made available for public inspection at the above-designated locations. Comments on the Draft Environmental Statement 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 25th day of October 1972.

For the Atomic Energy Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Directorate of Licensing.

[FR Doc.72–18536 Filed 10–30–72;8:52 am]

[Dockets Nos. 50–390 and 50–391]

TENNESSEE VALLEY AUTHORITY

Establishment of Atomic Safety and Licensing Board

On September 27, 1972, the Commission published in the FEDERAL REGISTER (37 F.R. 20191), a notice of hearing to consider the applications filed by the Tennessee Valley Authority for construction permits for the Watts Bar Nuclear Plant, Units 1 and 2. The notice indicated that the Safety and Licensing Board for this proceeding would be designated at a later date, and that notice of its membership would be published in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, the regulations of Title 10, Code of Federal Regulations, Part 2 (rules of practice) and the notice of hearing referred to above, notice is hereby given that the Safety and Licensing Board in this proceeding will consist of Mr. Lester Kornblith, Jr., Dr. Gerard A. Rohlich, and Elizabeth S. Bowers, Esq., Chairman. Dr. Frederick P. Cowan has been designated as a technically qualified alternate and Thomas W. Reilly, Esq., has been designated as an alternate qualified in the conduct of administrative proceedings.

The positions and mailing addresses of the Board members are as follows:

1. Elizabeth S. Bowers, Esq., Chairman, an attorney member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.

2. Mr. Lester Kornblith, Jr., a technical member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.

3. Dr. Gerald A. Rohlich, Professor of Environmental Engineering, Department of Civil Engineering, University of Texas, Austin, Tex. 78712.

4. Thomas W. Reilly, Esq., Alternate Chairman, an attorney member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.

5. Dr. Frederick P. Cowan, technical alternate, retired, formerly head of the Health Physics Division, Brookhaven National Laboratory, present mailing address—22 Livingston Road, Bellport, NY 11713.

As provided in the notice of hearing, the date and place of a prehearing conference and of a hearing will be scheduled by the Board and will be published in the FEDERAL REGISTER.

Dated at Washington, D.C., this 27th day of October 1972.

JAMES R. YORE,
Executive Secretary, Atomic Safety and Licensing Board Panel.

[FR Doc.72–18636 Filed 10–30–72;8:55 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23140]

DOMESTIC TRUNKLINE AND LOCAL SERVICE CARRIERS

Notice of Oral Argument Regarding Reasonableness of Fares

Reasonableness of passenger fares charged by domestic trunkline and local service carriers from October 1, 1969, through October 14, 1970.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be held before the Board on November 15, 1972, at 10 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

Dated at Washington, D.C., October 25, 1972.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.72–18548 Filed 10–30–72;8:48 am]

[Docket No. 21950; Order 72–10–85]

UNITED AIR LINES, INC.

Order Authorizing Air Carrier Discussions Concerning Chicago Midway Airport

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 26th day of October 1972.

By petition filed September 22, 1972, United Air Lines, Inc. (United) seeks the issuance of a Board order authorizing the reopening of discussions previously held regarding expansion of service to Chicago Midway Airport among air carriers presently serving Midway and Chicago-O'Hare International Airport. Answers in support of this petition have been received from American Airlines, Inc. (American), Frontier Airlines, Inc. (Frontier), Eastern Air Lines, Inc. (Eastern), and Southern Airways, Inc. (Southern).

Discussions on this topic were begun 2 years ago pursuant to Order 70–4–40, April 8, 1970. That order authorized discussions on Midway service expansion, but limited active participation in them to those carriers then serving Chicago through O'Hare (although carriers serving Midway but not O'Hare were permitted to be observers at the discussions), and limited the discussions to flights then serving O'Hare which were to be transferred to Midway. The Board stated then that the transfer of a significant number of flights from O'Hare to Midway appeared to be in the public interest, in that it would increase the convenience of a significant portion of the air traveling public in Chicago, and it might also alleviate the overcrowding at O'Hare. Since it seemed that these goals would not be accomplished absent concerted carrier action, discussions towards establishment of a minimum level of service at Midway were permitted, with normal competitive factors expected to impel further increases beyond this minimum level. These earlier talks resulted in an agreement whereby the O'Hare carriers shifted enough of their flights to Midway to bring the number of daily departures there from 38 to 83 in September 1970.[1]

United notes, however, that the Board, while approving this agreement, did not view this level of service as a satisfactory resolution of the problem, and consequently twice extended the authority for discussions.[2] However, no further agreement was filed with the Board.

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[1] Agreement CAB 21839.

[2] Order 70–7–123, July 7, 1970; Order 70–10–94, October 20, 1970.

United now states that as a minimum level of connecting flight schedules was not achieved, and because of adverse economic conditions in the industry during the interval, the level of service at Midway today is lower than that agreed upon 2 years ago. It contends that a reopening of intercarrier discussions is needed if Midway is to become economically viable. The city of Chicago needs adequate air travel facilities, and with O'Hare congested and plans for a third airport in Chicago dormant, Midway's potential should be developed. Carrier representatives and the mayor of Chicago agreed on this goal at meetings this summer, and supported the premise that it would not be achieved through unilateral carrier action, and that reopening of discussions among the carriers serving Chicago might be productive and yield an increase in flights serving Midway. Most carriers recognize that a new Chicago airport is years away and are willing to consider expanded service at Midway. Also, economic conditions now are more favorable than when the previous discussions were held.

For these reasons, United petitions the Board for authority to reopen discussions regarding an industry approach to service expansion at Midway.

In addition to the authority granted in Order 70-4-40, United asks that all Chicago carriers, including those serving only through Midway, be allowed to participate, and that all carriers serving Midway be allowed to disclose detailed traffic information regarding Midway so that carriers can make valid judgments regarding connecting schedule construction to meet the public convenience and the economic needs of the carriers. The petition asks that this expanded authority include discussions that can produce a workable interconnecting flight system for Midway, and not be confined to the transfer of present O'Hare flights.

American emphasizes that if service to Midway is to be extended, it is necessary for the carriers to exchange traffic information and to plan sensible service patterns.

Frontier believes that all carriers should be allowed to serve both of Chicago's airports because three small carriers now bear a disproportionate share of the schedules necessary to revitalize Midway. Since lack of adequate schedules at Midway is the principal reason for Frontier's suspension of one of its operations, and since the three carriers serving Chicago only through Midway have the greatest stake in seeing that airport achieve a competitive status by increased schedules and consequent passenger acceptance, Frontier feels that it, Southern, and Piedmont Aviation, Inc. should be active participants in Midway service expansion discussions.

Eastern states that Chicago's problems dictate joint carrier solution, with maximum freedom to discuss all relevant matters. Specifically, it requests that the carriers be permitted to disclose traffic data at both Midway and O'Hare, including connecting passenger information, and to discuss other services at Midway besides the transfer of flights from O'Hare, since such services may be able to contribute to the attainment of the overall goal.

Southern favors an increase in other carriers' flights to Midway as this will improve service to the public by increasing interline connecting possibilities with Southern's Midway flights.

We shall grant the petition.

The situation which occasioned our previous decision to allow discussions concerning Midway would appear still to obtain. O'Hare faces overcrowding while Midway is woefully underutilized. The number of daily departures from Midway so far this year is smaller than last year, and has declined in recent months to a lower level—56—than any time since the previous discussions were held. At the same time, the level of daily departures from O'Hare this year exceeds last year's, and has shown no decline corresponding with that at Midway. It would thus appear that if the level of service at Midway is left to individual carrier action there may not be any increase in the level of Midway service, a situation which is unacceptable.

In our view, the goal of increased Midway service is dependent upon a larger number and more systematic pattern of connecting flights available there, and in the absence of such a pattern we conclude that joint carrier action is necessary to produce one. Once established, we would expect normal competitive factors to impel voluntary additions of service beyond the minimum level established through the discussions approved herein.

Because the problem of desultory service at Midway persists, and indeed may have grown more acute, we shall allow the discussions to take on greater depth than previously. Thus, while in Order 70-4-40 we limited the subject matter to the transfer of flights from O'Hare to Midway, the inadequacy of the resulting pattern at Midway speaks for a more effective approach. Essentially, the goal is not necessarily to trade an increase in Midway service for a corresponding decrease in O'Hare service. The primary goal is to have a self-sustaining comprehensive pattern of service through Midway which of its own force may relieve the pressure on O'Hare. In short, while we anticipate that in plotting out a workable pattern for Midway the carriers may find it economically feasible to shift O'Hare flights to Midway, we shall not limit their consideration of Midway's needs to just such transfers. Rather, we will allow the discussions to contemplate a "cleanslate" construction of a Midway pattern, for which the carriers are permitted to disclose traffic data regarding operations at both Midway and O'Hare including connecting passenger information. This will assist in the fashioning of a comprehensive service pattern at Midway, and in so doing, will assist in determining to what extent traffic involving O'Hare can be directed to Midway. Correspondingly, participation in the discussions will be open to every certificated scheduled air carrier authorized by certificate or exemption to serve Chicago.

On the other hand, since scheduling practices are an important competitive factor in the air-carrier industry, and since the extraordinary need which justifies depature from the normal requirement of individual carrier action is only to establish a minimum level of service at Midway, we will not authorize discussions of, nor would we approve, any agreement or understanding which would preclude or limit service at Midway, or any other airport at Chicago or elsewhere.

Accordingly, it is ordered, That:

1. The petition of United Air Lines, Inc. for authority to reopen discussions in Docket 21950 is granted, subject to the following conditions:

(a) Participation in the discussions shall be open to all scheduled air carriers authorized to serve Chicago;

(b) Grant of the petition shall not be construed as authorizing discussions of rates, fares, charges, or of inflight and other services offered in connection with air transportation: *Provided,* That the discussions may extend to matters specifically authorized in the body of this order, supra;

(c) Grant of the petition shall not be construed as authorizing discussion of any limitation upon services which may be offered at Midway or any other airport at Chicago or elsewhere;

(d) The Civil Aeronautics Board, the mayor of the city of Chicago, representatives of the Department of Aviation of the city of Chicago and the Chicago Association of Commerce and Industry, and representatives of any other Government agency or person expressing an interest, shall be invited to attend the discussions as observers;[4]

(e) Discussions shall be held in Washington, D.C., or Chicago, Ill., and a notice of each meeting shall be served on all parties eligible to participate therein, and on those persons named in (d) above, at least 7 calendar days prior to such meeting;

(f) The air carriers participating in the discussions shall file with the Board a transcript thereof within 14 days after the close of each meeting; copies of such transcript shall be made available promptly for purchase by the parties to the discussions and those persons named in (d) above;

(g) Any agreement reached as a result of the discussions authorized herein shall be filed with the Board for approval under section 412 of the Federal Aviation Act, and a copy thereof shall be served on the parties to the discussions and on those persons named in (d) above;

(h) The relief granted herein shall expire 180 days after the date of this order;

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[4] It is contemplated that John W. Dregge shall be the Board's representative to the discussions as an observer.

2. Copies of this order shall be served on all air carriers authorized to serve the city of Chicago, the mayor of the city of Chicago, the Department of Aviation of the city of Chicago, the United States Departments of Transportation and Justice, the Federal Aviation Administration, the U.S. Postal Service, and the Bureau of Customs;

3. The authority granted herein may be revoked or modified at any time by the Board, without notice or hearing; and

4. To the extent not granted herein, all outstanding requests for relief in this Docket be and they hereby are dismissed.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.72-18549 Filed 10-30-72;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19515, etc.; FCC 72-916]

CALIFORNIA STEREO, INC., ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of California Stereo, Inc., Sacramento, Calif., Docket No. 19515, File No. BPH-7668, requests Channel 293, 50 kW(H and V), 420 feet; Intercast, Inc., Sacramento, Calif., Docket No. 19516, File No. BPH-7669, requests Channel 293, 50 kW. (H & V), 420 feet; Edward Royce Stolz, II, trading as Royce International Broadcasting, Sacramento, Calif., Docket No. 19611, File No. BPH-7924, requests Channel 293, 50 kW. (H & V), 120 feet; for construction permits.

1. Now under consideration are the captioned applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference.

2. By order adopted May 31, 1972, the Chief, Broadcast Bureau, acting pursuant to delegated authority, designated for comparative hearing the applications of California Stereo, Inc., and Intercast, Inc. Both applicants were found qualified to construct and operate as proposed, and only a standard comparative issue was specified. The application of Mr. Stolz was tendered for filing on May 30, 1972, the day preceding the date on which the prior applications were designated for hearing.

3. The aforementioned order stated that Intercast, Inc., proposes a "black-oriented programing format" for its service area. Both California Stereo, Inc., and Mr. Stolz are proposing predominantly general market programing. Inasmuch as a comparison of programing proposals is warranted when one applicant proposes predominantly specialized programing and other applicants propose general market programing, this aspect of the applicants' programing proposals will be considered under the standard comparative issue. "Ward L. Jones," 6 FCC 2d 906; FCC 67-82 (1967); "Policy Statement on Comparative Broadcast Hearings," FCC 2d 393, footnote 9, at 397 (1965).

4. Intercast, Inc., and California Stereo, Inc., are proposing to operate with the same facilities (50 kw. (H & V); 420 feet) and from the same transmitter site. Mr. Stolz proposes to operate from a different transmitter site and with his antenna at a lesser height above average terrain (50 kw. (H & V); 120 feet). Data submitted by the applicants indicate that there would be a significant disparity between the Stolz proposal and that of the other applicants in the size of the areas and populations which would receive service. Mr. Stolz indicates that he proposes to serve a considerably smaller area than the other applicants, but that the population contained therein is greater. Thus, for the purpose of comparison, the areas and populations which would receive FM service of 1 mv/m or greater intensity, together with the availability of other primary aural services in such areas will be considered under the standard comparative issue.

5. In our Primer on the ascertainment of community problems by broadcast applicants, 27 FCC 2d 650, 21 RR 2d 1507 (1971), we indicated that applicants are required to determine the composition of the city of license so as to apprise the Commission and the applicant of the significant groups found there. See Questions and Answers 4 and 9 of the Primer. In order to determine whether the applicant has met this requirement, a showing must be submitted that contains "* * * such data as is necessary to indicate the minority, racial or ethnic breakdown of the community, its economic activities, governmental activities, public service organizations, and any other factors or activities that make the particular community distinctive." (Answer 9.) Mr. Stolz has not submitted such a showing. In addition, it is not clear whether Mr. Stolz or proposed management-level employees consulted with community leaders (Question and Answer 11(a)), whether direct, personal consultations were held in all instances (Question and Answer 17) and whether the consultations were designed to elicit comments on community problems, rather than programing needs (Question and Answer 19). In addition, the positions of individuals consulted who are associated with certain organizations and groups are not shown (Question and Answer 20). It further appears that only 15 members of the general public were contacted, and it cannot be determined from the information provided whether a random sample was selected (Answer 11(b); Question and Answer 13(b); Question and Answer 14). Finally, an applicant is expected to indicate what broadcast matter is being proposed to meet community problems. The showing should include "* * * the description, and anticipated time segment, duration and frequency of broadcast of the program or program series, and the community problem or problems which are to be treated by it." Answer 29 of the Primer. Mr. Stolz has not submitted sufficient information to meet this requirement. Accordingly, a programing issue will be specified.

6. California Stereo, Inc., and Intercast, Inc., are qualified to construct, own, and operate the proposed new FM facility and, except as indicated by the issue set forth below, Mr. Stolz is qualified to construct, own, and operate the proposed new FM facility. The applications are, however, mutually exclusive and the Commission is thus unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity. Accordingly, they must be designated for hearing in a consolidated proceeding on the issues set forth below.

7. *It is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the captioned applications are designated for hearing in a consolidated proceeding in Docket Nos. 19515 and 19516, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine with respect to the application of Edward Royce Stolz, II, trading as Royce International Broadcasting, the efforts made by the applicant to ascertain the community problems of the area to be served and the means by which the applicant proposes to meet those problems.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications for a construction permit should be granted.

8. *It is further ordered,* That, the specification of issues herein shall supersede the specification of issues in the order by the Chief, Broadcast Bureau, adopted May 31, 1972, in this proceeding.

9. *It is further ordered,* That, Edward Royce Stolz, II, trading as Royce International Broadcasting shall file a written appearance stating an intention to appear and present evidence on the specified issues, within the time and in the manner required by § 1.221(c) of the rules.

10. *It is further ordered,* That, Edward Royce Stolz, II, trading as Royce International Broadcasting shall give notice of the hearing within the time and in the manner specified in § 1.594 of the rules, and shall seasonably file the statement required by § 1.594(g).

Adopted: October 12, 1972.

Released: October 19, 1972.

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

[FR Doc.72-18534 Filed 10-30-72;8:52 am]

[Report No. 619]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

OCTOBER 24, 1972.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

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

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[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

APPENDIX

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

2542-C2-P-73—Colgan Communications, Inc. (KLF585), for additional facilities to operate on 152.150 MHz at a new site described as location No. 2: Copicut Hill, Fall River, Mass.

2543-C2-P-73—Bruce Graham (KLB689), for additional facilities to operate on 152.180 MHz at a new site described as location No. 2: 6 miles south of Canadian, Tex.

2544-C2-P-73—Owen W. Hand (New), for a new two-way station to be located at Avalon Boulevard, Swainton, NJ, to operate on 152.180 MHz.

2545-C2-P-73—Mobilfone (KRS660), for additional facilities to operate on 158.700 MHz at a new site described as location No. 2: 901 North Elgin, Tulsa, OK.

2546-C2-P-(4)-73—New Orleans Mobilfone (KLB759), for additional facilities to operate on 152.030, 152.090, 152.150, and 152.210 MHz at location No. 2: 109 West Cazezu Land, Bureas, LA.

2548-C2-P-73—LaVergne's Telephone Answering Service (KFL865), for additional facilities to operate on 152.210 MHz at 4.5 miles northeast of Alexandria, La.

2549-C2-P-73—Electrocom Corp. (KCB891), for additional facilities to operate on 35.58 MHz at a new site described as location No. 2: Asnebumskit Hill, Paxton, Mass.

2605-C2-TC-73—Clifton Telephone Co., Inc. Consent to transfer of control from J. W. Blewett, Jr., Transferor, to: Mid-Texas Communications Systems, Inc., Transferee. Station: KLB579 Clifton, Tex.

2606-C2-P-73—Pacific Telephone & Telegraph Co. (KMB302), replace transmitter operating on 152.630 MHz on 763 State Street, El Centro, Calif.

2607-C2-P-73—Peninsula Radio Secretarial Service, Inc. (KMA608), for additional facilities to operate on 454.225 MHz at location No. 2: Near the intersection of Lincoln and Newlands Avenue, San Mateo, Calif.

2608-C2-P-(3)-73—Worland Services (KOP254), relocate control facilities operating on 158.550 MHz at location No. 3 to: 112 North Eighth Street, Thermopolis, Wyo.; replace transmitter operating on 459.050 MHz (repeater) at location No. 4: 20 miles north-northeast of Greybull, Medicine Mountain, Wyo., and replace the control transmitter operating on 454.050 MHz at location No. 5: Billings Municipal Airport Hanger 13 and 14, Billings, Mont.

2615-C2-P-73—Illinois Bell Telephone Co. (KSJ772), correct the geographic coordinates to read: Latitude 40°46'03'' N., longitude 87°48'22'' W., at 3 miles west of Watseka, Ill. Base frequency: 152.630 MHz.

2616-C2-P-73—Cahill Answering Services, Inc. (KQK731), replace the transmitter operating on 152.180 MHz at 203 South Capitol Avenue, Lansing, MI.

2617-C2-P-73—Imperial Communications Corp. (KLF644), change the antenna system operating on 152.240 MHz at Mount Woodson, Calif., location No. 3.

2619-C2-P-73—Telepage Corp. (New), for a new two-way station to be located at 980 Wilmington Pike, Dayton, OH to operate on 454.300 MHz.

2628-C2-AP-73—Telephone Answering Service of Hyannis, consent to assignment of construction permit from Gene and Eleanor Brown, doing business as Telephone Answering Service of Hyannis, individually as a partner in the permittee and as Executrix of the Estate of Eugene Brown, Assignor, to Colgan Communications, Inc. Station: KRS669 Yarmouth, Mass.

2643-C2-P-(2)-73—Maureen L. Smith (New), for a new two-way station to be located at 606 West Wisconsin Avenue, Milwaukee, WI, to operate on 454.150 and 454.350 MHz.

2644-C2-P-73—Radio Telephone of Mississippi, Inc. (New), for a new two-way station to be located at 740 East Edwards Avenue, Tunica, MS, to operate on 152.060 MHz.

2662-C2-TC-(18)-73—Airsignal International, Inc., consent to transfer of control from Western Union International, Inc., Transferor, to: WUI, Inc., Transferee. Stations: KIE953, KIF650, KRS687, KFL895, KIF651, KKG411, KKG561, KKE964, KAF245, KIF653, KAH661, KAA285, KSV991, KOA796, KIJ358, KIQ511, and KGC591 located in various States.

2663-C2-TC-(6)-73—Airsignal of California, Inc., same as above except, Stations: KMA267, KLF648, KMA219, KMA742, KMA261, and KQZ798 located in California.

2664-C2-TC-73—Airsignal International of Pittsburgh, Pa., same except, Station: KGA805 Pittsburgh, Pa.

2665-C2-TC-(2)-73—Mobile Radio Telephone Service, Inc., same except, Stations: KAA276 and KAQ606, Denver, Colo.

2666-C2-TC-(7)-73—National Communications System, Inc., same except, Stations: KMM703, KMM706, KMM704, KRM981, KMM705, KRM982, and KJU808 all located in California.

RURAL RADIO SERVICE

1509-C1-P-73—RCA Alaska Communications, Inc. (New), for a new central office fixed station to be located at White Alice Station, 340 miles west-southwest of Kodiak, Port Moller WACS, Alaska, to operate on 152.570 MHz.

1510-C1-P-73—Same as above except for a rural subscriber station to be located at Nelson Lagoon Village, 355 miles west-southwest of Kodiak, Alaska, to operate on 157.83 MHz.

2645-C1-P/L-73—Uintah Basin Telephone Assoc. (New), for temp-fixed facilities to operate on 158.070 and 157.920 MHz with (20) units in any temp-fixed location within the territory of the grantee.

2646-C1-P-73—RCA Alaska Communications, Inc. (New), for a new rural subscriber station to be located at English Bay Village, 23 miles south-southwest of Homer, Alaska, to operate on 157.83 and 157.92 MHz.

2649-C1-P-73—Same (WGF41), change frequency to 157.77 MHz, replace transmitter for same and change the antenna system at Point Hope, Alaska.

2650-C1-P-73—Same (WGF72), same as above except change frequency to 152.51 MHz at Cape Lisbourne, Alaska.

RURAL RADIO SERVICE—continued

2662–C1–TC–73—Airsignal International, Inc., consent to transfer of control from Western Union International, Inc., transferor, to: WUI, Inc., transferee. Station: KJA96 temp-fixed.

POINT-TO-POINT MICROWAVE RADIO SERVICE

2550–C1–P–73—American Telephone & Telegraph Co. (KSB74), 2 miles north-northwest of Highland, Ill. Latitude 38°45'45" N., longitude 89°41'30" W. C.P. to add frequencies 6226.9H, 6286.2H, and 6404.8H MHz toward Collinsville, Ill.

2551–C1–P–73—Same (New), 203 Goethe Avenue, Collinsville, Ill. Latitude 38°40'11" N., longitude 89°59'27" W. C.P. for a new station on frequencies 5974.8H, 6034.2H, and 6152.8H MHz toward Highland, Ill.

2552–C1–MP–73—The Pacific Telephone & Telegraph Co. (KMQ36), 1587 Franklin Street, Oakland, CA. Latitude 37°48'22" N., longitude 122°16'05" W. Modification of C.P. to change type of transmitter and associated emission designator on frequency 6226.9H MHz toward San Francisco, Calif.

2553–C1–MP–73—Same (KNB53), 99 Moultrie Street, San Francisco, CA. Latitude 37°44'36" N., longitude 122°24'51" W. Modification of C.P. to change type of transmitter and associated emission designator on frequency 5974.8V MHz toward Oakland, Calif.

2554–C1–P–73—American Telephone & Telegraph Co. (KRR69), 70 South State Street, Salt Lake City, UT. Latitude 40°46'03" N., longitude 111°53'16" W. C.P. to add frequency 11505H MHz toward Salt Lake City Junction, Utah.

2555–C1–P–73—Same (KOB26), 3100 Kennedy Drive, Salt Lake City Junction, UT. Latitude 40°45'00" N., longitude 111°48'03" W. C.P. to add frequency 11095H MHz toward Salt Lake City, Utah.

2556–C1–P–73—Same (KAC61), 8 miles west of Bellvue, Colo. Latitude 40°37'04" N., longitude 105°19'42" W. C.P. to add frequency 3850H MHz toward Greeley, Colo.

2557–C1–P–73—Same (KAM69), 9 miles southeast of Greeley, Colo. Latitude 40°18'21" N., longitude 104°35'52" W. C.P. to add frequency 3810H MHz toward Buckhorn Mountain, Colo.; frequency 3810V MHz toward Prospect Valley, Colo.

2558–C1–P–73—Same (KAB26), 6.5 miles east of Prospect Valley, Colo. Latitude 40°04'31" N., longitude 104°17'23" W. C.P. to add frequency 3850V MHz toward Greeley, Colo.

2559–C1–P–73—The Mountain States Telephone & Telegraph Co. (KKK22), 3 miles north-northwest of Santa Fe, Tano, N. Mex. Latitude 35°43'20' N., longitude 105°57'36" W. C.P. to increase capacity on frequencies 6108.3H and 11325H MHz toward La Cienega, N. Mex.

2560–C1–P–73—Same (KKA72), 3.5 miles south-southwest of La Cienega, N. Mex. Latitude 35°30'51" N., longitude 106°08'30" W. C.P. to increase capacity on frequencies 6360.3V and 11155V MHz toward Bernalillo, N. Mex.; frequencies 6390.0H and 10875H MHz toward Tano, N. Mex.

2561–C1–P–73—Same (KKA65), 5.3 miles north-northwest of Bernalillo, N. Mex. Latitude 35°22'22" N., longitude 106°34'15" W. C.P. to increase capacity on frequencies 6108.3H and 11325V MHz toward Albuquerque, N. Mex.; frequencies 6137.9V and 11605V MHz toward La Cienega, N. Mex.

2562–C1–P–73—The Mountain States Telephone & Telegraph Co. (KLC49), 120 Fourth Street NW., Albuquerque, N. Mex. Latitude 35°05'06" N., longitude 106°39'03" W. C.P. to increase capacity on frequencies 6390.0H and 10875V MHz toward Bernalillo, N. Mex.

2563–C1–P–73—American Telephone & Telegraph Co. (KZA49), 2.75 miles west of Attica, N.Y. Latitude 42°51'42" N., longitude 78°20'19" W. C.P. to add frequencies 3710H and 3790H MHz toward Middleport, N.Y.

2564–C1–P–73—Same (New), 1.6 miles southwest of Middleport, N.Y. Latitude 43°11'37" N., longitude 78°30'03" W. C.P. for a new station on frequencies 4070H and 4150H MHz toward Attica, N.Y.; frequencies 3750H and 3830H MHz toward Olcott, N.Y.

2565–C1–P–73—Same (New), 1.9 miles southwest of Olcott, N.Y. Latitude 43°19'45" N., longitude 78°40'45" W. C.P. for a new station on frequencies 4030H and 4110H MHz toward Middleport, N.Y.; frequencies 3710H and 3790H MHz toward Toronto, Ontario, Canada.

2566–C1–P–73—Same (KAK78), 3 miles southeast of Zimmerman, Minn. Latitude 45°24'59" N., longitude 93°32'42" W. C.P. to add frequency 3770V MHz toward Cambridge, Minn.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

2567–C1–P–73—Same (WJL30), 0.5 mile southeast of Cambridge, Minn. Latitude 45°33'31" N., longitude 93°12'34" W. C.P. to add frequency 3730V MHz toward Zimmerman, Minn.; frequency 3730V MHz toward Wyoming, Minn.

2568–C1–P–73—Same (KAK48), 2 miles northeast of Wyoming, Minn. Latitude 45°21'54" N., longitude 92°59'26" W. C.P. to add frequency 3770V MHz toward Cambridge, Minn.; frequency 3930H MHz toward Hudson, Wis.

2569–C1–P–73—Same (KSI28), 5.5 miles southeast of Hudson, Wis. Latitude 44°56'29" N., longitude 92°39'33" W. C.P. to add frequency 3890H MHz toward Wyoming, Minn.; frequency 3910H MHz toward Red Wing, Minn.

2570–C1–P–73—Same (KAH87), 3.5 miles south of Red Wing, Minn. Latitude 44°30'46" N., longitude 92°31'11" W. C.P. to add frequency 3870H MHz toward Hudson, Wis.

2571–C1–P–73—Same (KLN72), 7 miles northeast of Forrest City, Ark. Latitude 35°05'34" N., longitude 90°43'06" W. C.P. to add frequencies 3770H, 4030V, and 4110V MHz toward Brickeys, Ark.

2572–C1–P–73—Same (WAY57), 5.2 miles southeast of Brickeys, Ark. Latitude 34°47'32" N., longitude 90°32'54" W. C.P. to add frequencies 3990V, 4070V, and 4150V MHz toward Forrest City, Ark.; frequencies 3730V, 4070H, and 4150H MHz toward Arkabutla, Miss.

2573–C1–P–73—Same (KTG40), 1 mile southwest of Arkabutla, Miss. Latitude 34°41'08" N., longitude 90°08'18" W. C.P. to add frequencies 3950H, 4030H, and 4110H MHz toward Brickeys, Ark.

2574–C1–P–73—American Telephone & Telegraph Co. (WAD59), 819 Southwest Oak Street, Portland, OR. Latitude 45°31'22" N., longitude 122°40'42" W. C.P. to add frequency 3770H MHz toward Boring, Oreg.

2575–C1–P–73—Same (WAD58), 1.6 miles north-northwest of Boring, Oreg. Latitude 45°-27'01" N., longitude 122°23'39" W. C.P. to add frequency 3730H MHz toward Portland, Oreg.; frequency 3730H MHz toward Mt. Hood, Oreg.

2576–C1–P–73—Same (WAD57), 3 miles northeast of Government Camp, Oreg. Latitude 45°19'59" N., longitude 121°42'44" W. C.P. to add frequency 3770H MHz toward Boring, Oreg.; frequency 3770H MHz toward Pine Grove, Oreg.

2577–C1–P–73—Same (WAD56), 7 miles west-southwest of Wapinitia, Oreg. Latitude 45°-05'14" N., longitude 121°23'57" W. C.P. to add frequency 3730H MHz toward Mt. Hood, Oreg.; frequency 3730H MHz toward Maupin, Oreg.

2578–C1–P–73—Same (WAD54), 9.7 miles south-southeast of Maupin, Oreg. Latitude 45°-02'54" N., longitude 121°00'22" W. C.P. to add frequency 3770H MHz toward Pine Grove, Oreg.

2579–C1–P–73—Same (KPE97), 619 Bannock Street, Boise, ID. Latitude 43°36'57" N., longitude 116°11'59" W. C.P. to add frequency 3710H MHz toward Boise Junction, Idaho.

2580–C1–P–73—Same (KPE98), 9 miles southeast of Boise, Idaho. Latitude 43°29'20" N., longitude 116°01'36" W. C.P. to add frequency 3750H MHz toward Boise, Idaho.

2581–C1–P–73—Same (KOV44), 6.5 miles southeast of Billings, Mont. Latitude 45°43'44" N., longitude 108°23'43" W. C.P. to add frequency 3790H MHz toward Pompey's Pillar, Mont.

2582–C1–P–73—Same (KOY60), 3 miles north of Pompey's Pillar, Mont. Latitude 46°01'57" N., longitude 107°58'20" W. C.P. to add frequency 3830H MHz toward Billings Junction, Mont.; frequency 3830H MHz toward Bighorn, Mont.

2583–C1–P–73—Same (KOY59), 6 miles northeast of Bighorn, Mont. Latitude 46°11'58" N., longitude 107°20'05" W. C.P. to add frequency 3790H MHz toward Pompey's Pillar, Mont.; frequency 3790H MHz toward Forsyth, Mont.

2584–C1–P–73—Same (KOY58), 5.5 miles north of Forsyth, Mont. Latitude 46°20'24" N., longitude 106°41'50" W. C.P. to add frequency 3830H MHz toward Bighorn, Mont.; frequency 3830H MHz toward Hathaway, Mont.

2585–C1–P–73—Same (KOY57), 2 miles east-northeast of Hathaway, Mont. Latitude 46°16'54" N., longitude 106°08'36" W. C.P. to add frequency 3790H MHz toward Forsyth, Mont.; frequency 3790H MHz toward Miles City, Mont.

2586–C1–P–73—Same (KOY56), 10 miles northeast of Miles City, Mont. Latitude 46°29'26" N., longitude 105°39'47" W. C.P. to add frequency 3830H MHz toward Hathaway, Mont.; frequency 3830H MHz toward Fallon, Mont.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

2587–C1–P–73—American Telephone & Telegraph Co. (KOY55), 7.5 miles north-northwest of Fallon, Mont. Latitude 46°55'48" N., longitude 105°09'56" W. C.P. to add frequency 3790H MHz toward Miles City, Mont.; frequency 3790H MHz toward Glendive Junction, Mont.

2588–C1–P–73—Same (KOY54), 11 miles east of Glendive, Mont. Latitude 47°07'05" N., longitude 104°28'35" W. C.P. to add frequency 3830H MHz toward Fallon, Mont.; frequency 3830H MHz toward Sentinel Butte, N. Dak.

2589–C1–P–73—Same (KAR57), 3.5 miles south of Sentinel Butte, N. Dak. Latitude 46°52'11" N., longitude 103°49'25" W. C.P. to add frequency 3790H MHz toward Glendive Junction, Mont.; frequency 3790V MHz toward Fryburg, N. Dak.

2590–C1–P–73—Same (KAR56), 1.5 miles northwest of Fryburg, N. Dak. Latitude 46°53'19" N., longitude 103°19'37" W. C.P. to add frequency 3830V MHz toward Sentinel Butte, N. Dak.; frequency 3830V MHz toward Dickinson, N. Dak.

2591–C1–P–73—Same (KAR55), 6 miles east of Dickinson, N. Dak. Latitude 46°53'22" N., longitude 102°39'56" W. C.P. to add frequency 3790V MHz toward Fryburg, N. Dak.

2592–C1–P–73—Same (KSQ43), 2.7 miles west-southwest of Casselton, N. Dak. Latitude 46°52'42" N., longitude 97°15'26" W. C.P. to add frequency 3830V MHz toward Walcott, N. Dak.

2593–C1–P–73—Same (KSQ42), 3.7 miles north of Walcott, N. Dak. Latitude 46°36'06" N., longitude 96°55'42" W. C.P. to add frequency 3710V MHz toward Casselton, N. Dak.; frequency 3790V MHz toward Rollag, Minn.

2594–C1–P–73—Same (KAK49), 3 miles southeast of Rollag, Minn. Latitude 46°42'03" N., longitude 96°13'10" W. C.P. to add frequency 3750V MHz toward Walcott, N. Dak.; frequency 3830H MHz toward Luce, Minn.

2595–C1–P–73—Same (KAK73), 1.5 miles southwest of Luce, Minn. Latitude 46°38'32" N., longitude 95°40'20" W. C.P. to add frequency 3710H MHz toward Rollag, Minn.; frequency 3790H MHz toward Sebeka, Minn.

2596–C1–P–73—Same (KAK74), 4 miles south-southwest of Sebeka, Minn. Latitude 46°34'10" N., longitude 95°07'05" W. C.P. to add frequency 3750H MHz toward Luce, Minn.; frequency 3830H MHz toward Motley, Minn.

2597–C1–P–73—Same (KAK75), 1 mile south of Lincoln, Minn. Latitude 46°11'37" N., longitude 94°38'53" W. C.P. to add frequency 3710H MHz toward Sebeka, Minn.; frequency 3790H MHz toward Little Falls, Minn.

2598–C1–P–73—Same (KAK76), 2.5 miles southwest of Little Falls, Minn. Latitude 45°56'38" N., longitude 94°24'03" W. C.P. to add frequency 3750H MHz toward Motley, Minn.; frequency 3830H MHz toward Gilman, Minn.

2599–C1–P–73—American Telephone & Telegraph Co. (KAK77), 3 miles northeast of Gilman, Minn. Latitude 45°46'48" N., longitude 93°56'12" W. C.P. to add frequency 3710H MHz toward Little Falls, Minn.; frequency 3790H MHz toward Zimmerman, Mont.

2600–C1–P–73—Same (KAK78), 3 miles southeast of Zimmerman, Minn. Latitude 45°24'59" N., longitude 93°32'42" W. C.P. to add frequency 3750H MHz toward Gilman, Minn.

2601–C1–P–73—Pacific Northwest Bell Telephone Co. (KYS68), Saddle Mountain, 9.5 miles northwest of Cherry Grove, Oreg. Latitude 45°32'43" N., longitude 123°22'49" W. C.P. to add frequency 4198V MHz toward Amity, Oreg.

2602–C1–P–73—Same (KYS70), 4.5 miles northeast of Amity, Oreg. Latitude 45°08'37" N., longitude 123°07'44" W. C.P. to add frequency 4190V MHz toward Saddle Mountain, Oreg.

2603–C1–P–73—Continental Telephone Co. of California (KNZ59), 14 miles north-northeast of Barstow, Calif. Latitude to replace transmitter on frequency 6330.7H MHz toward Barstow, Calif., from MW–108C to MW–108D.

2604–C1–P/ML–73—Michigan Bell Telephone Co. (KKU73), C.P. and modification of license to add transmitters 2110–2130, 2160–2180, 3700–4200, 5925–6425, and 10700–11700.

1926–C1–R–73—Michigan Bell Telephone Co. (KKU73), application for renewal of license for term: from November 13, 1972, to November 13, 1973.

2618–C1–ML–73—Indiana Bell Telephone Co. (KSV86), 1,100 feet west of South 23d and Raible Streets, Anderson, Ind. Modification of license to change polarization from V to H on frequency 11,285H MHz toward Muncie, Ind.

2624–C1–P–73—MCI-New York West, Inc. (New), 2 miles south-southwest of Hershey, Pa. Latitude 40°15'05" N., longitude 76°39'45" W. C.P. for a new station on frequency 5974.8H MHz toward Hellam, Pa.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

2637–C1–P–73—Southern Bell Telephone & Telegraph Co. (KJG68), 75 Northeast Civic Court, Homestead, FL. Latitude 25°28'22" N., longitude 80°28'30" W. C.P. to change antenna system, replace transmitter and correct longitude and azimuth on frequency 6390.0V MHz toward North Key Largo, Fla.

2638–C1–P–73—Same (KVH52), on North Key Largo, approximately 15.1 miles southeast of Florida City, Fla. Latitude 25°18'43" N., longitude 80°17'05" W. C.P. to change frequency from 5952.6V MHz to 6137.9V MHz toward Homestead, Fla.

POINT-TO-POINT MICROWAVE RADIO SERVICE: (TELEPHONE CARRIERS)

Informative: Applicant, MCI Pacific Coast, Inc., has filed two new applications for La Crescenta, and Idria, Calif. Frequencies and points of communication have been deleted from applications, File Nos. 2458–C1–P–70 and 6741–C1–P–72 for these same two stations.

Application 2458–C1–P–70 was filed on November 3, 1969, and appeared on Public Notice November 10, 1969, FCC Report No. 465. Subsequent amendments appeared on Public Notice February 16, 1971, and April 3, 1972, FCC Report Nos. 531 and 590 respectively.

Application 6741–C1–P–72 was filed on March 15, 1972, and appeared on Public Notice April 3, 1972, FCC Report No. 590.

In addition to the above, MCI Pacific Coast, Inc., has filed four new applications in the State of California. These applications are in compliance with the new engineering standards set forth in the Commission's First Report and Order in Docket No. 18920, effective July 15, 1971, and informative guidelines published regarding Frequency Coordination Report No. 562, Common Carrier Services Information released September 20, 1971.

2651–C1–P–73—MCI Pacific Coast, Inc. (New), La Crescenta, Calif. C.P. for a new station 5.3 miles north of La Crescenta, Calif., at latitude 34°16'08", longitude 118°14'11". Frequencies 10,975.0H and 11,055.0H MHz on azimuth 254°22' toward Sepulveda, Calif.

2652–C1–P–73—Same as above (New), Idria, Calif. C.P. for a new station 3.8 miles south-southeast of Idria, Calif., at latitude 36°22'04", longitude 120°38'31". Frequency 3710.0H MHz on azimuth 30°02' toward Mendota, Calif.

2653–C1–P–73—Same as above (New), Taft, Calif. C.P. for a new station 5.0 miles southwest of Taft, Calif., at latitude 35°05'08", longitude 119°32'08", Frequencies 3770.0H MHz on azimuth 69°02' toward Conner, Calif., and 4010.0H MHz on azimuth 277°14' toward Oakland, Calif.

2654–C1–P–73—Same as above (New), Cuyama, Calif. C.P. for a new station 15.2 miles northwest of Cuyama, Calif., at latitude 35°07'10", longitude 119°51'54". Frequencies 3970.0H MHz on azimuth 97°02' toward Taft, Calif., and 3730.0H MHz on azimuth 341°23' toward Cedar Canyon Peak, Calif.

2655–C1–P–73—Same as above (New), Sunol, Calif. C.P. for a new station 2.9 miles northeast of Fremont, Calif., at 37°37'12", longitude 121°55'16". Frequencies 6226.9V MHz on azimuth 78°01' toward Midway, Calif., and 6226.9H MHz on azimuth 307°10' toward Oakland, Calif.

2657–C1–P–73—MCI Pacific Coast, Inc. (New), Del Mar, Calif. C.P. for a new station at 9888 Genesse Avenue, La Jolla, CA, at latitude 32°56'30", longitude 117°10'53". Frequencies 11,665.0V MHz and 11,265.0V MHz on azimuth 174°18' toward San Diego, Calif., and 6226.9V MHz on azimuth 337°34' toward Carlsbad, Calif.

2658–C1–P–73—Same as above (New), Carlsbad, Calif. C.P. for a new station 2 miles northeast of Carlsbad, Calif., at latitude 33°10'19", longitude 117°17'40". Frequencies 6034.2V MHz on azimuth 342°56' toward De Luz, Calif., and 5974.8V MHz on azimuth 157°30' toward Del Mar, Calif.

2659–C1–P–73—Same as above (New), De Luz, Calif. C.P. for a new station 4.2 miles west of De Luz, Calif., at latitude 33°26'17", longitude 117°23'31". Frequencies 6226.9V MHz on azimuth 295°41' toward Newport, Calif., and 6226.9V MHz on azimuth 162°52' toward Carlsbad, Calif.

2660–C1–P–73—Same as above (New), Newport, Calif. C.P. for a new station 5 miles east of Newport Beach, Calif., at latitude 33°36'19", longitude 117°48'33". Frequencies 5974.8V MHz on azimuth 115°27' toward De Luz, Calif., and 11,625.0H MHz and 11,305.0H MHz on azimuth 342°04' toward Orange, Calif.

2661–C1–P–73—Same as above (New), Orange, Calif. C.P. for a new station at 2700 North Main Street, Santa Ana, Calif., at latitude 33°45'26", longitude 117°52'05". Frequencies 6226.9V MHz on azimuth 310°00' toward Downey, Calif., 10,815.0V MHz and 11,135.0V MHz on azimuth 162°02' toward Newport, Calif., and 10,735.0H MHz and 11,135.0H MHz on azimuth 64°32' toward Sierra Peak, Calif.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)—continued

2656–C1–P–73—MCI Pacific Coast, Inc. (New), Long Beach, Calif. C.P. for a new station. 110 Pine Avenue, Long Beach, CA, at latitude 33°46'06" N., longitude 118°11'28" W. Frequencies 11,245H and 11,645H MHz on azimuth 15°27' toward Downey, Calif.

2639–C1–P–73—American Telephone & Telegraph Co. (New), 0.5 mile south-southeast of Palmer, Ind. Latitude 41°23'04" N., longitude 87°14'07" W. C.P. to add frequencies 4198H, 6034.2V, and 6152.8V MHz toward Pinhook, Ind.

2640–C1–P–73—Same (New), 1.4 miles east-northeast of Pinhook, Ind. Latitude 41°34'14" N., longitude 86°49'49" W. C.P. for a new station on frequencies 4190H, 6286.2V, and 6404.8V MHz toward Palmer, Ind.; frequencies 4190V, 6286.2H, and 6404.8H MHz toward Galien, Mich.

2641–C1–P–73—Same (New), 2.3 miles southeast of Galien, Mich. Latitude 41°47'05" N., longitude 86°27'29" W. C.P. for a new station on frequencies 4198V, 6034.2H, and 6152.8H MHz toward Pinhook, Ind.; frequencies 4198V, 6034.2H, and 6152.8H MHz toward South Bend, Ind.

2642–C1–P–73—Same (KSI52), 222 South Scott Street, South Bend, IN. Latitude 41°40'27" N., longitude 86°15'31" W. C.P. to add frequencies 4190V, 6286.2V, and 6404.8V MHz toward Galien, Mich.

Major Amendments

847–C1–P–71—Western Tele-Communications, Inc. (New), station location: Mount Vaca, 8 miles northwest of Vacaville, Calif. Change radio path azimuth and point of communication to 65°39' and Bald Mountain, respectively.

848–C1–P–71—Same (New), change station location to Bald Mountain, 3.5 miles southeast of Balderson, Calif., at latitude 38°54'15" N., longitude 120°42'14" W. Correct radio path azimuth toward Mount Vaca and Ward Peak to 246°32' and 55°3', respectively.

849–C1–P–71—Same (New), change station location to 0.5 mile west-northwest of Sunnyside, Calif., at latitude 39°09'06" N., longitude 120°14'51" W. Change radio path azimuth and point of communication to 235°20' and Bald Mountain, respectively.

853–C1–P–71—Same (New), station location: Loulon Peak, 14 miles southwest of Lonelock, Nev. Change radio path azimuth and point of communication to 85°15' and Mount Moses, respectively.

854–C1–P–71—Same (New), change station location to Mount Moses, 20 miles southwest of Battle Mountain, Nev., at latitude 40°11'40" N., longitude 117°24'40" W. Change frequency to 6256.5V MHz on azimuth 266°6' toward Loulon Peak and change radio path azimuth to 40°29' toward Stony Point.

855–C1–P–71—Same (New), station location: 7.5 miles northeast of Battle Mountain, Nev. Change radio path azimuth and point of communication to 220°52' and Mount Moses, respectively.

861–C1–P–71—Same (New), station location: Nelson Peak, 18 miles southwest of Salt Lake City, Utah. Change radio path azimuth toward Provo to 137°37'.

868–C1–P–71—Same (New), station location: Monarch Pass, 17 miles west of Salida, Colo. Change radio path azimuth toward Almagne Mountain to 74°38'.

870–C1–P–71—Same (New), station location: 0.85 mile southwest of Provo, Utah. Change radio path azimuth toward Nelson Peak to 317°55'.

All other particulars same as reported on public notices dated August 17, 1970, and August 26, 1970.

2445–C1–P–70—MCI Pacific Coast, Inc. (New), San Diego, Calif. Change proposed station location to 4077 Fifth Avenue, San Diego, CA, at latitude 32°45'05", longitude 117°09'32". Correct frequencies and azimuths to 10,775.0V MHz and 11,175.0V MHz on azimuth 354°18' toward Del Mar, Calif. Delete Jamul, Calif., as a point of communication. Delete frequencies 6256.5H MHz and 6375.2H MHz on azimuth 96°09'.

2449–C1–P–70—Same as above (New), Sierra Peak, Calif. Change proposed station location to 4 miles west-southwest of Corona, Calif., at latitude 33°50'44", longitude 117°38'43". Correct frequencies and azimuths to 11,625.0H MHz and 11,305.0H MHz on azimuth 244°39' toward Orange, Calif., and 5945.2V MHz on azimuth 68°17' toward Edgemont, Calif. Delete Santiago Peak, west California as a point of communication. Delete frequencies 11,625.0V MHz and 11,305.0V MHz on azimuth 187°42' and 10,895.0V MHz and 11,135.0V MHz on azimuth 60°53'.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)—continued

2450–C1–P–70—Same as above (New), Edgemont, Calif. C.P. for a new station 2.8 miles north of Edgemont, Calif., at latitude 33°57'55", longitude 117°16'59". Correct frequencies and azimuths to 6197.2V MHz on azimuth 248°29' toward Sierra Peak, Calif., and 11,225.0V MHz and 11,305.0V MHz on azimuth 357°09' toward San Bernardino, Calif. Delete Home Gardens, Calif., as a point of communication. Delete frequencies 11,585.0V MHz and 11,345.0V MHz on azimuth 241°01' and 11,305.0V MHz and 11,545.0V MHz on azimuth 356°23'.

2451–C1–P–70—Same as above (New), San Bernardino, Calif. Change proposed station location to D Street, San Bernardino, Calif., at latitude 34°06'15", longitude 117°17'29". Correct frequencies and azimuths to 11,175.0V MHz and 11,095.0V MHz on azimuth 177°08' toward Edgemont, Calif. Delete frequencies 11,175.0V MHz and 10,935.0V MHz on azimuth 176°23'.

2456–C1–P–70—Same as above (New), Downey, Calif. Change proposed station location to 8141 East Second Street, Downey, CA, at latitude 33°56'33", longitude 118°08'00". Correct frequencies and azimuth to 5945.2H MHz on azimuth 345°19' toward La Crescenta, Calif., 5974.8V MHz on azimuth 129°51' toward Orange, Calif., and 10,755.0V MHz and 11,155.0V MHz on azimuth 195°29' toward Long Beach, Calif. Delete Hollywood, Calif., as a point of communication. Delete frequencies 10,895.0H MHz and 11,135.0H MHz on azimuth 137°31' and 11,095.0H MHz and 10,855.0H MHz on azimuth 45°39'.

INFORMATIVE: Applicant, MCI Pacific Coast, Inc., is amending 20 of its previously filed Applications for authority to construct a new specialized common carrier system between San Diego, Calif., and Everett, Wash.

2459–C1–P–70—MCI Pacific Coast, Inc. (New), Sepulveda, Calif. Change proposed station location at 8155 Van Nuys Boulevard, Sepulveda, Calif., to latitude 34°13'10", longitude 118°26'54". Correct frequencies and azimuth to 11345.0H and 11425.0H MHz on azimuth 74°15' toward La Cresenta, Calif. Delete frequencies 6241.7 and 6360.3 MHz on azimuth 74°12'.

6732–C1–P–72—Same as above (New), Vincent, Calif. C.P. for a new station 1.5 miles east of Vincent, Calif., at latitude 34°29'54", longitude 118°04'58". Correct frequencies and azimuths to 6345.5V MHz on azimuth 240°26' toward Magic Mountain, Calif., and 3750.0V MHz on azimuth 315°07' toward Quartz Hill, Calif. Delete frequencies 6345.5V MHz on azimuth 240°23' and 3750.0V MHz on azimuth 318°28'.

6733–C1–P–72—Same as above (New), Quartz Hill, Calif. Change proposed station location to 3.9 miles south-southeast of Quartz Hill, Calif., at latitude 34°36'24", longitude 118°12'48". Correct frequencies and azimuths to 3710.0V MHz on azimuth 135°03' toward Vincent, Calif., and 3710.0V MHz on azimuth 308°19' toward Antelope Hill, Calif. Delete frequencies 3710.0V MHz on azimuth 138°23' and 3710.0V MHz on azimuth 309°04'.

6734–C1–P–72—Same as above (New), Antelope Hill, Calif. Change proposed station location to 12 miles northeast of Gorman, Calif., at latitude 34°54'12", longitude 118°40'13". Correct frequencies and azimuths to 3750.0V MHz on azimuth 128°04' toward Quartz Hill, Calif., and 3850.0H MHz on azimuth 314°21' toward Conner, Calif. Delete Brush Mountain, Calif., as a point of communication. Delete frequencies 3750.0V MHz on azimuth 128°50', 3850.0H MHz on azimuth 305°18', and 3750.0V MHz on azimuth 265°48'.

6735–C1–P–72—Same as above (New), Conner, Calif. Change proposed station location to 3.9 miles southeast of Old River, Calif., at latitude 35°13'44", longitude 119°04'37". Correct frequencies and azimuths to 3810.0H MHz on azimuth 134°07' toward Antelope Hill, Calif.; 3730.0H MHz on azimuth 249°18' toward Taft, Calif.; and 11,225.0V and 11,625.0V MHz on azimuth 17°29' toward Bakersfield, Calif. Delete frequencies 3810.0H MHz on azimuth 125°02' and 11,225.0V and 11,625.0V MHz on azimuth 20°58'.

2462–C1–P–70—MCI Pacific Coast, Inc. (New), Bakersfield, Calif. Change proposed station location at 1813 H Street, Bakersfield, CA, to latitude 35°22'32", longitude 119°01'14". Correct frequencies and azimuths to 10735.0V and 11135.0V MHz on azimuth 197°31' toward Conner, Calif. Delete frequencies 10735.0V and 11135.0V MHz on azimuth 201°01'.

6739–C1–P–72—Same as above (New), Cedar Canyon Peak, Calif. C.P. for a new station 12.2 miles southwest of Blackwells Corner, Calif., at latitude 35°29'16", longitude 120°01'00". Correct frequencies and azimuths to 3770.0H MHz on azimuth 161°18' toward Cuyama, Calif., and 3730.0H MHz on azimuth 326°16' toward Table Mountain, Calif. Delete Plowshare Peak, Calif., as a point of communication. Delete frequencies 3850.0H MHz on azimuth 182°42' and 3750.0V MHz on azimuth 326°30'.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)—continued

6740–C1–P–72—Same as above (New), Table Mountain, Calif. Change proposed station location to 3 miles northeast of Parkfield, Calif., at latitude 35°55'40", longitude 120°22'42". Correct frequencies and azimuths to 3770.0H MHz on azimuth 146°03' toward Cedar Canyon Peak, Calif., and 3770.0H MHz on azimuth 334°10' toward Idria, Calif. Delete frequencies 3710.0V MHz on azimuth 146°17' and 3850.0V MHz on azimuth 334°10'.

6741–C1–P–72—Same as above (New), Idria, Calif. Change proposed station location to 3.8 miles south-southeast of Idria, Calif., at latitude 36°22'04", longitude 120°38'31". Correct frequencies and azimuths to 3710.0H MHz on azimuth 154°00' toward Table Mountain, Calif., and 3810.0H MHz on azimuth 305°36' toward Llamada, Calif. Delete Mendota, Calif., as a point of communication. Delete frequencies 3810.0V MHz on azimuth 154°01', 3850.0V MHz on azimuth 305°15', and 3710.0H MHz on azimuth 29°53'.

6742–C1–P–72—Same as above (New), Mendota, Calif. C.P. for a new station 8.5 miles south-southwest of Mendota, Calif., at latitude 36°38'51", longitude 120°26'28". Correct frequencies and azimuths to 3750.0H MHz on azimuth 210°09' toward Idria, Calif., and 3930.0H MHz on azimuth 86°41' toward Kerman, Calif. Delete frequencies 3750.0H MHz on azimuth 210°00' and 3850.0H MHz on azimuth 86°41'.

6745–C1–P–72—Same as above (New), Llamada, Calif., C.P. for a new station 8 miles west of Llamada, Calif., at latitude 36°36'46", longitude 121°04'04". Correct frequencies and azimuths to 3850.0H MHz on azimuth 125°21' toward Idria, Calif., and 3750.0H MHz on azimuth 337°25' toward Hollister, Calif. Delete frequencies 3810.0V MHz on azimuth 125°00' and 3710.0H MHz on azimuth 337°25'.

6746–C1–P–72—MCI Pacific Coast, Inc. (New), Hollister, Calif. C.P. for a new station 9.7 miles northeast of Hollister, Calif., at latitude 36°54'33", longitude 121°13'17". Correct frequencies and azimuths to 3710.0H MHz on azimuth 157°19' toward Llamada, Calif., and 3750.0V MHz on azimuth 350°40' toward Patterson, Calif. Delete frequencies 3750.0H MHz on azimuth 157°19' and 3750.0V MHz on azimuth 350°39'.

6747–C1–P–72—Same as above (New), Patterson, Calif. Change proposed station location to 12.3 miles southwest of Patterson, Calif., at latitude 37°21'36", longitude 121°18'51". Correct frequencies and azimuths to 3710.0V MHz on azimuth 170°37' toward Hollister, Calif., and 3710.0H MHz on azimuth 18°52' toward Ripon, Calif. Delete frequencies 3710.0V MHz on azimuth 170°36' and 3710.0H MHz on azimuth 18°27'.

6748–C1–P–72—Same as above (New), Ripon, Calif. Change proposed station location to 1.1 miles northwest of Ripon, Calif., at latitude 37°45'01", longitude 121°08'46". Correct frequencies and azimuths to 3750.0H MHz on azimuth 198°58' toward Patterson, Calif., 3750.0H MHz on azimuth 355°34' toward Stockton, Calif., and 6226.9V MHz on azimuth 258°10' toward Midway, Calif. Delete frequencies 3750.0H MHz on azimuth 198°33', 3750.0H MHz on azimuth 356°27', and 6063.8V MHz on azimuth 253°08'.

6749–C1–P–72—Same as above (New), Midway, Calif. Change proposed station location to 6.5 miles east of Livermore, Calif., at latitude 37°40'18", longitude 121°36'45". Correct frequencies and azimuths to 5974.8V MHz on azimuth 77°53' toward Ripon, Calif., and 5974.8H MHz on azimuth 258°12' toward Sunol, Calif. Delete Danville, Calif., as a point of communication. Delete frequencies 6256.5V MHz on azimuth 72°51' and 6345.5H MHz on azimuth 295°03'.

2475–C1–P–70—Same as above (New), Oakland, Calif. C.P. for a new station at 3505 Broadway, Oakland, CA, at latitude 37°49'22", longitude 122°15'33". Correct frequency and azimuth to 5974.8H MHz on azimuth 126°57' toward Sunol, Calif. Delete Redwood Peak, Calif., as a point of communication. Delete frequency 6034.2V MHz on azimuth 100°17'. All other particulars remain as reported in Public Notice No. 590, dated April 3, 1972.

6752–C1–P–72—Same as above (New), Stockton, Calif. C.P. for a new station 2.5 miles east of Stockton, Calif., at latitude 37°57'36", longitude 121°10'00". Correct frequencies and azimuths to 3710.0H MHz on azimuth 175°33' toward Ripon, Calif., and 3730.0V MHz on azimuth 49°35' toward Burson, Calif. Delete frequencies 3710.0H MHz on azimuth 176°26' and 3710.0V MHz on azimuth 46°09'.

6753–C1–P–72—MCI Pacific Coast, Inc. (New), Burson, Calif. Change proposed station location to 3.2 miles northwest of Jenny Lind, Calif., at latitude 38°07'49", longitude 120°54'47". Correct frequencies and azimuths to 3770.0V MHz on azimuth 229°45' toward Stockton East, Calif., and 3850.0V MHz on azimuth 319°15' toward Clay, Calif. Delete Pine Grove, Calif., as a point of communication. Delete frequencies 3750.0V MHz on azimuth 226°17', 3750.0V MHz on azimuth 41°30', and 3850.0V MHz on azimuth 328°44'.

6754–C1–P–72—Same as above (New), Clay, Calif. Change proposed station location to 1 mile east-northeast of Clay, Calif., at latitude 38°20'17", longitude 121°08'26". Correct frequencies and azimuths to 3810.0V MHz on azimuth 139°07' toward Burson, Calif., and 3810.0V MHz on azimuth 295°27' toward Florin, Calif. Delete frequencies 3810.0V MHz on azimuth 148°39' and 3810.0V MHz on azimuth 296°21'.

6755–C1–P–72—Same as above (New), Florin, Calif. C.P. for a new station, 3.5 miles south of Florin, Calif., at latitude 38°26'15", longitude 121°24'25". Correct frequency and azimuth to 3850.0V MHz on azimuth 115°18' toward Clay, Calif. Delete frequency 3850.0V MHz on azimuth 116°09'. All other particulars remain as reported in Public Notice No. 590, dated April 3, 1972.

258–C1–P–70—MCI Pacific Coast, Inc. (New), La Crescenta, Calif. C.P. for a new station, 5.3 miles north of La Crescenta, Calif., at latitude 34°16'08" N., longitude 118°14'11" W. Add frequency 6315.9H MHz on azimuth 165°15' toward Downey, Calif.

Corrections

3154–C1–P–70—Data Transmission Co. (New), Guthreisville, Pa. Delete complete entry. (See Report No. 617–A, dated October 10, 1972.)

1762–C1–P–73—Michigan Bell Telephone Co. (KZI65), 514 East Mitchell, Petoskey, Mich. Correct to read: To change azimuth of radio path azimuth from 336°15' to 336°13'. (See Report No. 615, dated September 25, 1972.)

1768–C1–P–73—Same (KQA79), correct address to read: 5770 Napier Road, Plymouth, Mich. (See Report No. 615, dated September 25, 1972.)

[FR Doc. 72–18439 Filed 10–30–72;8:45 am]

SERVICE ELECTRIC CABLE TV, INC.

[Docket No. 19321; FCC 72–907]

Memorandum Opinion and Order Remanding Proceeding for Further Hearing

In regard cease and desist order to be directed against Service Electric Cable TV, Inc., Allentown and Bethlehem, Pa., File Nos. SR–97014, SR–8701.

1. Before the Commission for consideration is an application for review of a Review Board Memorandum Opinion and Order, FCC 72R–221, released August 11, 1972, filed by Service Electric Cable TV, Inc., on August 17, 1972. Responsive comments were filed on August 29, 1972, by the Commission's Cable Television Bureau, and an opposition to the application was filed on August 29, 1972, by WBRE–TV, Inc., licensee of Station WBRE–TV on Channel 28 at Wilkes-Barre, Pa. Additional pleadings were filed on September 11, 1972, by WBRE–TV and Service Electric. In the order under review, the Review Board directed Service Electric and WBRE–TV to take complete joint field intensity measurements to locate the television station's contours and other disputed contours. Service Electric seeks a reversal of that order and a remand of this case to the Examiner for determination on the basis of the evidence of record. We believe that important questions are presented which merit our consideration, particularly in light of the history of this proceeding, but we affirm the Review Board's decision.

2. This proceeding was initiated by an order directing Service Electric to show cause why it should not be ordered to cease and desist from further violation of § 74.1103 (a) and (e) of the Commission's former rules[1] by its refusal to carry and accord program exclusivity to Station WBRE–TV, affiliated with NBC, on its CATV systems at Allentown and Bethlehem, Pa. At the hearing, the parties stipulated that, when contours are calculated by the prediction method, WBRE–TV places a principal community contour over the CATV communities whereas KYW–TV, the NBC outlet on Channel 3 at Philadelphia which presently is being carried on the CATV systems, places a contour which is less than principal community grade over each community. Thus a prima facie presumption was created as to the location of the pertinent contours and, in the absence of countervailing evidence, would establish that WBRE–TV has priority over KYW–TV. "Bluefield Television Cable," 10 FCC 2d 731, 732 (1967). Service Electric asserts, however, that the actual, as distinguished from the predicted, contours of the two television stations are such that both stations are of equal priority. In support of this contention, Service Electric introduced measurement data which indicated that the Grade A contour of both stations penetrates Allentown, and that both place a Grade B contour over Bethlehem. This engineering statement and the supporting data

[1] The pertinent provisions of the current rules are §§ 76.57(a), 76.91, and 76.93(a).

were accepted into evidence. In rebuttal WBRE–TV attempted to introduce other measurement data tending to show that WBRE–TV places a higher priority signal in Allentown and Bethlehem than does KYW–TV, but the evidence was rejected on the objections of Service Electric and the Cable Television Bureau that the measurements were incomplete and did not demonstrate the location of the actual contours of either WBRE–TV or KYW–TV.[2] In view of the rejection of its evidence, WBRE–TV requested time to take complete measurements and have them introduced into evidence, but this request was denied by the Examiner.

3. WBRE–TV appealed the Examiner's rulings to the Review Board, contending that its proffered exhibits were admissible as rebuttal evidence to show both that Service Electric's exhibits do not accurately reflect the location of the signal contours of WBRE–TV and that at least portions of Allentown and Bethlehem fall within the principal community contour of that station (Tr. 167). It was WBRE–TV's contention that additional measurements would serve no useful purpose since they would not have resulted in any more information going to the dispositive question of whether portions of Allentown and Bethlehem are within WBRE–TV's principal community contour;[3] and that additional measurements or data are "mathematically irrelevant" to the resolution of the dispositive issue in the case. While the matter was pending before the Review Board, WBRE–TV prepared another engineering study which it submitted by letter to the Board. According to WBRE–TV, the new data constitutes a complete set of measurements with plotted contours which demonstrate not only that the principal community contour of WBRE–TV encompasses all of Allentown and a major portion of Bethlehem, but also that additional measurements were irrelevant and immaterial to the factual issue presented herein as it had contended before the presiding Administrative Law Judge. It therefore renewed its request that the exhibits proffered at the hearing be admitted into evidence. In the alternative WBRE–TV requested that the Board permit the introduction of the new engineering study at the hearing.

4. The Review Board affirmed the Examiner's rejection of WBRE–TV's exhibits on the ground that the limited data contained therein may only reflect signal strength resulting from local conditions and, for the purposes of determining priority, sufficient data must be submitted to establish the location of the contours. The Board further held, however, that steps must be taken to adduce the best evidence obtainable for the purpose of providing a proper basis for making the public interest determination required in this case, and to eliminate further delay in this expedited proceeding due to disagreements among the parties. It therefore directed WBRE–TV and Service Electric to make complete joint field intensity measurements within 60 days to locate the pertinent contours necessary for a final determination on the merits. With respect to the engineering evidence submitted by letter during the pendency of the appeal, the Board held that acceptance thereof would be contrary to good hearing procedure and would service no useful purpose in view of its disposition of the appeal.

5. While WBRE–TV has reserved the right in the event of an adverse initial decision[4] to challenge the Review Board's affirmance of the Examiner's ruling which excluded its exhibits, it has not sought review of the Board's decision and has expressed its willingness to participate in the taking of joint measurements. Service Electric, however, has applied for review of that portion of the Review Board's order which directed the taking of joint measurements. The applicant contends that this case should be decided on the basis of the evidence presently of record, that it has expended substantial sums in making its measurements; that WBRE–TV had adequate opportunity to prepare its case and should not be allowed "two bites at the same apple"; and that the Review Board's order is contrary to the rule of administrative finality. At a minimum, Service Electric urges, the order for joint measurements should be conditioned on WBRE–TV's paying all expenses in connection therewith. Service Electric therefore requests the Commission to sustain the Review Board's ruling that the Examiner properly excluded WBRE–TV's exhibits but reverse that portion of the Board's order which directs the taking of joint measurements. It also requests that the Commission strike the letters and attachments submitted by WBRE–TV to the Review Board. The Cable Television Bureau supports the application for review. In addition to the doctrine of administrative finality it advances the argument that there will be no "continuing engineering 'disagreement' that the Review Board fears" if Service Electric's engineering study is the only probative engineering evidence in the proceeding, and that Service Electric should not be deprived of the "decisive evidentiary advantage of successfully offering, at the proper time, legally uncontroverted engineering evidence * * *."

6. In assessing the weight to be accorded Service Electric's "two bites" argument we deem it appropriate to take into account Service Electric's own conduct in connection with the matters under consideration. By a pleading filed on September 14, 1970, Service Electric requested a waiver of the rules pertaining to carriage and nonduplication protection for WBRE–TV's signals and advanced as one of the arguments in support thereof that the station's actual Grade B contour falls short of the Allentown-Bethlehem area. The Commission found that the engineering study submitted in support of this contention was unacceptable for the purpose of determining the applicability of § 74.1103 and that no sufficient grounds had been advanced to justify a waiver. The Commission therefore denied the waiver request and directed Service Electric to carry and provide program exclusivity to WBRE–TV within 30 days. See "Service Electric Cable TV, Inc.", 28 FCC 2d 77, released March 16, 1971. No effort was made at that time by Service Electric to obtain adequate measurement data concerning the location of WBRE–TV's contours or to challenge the validity of the Commission's determination either by a petition for reconsideration or by judicial review. Instead the cable operator requested and received, with the consent of WBRE–TV, an extension of time for the purpose of obtaining "the equipment needed to enable it to comply with § 74.1103 * * *." In a pleading filed June 28, 1971, Service Electric requested a further extension because of nondelivery of certain equipment and represented that "if the equipment should be delivered and installed prior to the estimated date of delivery the carriage and nonduplication protection would commence immediately." The application was opposed by WBRE–TV which renewed its request for a show cause order and this proceeding was initiated. Only after the release of our Order to Show Cause on September 29, 1971, did Service Electric undertake to obtain engineering evidence concerning the location of the WBRE–TV contours. In these circumstances, it ill behooves Service Electric to complain about a "second bite" for WBRE–TV. Had Service Electric produced adequate engineering evidence in support of its waiver request or within a reasonable time thereafter instead of promising carriage and nonduplication protection, this case would long since have been completed.

7. An even more significant reason for affirming the Review Board's decision is the fact, as WBRE–TV points out, that we are not concerned here solely with a dispute between private parties but with matters pertaining to the public interest. Although the carriage and nonduplication provisions of the rules benefit the television station licensee, they were promulgated because of the very important public interest considerations relating to the maintenance of local outlets of expression and for the other reasons set forth in the rulemaking proceeding. If the provisions of the rules are applicable and no sufficient grounds exist which justify a waiver, Service Electric must be required to comply therewith. Additionally, we note that under the express provisions of section 312(b)–(d) of

[2] WBRE–TV took no measurements of KYW–TV's signals since it accepted Service Electric's showing as to that station.

[3] The exhibits indicated that at some locations within or beyond the city limits of each city, the signal levels of WBRE–TV exceeded Grade A service.

[4] Under § 1.115(e)(2) of the rules the "failure to file an application for review of an interlocutory ruling—" of the Review Board does not "preclude any party entitled to file exceptions to the initial decision from requesting review of the ruling at the time when exceptions are filed."

the Communications Act, which governs cease and desist proceedings, "both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission." While WBRE–TV is expected to share in the task of introducing evidence in view of its substantial interest in the outcome of this proceeding, the Commission has an affirmative statutory obligation which it must meet.

8. In our view the dispositive issue with respect to the argument of administrative finality is not, as Service Electric and the Cable Television Bureau contend, whether WBRE–TV should be given a "second bite" but whether the Commission is required to undertake the resolution of important public interest questions on the basis of an incomplete or inadequate record in a case in which it has the ultimate burden of proof and where additional material and relevant evidence may be available. We do not believe that we are so required or that, under the circumstances of this case, a determination on the basis of the evidence presently of record would comport with our statutory responsibility to protect and promote the public interest. See "Citizens TV Protest Committee v. Federal Communications Commission", 121 U.S. App. D.C. 50, 348 F. 2d 56 (1965); "Clarksburg Publishing Co. v. Federal Communications Commission", 96 U.S. App. D.C. 211, 225 F. 2d 511 (1955). The Commission cannot undertake to make field intensity measurements in order to locate actual contours and our decision herein should not be construed as holding that we propose to do so. We do hold, however, that where a substantial claim is advanced by a respondent in a show cause proceeding that the actual contours of a television station are other than as indicated by the prediction method of calculating contours, every effort must be made to adduce at the hearing all relevant and reasonably available evidence necessary to enable the Commission to make a determination on the basis of a complete record. In this connection, we agree with WBRE–TV that if the failure to take joint measurements was improper, the fault was not solely that of the television station licensee. Nothing before us indicates that any suggestion by the Cable Television Bureau, which is charged with the responsibility for carrying the Commission's burden in this type of proceeding (§§ 0.85(c) and 1.21(b) of the rules) or by Service Electric that joint measurements be taken would have been rejected by WBRE–TV or that the licensee would have been uncooperative. For the foregoing reasons, we conclude that application of the doctrine of administrative finality to preclude the further hearing ordered by the Review Board would be inappropriate in this case.

9. The further contention of the Cable Television Bureau that by reason of the Review Board's affirmance of the Examiner's ruling which excluded WBRE–TV's engineering exhibits, there would be no engineering "disagreement" if Service Electric's engineering study remains as the only engineering evidence in this proceeding, must be rejected. On the basis of the predicted contours WBRE–TV is entitled to priority over KYW–TV, and the critical question to be resolved at the hearing is whether the actual contours of either or both television stations lie elsewhere. However, the mere fact that Service Electric's engineering exhibit was admitted into evidence does not conclusively establish the location of the contours or necessarily overcome the prima facie showing based on predicted contours. "Jones v. N. V. Nederlandsch Amerikaansche Stoomvaart M," 374 F. 2d 189 (3d Cir., 1966) cert. denied 388 U.S. 911. The weight and sufficiency of Service Electric's evidence is a matter to be determined by the trier of the facts and must be evaluated in light of the cross-examination of the cable operator's expert witness, qualifying statements by him, and any other relevant evidence of record. "30 AM Jur 2d, Evidence" sections 1083, 1102, 1104–1106, 1112, 1144; "Koshland's Estate v. Commissioner of Internal Revenue," 177 F. 2d 851 (9th Cir., 1949). See also: "Dicker v. United States," 122 U.S. App. D.C. 158, 352 F. 2d 455 (1965) cert. denied 383 U.S. 936; "Carter Products v. Federal Trade Commission," 201 F. 2d 446, 452 (9th Cir., 1953) modified on other grounds, 346 U.S. 327.

10. As we and the Review Board have had occasion to point out, the location of actual contours is an extremely difficult undertaking by reason of the effect of weather conditions, season, terrain and other factors on signal intensity.[5] An additional complication is the fact that the place where a particular measurement is taken is a matter of judgment by the engineer on the scene where rugged terrain or obstacles along the path requires a departure from strict adherence to a specified procedure; and how that judgment is exercised may affect the ultimate conclusion reached as to contours.[6] Whether the judgment exercised by Service Electric's engineer is subject to challenge or whether there are deficiencies or weaknesses which detract from the reliability of its engineering evidence or the validity of the conclusions reached therein, we express no opinion. Those are matters for initial determination by the presiding officer who saw and heard the witnesses and who will have the benefit of the parties' views as expressed in their proposed findings and briefs. Nevertheless, a disagreement may, and apparently does, exist as to the weight which should be accorded Service Electric's engineering evidence and whether it is sufficient to overcome the showing based on predicted contours[7] even though WBRE–TV's rebuttal evidence is not a part of the record.[8]

11. Other arguments advanced by Service Electric and the Cable Television Bureau in their pleadings, as well as the requests for affirmative relief contained therein, have been considered but we conclude that they are without merit. The Review Board neither abused its discretion nor committed any prejudicial error which would justify our disturbing its decision and we shall not do so.[9]

12. *Accordingly, it is ordered,* That the application for review of the Review Board's Memorandum Opinion and Order, FCC 72R–221, released August 11, 1972, filed by Service Electric Cable TV, Inc., on August 17, 1972 is granted to the limited extent set forth herein, but in all other respects is denied; and

13. *It is further ordered,* That the aforesaid Memorandum Opinion and Order of the Review Board is affirmed; and

14. *It is further ordered,* That the joint field intensity measurements ordered by the Review Board be made within sixty (60) days after the release date of our Memorandum Opinion and Order herein; and

15. *It is further ordered,* That the hearing in this proceeding be remanded to the presiding administrative law judge for further hearing and that every effort be made consistent with the re-

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[5] CATV, 6 FCC 2d 309 at 313, fn. 6 (1967); Mission Cable TV, Inc. et al., 4 FCC 2d 236, 239–240 (1966); Potomac Valley Telecasting Corporation, et al., 21 FCC 2d 851, 853–856 (1970) review denied, FCC 70–530, released May 26, 1970.

[6] Service Electric's engineer, Mr. Kennedy, conceded at the hearing that the engineer making the measurements frequently must exercise his judgment as to measuring locations (Tr. 132–134).

[7] WBRE–TV advanced the contention that Service Electric Exhibit No. 1 does not accurately reflect signal strength at certain points along the radials. In its decision, the Review Board noted the "wide discrepancies in the different fields measured by the two engineering firms involved in this proceeding—" (par. 10), and Service Electric objects that in making this observation the Review Board improperly considered the letters and attachments thereto which had been submitted by WBRE–TV (par. 3, supra). We disagree. In fashioning an order which would best serve the public interest, the Review Board was entitled to examine all of the submissions of the parties.

[8] In 29 Am Jur. 2d, Evidence section 254 (p. 306) the following is stated as to rebuttal evidence:

"Evidence not in and of itself admissible may become admissible, by reason of evidence introduced by an adversary, either in rebuttal of testimony which has been given or by way of explanation thereof."

See also Id. at section 269 (p. 318). Whether the exhibits proffered by WBRE–TV were admissible for this limited purpose is neither before us nor necessary to the disposition of this application for review and we express no opinion with respect thereto.

[9] It is not believed necessary to issue instructions concerning the resolution of possible engineering disagreements as suggested by the Cable Television Bureau. Any such disagreements may readily be resolved by the parties through consultation with the Commission's engineers in the Broadcast Bureau or the Cable Television Bureau.

quirements of due process to expedite the disposition of this case.

Adopted: October 12, 1972.

Released: October 16, 1972.

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

[FR Doc.72-18533 Filed 10-30-72;8:52 am]

[Docket No. 19612; FCC 72-919]

TEX-ARK TV CO., INC. (KTXK-TV)

Order Designating Matter for Oral Argument

In regard application of Tex-Ark TV Co., Inc. (KTXK-TV), Texarkana, Tex., Docket No. 19612, File No. BMPCT-7416, for extension of construction permit.

1. The Commission has before it for consideration the request of Tex-Ark TV Co., Inc., for reinstatement of the construction permit, call sign and application (BMPCT-7416) for an extension of time within which to complete construction of television broadcast station KTXK, channel 17, Texarkana, Tex.

2. Tex-Ark TV Co., Inc., was granted a construction permit for channel 17, Texarkana, Tex., on February 10, 1971, with completion of construction required as of August 10, 1972. Subsequently, on July 19, 1972, the permittee filed the above-captioned application (BMPCT-7416) for an extension of time within which to complete construction of station KTXK. The permittee stated that it had been unable to secure suitable programing for the station and that it was continuing its efforts to obtain programing. In addition, the permittee indicated that it was reconsidering the feasibility of constructing the station in view of the recent establishment of a CATV system in the Texarkana area. The permittee requested a 1 year extension of time in order to assess the possible impact of the CATV system on construction of station KTXK. Since grant of Tex-Ark TV Co., Inc.'s construction permit in February 1971, construction of the station has not commenced and equipment has not been ordered.

3. After the lapse of approximately 18 months from the date the Commission issued a construction permit for channel 17, the permittee had failed to demonstrate that it had exercised due diligence in the prosecution of construction or that construction had been prevented by causes not under its control within the meaning of section 319(b) of the Communications Act of 1934, as amended. Accordingly, the Chief, Broadcast Bureau acting pursuant to delegated authority[1] dismissed the above-captioned extension application, canceled the construction permit and deleted the call sign. However, in accordance with the provisions of the delegation, the permittee was advised that it could request reinstatement of its authorization within 30 days and thereby obtain a hearing on the question of its dismissal. Subsequently, on August 21, 1972, the permittee requested reinstatement of its authorization and a grant of its extension application. Since we are unable to find that grant of the extension application, without a hearing, would be in the public interest, we are designating the application for oral argument before the Review Board.

4. *It is ordered,* That the construction permit, call sign and extension application of television broadcast station KTXK, channel 17, Texarkana, Tex., are reinstated.

5. *It is further ordered,* That the above-captioned application for an extension of time within which to complete construction of station KTXK, channel 17, Texarkana, Tex., is designated for oral argument before the Review Board in Washington, D.C., at a time and place to be specified in a subsequent order, upon the following issue:

To determine whether the reasons advanced by the permittee in support of its request for an extension of its completion date, constitute a showing that failure to complete construction was due to causes not under the control of the permittee, or constitute a showing of other matters sufficient to warrant a further extension of time within the meaning of section 319(b) of the Communications Act of 1934 and § 1.534(a) of the Commission's rules.

6. *It is further ordered,* That to avail itself of the opportunity to be heard, the applicant, in person, or by attorney, shall, within ten (10) days of the mailing of this order, file with the Commission an original and 12 copies of a written appearance stating an intention to appear on the date fixed for the oral argument and present arguments on the issue specified, and shall have until October 25, 1972, to file a brief or memorandum of law.

Adopted: October 12, 1972.

Released: October 18, 1972.

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

[FR Doc.72-18535 Filed 10-30-72;8:53 am]

[1] Section 0.281(z) of the Commission's rules.

FEDERAL HOME LOAN BANK BOARD

[H. C. 138]

FIDELITY FINANCIAL CORP. AND FIDELITY SAVINGS AND LOAN ASSOCIATION

Receipt of Application for Approval of Acquisition of Control of Six Rivers Savings and Loan Association

OCTOBER 26, 1972.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Fidelity Financial Corp., San Francisco, Calif., a savings and loan holding company, and Fidelity Savings and Loan Association, Oakland, Calif., for approval of acquisition of control of the Six Rivers Savings and Loan Association, Eureka, Calif., an insured institution under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regulations for savings and loan holding companies, said acquisition to be effected by the purchase for cash of the guarantee stock of Six Rivers Savings and Loan Association and, in addition, the payment to Mr. John R. Rigdon of stock in Fidelity Financial Corp. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc.72-18553 Filed 10-30-72;8:49 am]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1239]

A.O.K. SHIPPING SERVICE, INC.

Order of Revocation

By letter dated September 20, 1972, A.O.K. Shipping Service, Inc., Post Office Box 2498, Miami, FL 33101 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1239 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before October 17, 1972.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

A.O.K. Shipping Service, Inc., has failed to furnish a surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(g) (dated May 1, 1972);

It is ordered, That the Independent Ocean Freight Forwarder License of A.O.K. Shipping Service, Inc., be returned to the Commission for cancellation.

It is further ordered, That the Independent Ocean Freight Forwarder License of A.O.K. Shipping Service, Inc. be and is hereby revoked effective October 17, 1972.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon A.O.K. Shipping Service, Inc.

AARON W. REESE,
Managing Director.

[FR Doc. 72-18543 Filed 10-30-72;8:50 am]

[Independent Ocean Freight Forwarder License No. 1281]

AMERICAN LAMPRECHT TRANSPORT, INC.

Order of Revocation

By letter dated September 5, 1972, American Lamprecht Transport, Inc., 160-23 Rockaway Boulevard, Jamaica, NY 11430 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1281 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before October 1, 1972.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

American Lamprecht Transport, Inc. has failed to furnish a surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(g) (dated May 1, 1972);

It is ordered, That the Independent Ocean Freight Forwarder License of American Lamprecht Transport, Inc. be returned to the Commission for cancellation.

It is further ordered, That the Independent Ocean Freight Forwarder License of American Lamprecht Transport, Inc. be and is hereby revoked effective October 1, 1972.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon American Lamprecht Transport, Inc.

AARON W. REESE,
Managing Director.

[FR Doc.72-18544 Filed 10-30-72;8:50 am]

AUSTRALIA/U.S. ATLANTIC AND GULF CONFERENCE

Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015 or at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1405 I Street NW., Washington, DC 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed contract system 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 proposed contract form and the petition (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of Proposed Modification of an Approved Dual Rate Agreement filed by:

Baldvin Einarson, Esq., Kirlin, Campbell & Keating, 120 Broadway, New York, NY 10005.

Agreement No. 9450 DR-5 in effect modifies the Australia/U.S. Atlantic and Gulf Conference's basic dual rate agreement by deleting Article 14 which required that the shipment of chilled and frozen meat in containers be excluded from the ambit of the agreement.

By order of the Federal Maritime Commission.

Dated: October 25, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18545 Filed 10-30-72;8:50 am]

CEYLON/U.S.A. CONFERENCE

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:

William L. Hamm, Secretary, New York Committee, Ceylon/U.S.A. Conference, 25 Broadway, New York, NY 10004.

Agreement No. 8050-9, among the member lines of the Ceylon/U.S.A. Conference, modifies Article 4 of the basic agreement of the conference to provide that conference meetings may be held elsewhere than at Colombo, Ceylon, as determined by a majority of three-fourths of the member lines.

By order of the Federal Maritime Commission.

Dated: October 26, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18546 Filed 10-30-72;8:50 am]

HAPAG-LLOYD AKTIENGESELLSCHAFT AND CARIBBEAN SEA ROAD SERVICE, INC.

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:

Paul W. Simpson, President, Caribbean Sea-Road Service, Inc., Avenida Ponce de Leon 306, San Juan, PR.

Agreement No. 10019 is a transshipment agreement between Hapag-Lloyd Aktiengesellschaft and Caribbean Sea-Road Service, Inc., covering the transportation of general cargo under through bills of lading between ports of call of Hapag-Lloyd throughout the world and ports of call of Caribbean Sea-Road Service in the Virgin Island with transshipment at San Juan, Puerto Rico.

By order of the Federal Maritime Commission.

Dated: October 24, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18541 Filed 10-30-72;8:50 am]

PORT OF OAKLAND AND HOWARD TERMINAL

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:

J. Kerwin Rooney, Esq., Port of Oakland, 66 Jack London Square, Post Office Box 2064, Oakland, CA 94607.

Agreement No. T-1909-2, between the Port of Oakland (Port) and Howard Terminal (Howard), modifies the basic agreement which provides for the lease to Howard of certain facilities at the Outer Harbor Terminal Area at the Port of Oakland, Calif. The purpose of the modification is to eliminate a provision contained in the basic agreement which combined the rental due under Agreement No. T-1909 and the rental due under Agreement No. 8305 (which covers the Grove Street Terminal) into a single guaranteed minimum annual rental payment.

By order of the Federal Maritime Commission.

Dated: October 24, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18542 Filed 10-30-72;8:50 am]

[Docket No. 72-58]

UNITED STATES/EAST AFRICA CONFERENCE AND SOUTH EAST AFRICA AGREEMENT

Discriminatory Port Detention Surcharge in the U.S. Atlantic and Gulf/South and East African Trade; Order To Show Cause

The United States/South and East Africa Conference (the outbound Conference) is an association of common carriers by water operating in the export trade from U.S. Atlantic and Gulf ports to ports in South and East Africa and various neighboring islands pursuant to Agreement No. 9502 approved by the Federal Maritime Commission under section 15 of the Shipping Act, 1916. The South and East Africa Rate Agreement (the inbound Conference) is an association of carriers operating in the opposite direction of this trade area pursuant to Agreement No. 8054 approved by the Commission under section 15 of the Act. All of the carriers who are parties to Agreement No. 9502 are also parties to Agreement No. 8054.

On May 7, 1971, the Commission was advised by the outbound Conference that the Conference intended to implement a 25 percent port detention surcharge on all rates and charges applicable to cargoes destined to Mombasa, Kenya, in its Southbound Freight Tariff No. 1, FMC-2, effective on all rates and charges applicable to all cargoes as of date of delivery to ocean carrier on dock or alongside on lighter destined to Mombasa from U.S. Atlantic and Gulf ports on and after June 6, 1971.

The Commission's staff was advised that the underlying reason for the implementation of the surcharge related to conditions of congestion existing at the port of Mombasa which caused abnormal delays to vessels calling at that port.

Following inquiries from the Commission's staff with regard to the fact that of the two Conferences serving the subject trade in both directions, only the outbound Conference operating in the export trade decided to assess a surcharge at Mombasa despite the fact that for the most part the same carriers are members of the two conferences, the inbound Conference notified the Commission that it intended to assess a port detention surcharge in the amount of 15 percent effective July 16, 1971. This surcharge remained in effect until October 28, 1971 when it was "deferred". By subsequent tariff filings, the inbound Conference has extended this deferment continually on a month-to-month basis. The result is that except for the limited period between July 16, 1971 and October 28, 1971, a surcharge has been levied against the American export trade but not the reciprocal import trade purportedly on account of local conditions at the common port of Mombasa and furthermore, such surcharge has been levied in unequal amounts, again with greater magnitude against the export trade.

Even if abnormal conditions have prevailed at the port of Mombasa, the Commission has been advised that congestion has not always remained at the same level of severity. Even assuming that the abnormal conditions which prevailed throughout the period have not abated since June 6, 1971, the Commission is aware of no transportation circumstances or conditions which would justify the assessment and maintenance of surcharges applicable in only one direction of the subject trade area or in disparate amounts in which the magnitude of the surcharges is greater in one direction, again in the export trade. The concern of the Commission, furthermore, is emphasized because of the fact that essentially the same carriers are members of both Conferences, the purported underlying cause is apparently common to both directions, and the Conferences would either assess American exporters but not their foreign counterparts or would assess the American exporters in greater amounts even when both the American exporters and their foreign counterparts were assessed.

Despite continual inquiries by the Commission's staff, the outbound Conference has not furnished adequate information which would justify the continued existence of a surcharge applicable in one direction only, and effective without provision for termination in the event of conditions improving at Mombasa.

We are mindful that the carriers who are assessing the surcharges operate concertedly in ratemaking matters under authority of the Commission pursuant to section 15 of the Shipping Act, 1916, 46 U.S.C. 814. That law states that:

> The Commission shall by order, after notice and hearing, disapprove, cancel, or modify any agreement * * * whether or not previously approved by it, that it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports * * * or to operate to the detriment of the commerce of the United States, or to be contrary to the public interest, or to be in violation of this Act * * *

Section 17 of the Shipping Act, 1916, 46 U.S.C. 816, provides in pertinent part that:

> * * * no common carrier by water in foreign commerce shall demand, charge, or collect

any rate, fare, or charge which is unjustly discriminatory between shippers * * * Whenever the Board finds that any such rate, fare, or charge, is demanded, charged, or collected it may alter the same to the extent necessary to correct such unjust discrimination * * * and shall make an order that the carrier shall discontinue demanding, charging or collecting any such injustly discriminatory * * * rate, fare, or charge.

The Commission is of the opinion that unless the Conferences and their member lines can offer valid reasons which would justify the existence of a surcharge assessed only against the export trade of the United States or at a level higher than that assessed in the reciprocal direction of the same trade without provision for termination in the event of elimination or abatement of the underlying causative conditions, such surcharge must be found to be unjustly discriminatory or unfair between shippers, exporters, or importers and contrary to the public interest within the meaning of section 15 of the Act, and furthermore, to be unjustly discriminatory between shippers in violation of section 17 of the Act.

Now, therefore, *It is ordered*, That pursuant to sections 22, 15, and 17 of the Shipping Act, 1916 (46 U.S.C. 821, 814, 816) the Conferences and carriers named in the Appendix attached be named respondents in this proceeding and that they be ordered to show cause why the assessment of disparate port detention surcharges in the manner described above should not be found to be unfair or unjustly discriminatory and contrary to the public interest in violation of section 15 of the Act or unjustly discriminatory between shippers in violation of secton 17 of the Act and accordingly why the Commission should not disapprove, cancel, or modify the Conference agreements pursuant to section 15 of the Act or alter the subject surcharges to the extent necessary to correct the unjust discrimination.

It is further ordered, That this proceeding shall be limited to the submission of affidavits and memoranda of law, replies, and oral argument. Should any party feel that an evidentiary hearing be required, that party must accompany any request for such 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. Requests for hearing shall be filed on or before November 14, 1972. Affidavits of fact and memoranda of law shall be filed by respondents and served upon all parties no later than the close of business November 14, 1972. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and intervenors, if any, no later than close of business November 27, 1972. Time and date of oral argument if requested and/or deemed necessary by the Commission will be announced at a later date.

It is further ordered, That a notice of this order be published in the FEDERAL REGISTER and that a copy thereof be served upon respondents.

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) no later than close of business November 6, 1972.

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.*

SOUTH AND EAST AFRICA RATE AGREEMENT NO. 8054, WILLIAM L. HAMM, SECRETARY, 25 BROADWAY, NEW YORK, NY 10004

MEMBER LINES

Barber Lines A/S, 17 Battery Place, New York, NY 10004.
Farrell Lines, Inc., 1 Whitehall Street, New York, NY 10004.
Hellenic Lines Ltd., 39 Broadway, New York, NY 10006.
Lykes Bros. Steamship Co., Inc., 17 Battery Place, New York, NY 10004.
Moore-McCormack Lines, Inc., 2 Broadway, New York, NY 10004.
South African Marine Corp. (N.Y.), 17 Battery Place, New York, NY 10004.
Springbok Line Ltd., South African Marine Corp. (as agents), 17 Battery Place, New York, NY 10004.
Springbok Shipping Co., Ltd., South African Marine Corp. (as agents), 17 Battery Place, New York, NY 10004.

UNITED STATES/SOUTH & EAST AFRICA CONFERENCE, WILLIAM L. HAMM, SECRETARY, 25 BROADWAY, NEW YORK, NY 10004

MEMBER LINES

Farrell Lines, Inc., 1 Whitehall Street, New York, NY 10004.
Hellenic Lines Ltd., 39 Broadway, New York, NY 10006.
Lykes Bros. Steamship Co., Inc., 17 Battery Place, New York, NY 10004.
Moore-McCormack Lines, Inc., 2 Broadway, New York, NY 10004.
South African Marine Corp., Ltd., 17 Battery Place, New York, NY 10004.
Springbok Line Ltd., South African Marine Corp. (as agents), 17 Battery Place, New York, NY 10004.
Springbok Shipping Co., Ltd., South African Marine Corp. (as agents), 17 Battery Place, New York, NY 10004.
States Marine Lines: States Marine International, Inc.; Global Bulk Transport Inc.; Isthmian Lines, Inc. (as one member only), High Ridge Park, Post Office Box 40, Stamford, CT.
States Marine Lines: States Marine International, Inc.; Global Bulk Transport Inc.; Isthmian Lines, Inc. (As one member only), High Ridge Park, Post Office Box 40, Stamford, CT.
The Shipping Corp. of India, Ltd.—S.C.I. Line Norton, Lilly and Co., Inc. (as agents), 90 West Street, New York, NY 10006.
Cunard-Brocklebank Ltd., Texas Transport and Terminal Co., Inc., 25 Broadway, New York, NY 10006.

[FR Doc.72-18540 Filed 10-30-72;8:50 am]

[Commission Order No. 1 (Revised)]

SETTLEMENT OFFICERS FOR ADMINISTRATIVE LAW JUDGES

Organization and Functions; Delegation of Authority

The Federal Maritime Commission published in the FEDERAL REGISTER on July 26, 1972, 37 F.R. 14877, a rule making whereby "settlement officers" designated by the Commission would be substituted for administrative law judges for purposes of resolving disputes under the informal small claims procedure of Subpart S of the Commission's rules of practice and procedure, 46 CFR 502.301, et seq.

Notice is hereby given that the Secretary, Federal Maritime Commission, has been authorized by the Commission to assign the informal small claims dockets to those designated settlement officers, and section 8 of Commission Order No. 1 is revised accordingly by adding a new § 8.03 as follows:

8.03 Authority to assign informal small claims dockets under Subpart S of the Commission's rules of practice and procedure (46 CFR 502.301, et seq.) to those Commission employees designated as "settlement officers".

Since this change is merely procedural, it shall be effective immediately.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.72-18547 Filed 10-30-72;8:50 am]

LATIN AMERICA/PACIFIC COAST STEAMSHIP CONFERENCE

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 particularly the acts and circumstances said to consti-

tute 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:

H. P. Blok, chairman, Latin America/Pacific Coast Steamship Conference, 417 Montgomery Street, San Francisco, CA 94104.

Agreement No. 8660–6, among the member lines of the Latin America/Pacific Coast Steamship Conference, will modify the basic agreement by amending (1) Article 13, entitled "Notice of Meetings" by deleting therefrom a parenthetical phrase pertaining to the giving of notice to the membership when a change or changes in the Conference agreement is proposed and provides for ten (10) days advance notice when a meeting is to be held instead of the present five (5) days advance notice; and (2) Article 15, by adding a new paragraph (a) which reads as follows:

15. Voting: Decisions. (a) Unless otherwise agreed upon with respect to individual subject matters, "open" votes, determined by roll call, shall be cast and recorded at all meetings, provided, however, that voting by "secret" ballot shall be permitted on any matter if requested by any member present. At duly called meetings, no abstentions or reserved votes shall be permitted with respect to any subject as to which the advance notice specified in Article 13 has been given. With respect to telephone polls, reserved votes shall be permitted for a period not exceeding ten (10) calendar days, during which period such reserved votes must be declared, failing which such votes shall be recorded as being cast with the majority.

Dated: October 24, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 72–18539 Filed 10–30–72;8:50 am]

[Docket No. 72–51]

NEW YORK SHIPPING ASSOCIATION

Further Enlargement of Time To File Replies

New York Shipping Association—NYSA–ILA Man-hour/Tonnage method of assessment; possible violation of sections 15, 16, and 17, Shipping Act, 1916.

Upon request of counsel for Daniels & Kennedy, Inc., and the Madden Corp., time within which reply affidavits and memoranda may be filed in this proceeding is enlarged to and including November 10, 1972.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc. 72–18538 Filed 10–30–72;8:50 am]

FEDERAL POWER COMMISSION

NATIONAL GAS SURVEY SUPPLY-TECHNICAL ADVISORY TASK FORCE-NATURAL GAS TECHNOLOGY

Order Designating a Member

OCTOBER 26, 1972.

The Federal Power Commission by order issued December 21, 1971, established the Technical Advisory and Coordinating Committee Task Forces of the National Gas Survey.

1. Membership. Dr. Elmer H. Baltz has resigned his membership in the Supply-Technical Advisory Task Force-Natural Gas Technology. A new member to the Supply-Technical Advisory Task Force, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Dr. Larry A. Franks, scientist, Environmental Protection Agency.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72–18520 Filed 10–30–72;8:53 am]

NATIONAL POWER SURVEY EXECUTIVE ADVISORY COMMITTEE

Order Designating Additional Member

OCTOBER 26, 1972.

The Federal Power Commission, by order issued August 11, 1972, established the Executive Advisory Committee of the National Power Survey.

2. *Membership.* An additional member of the Executive Advisory Committee, as selected by the Chairman of the Commission, with the approval of the Commission, is as follows:

Arthur F. Sampson, member, Acting Administrator, General Services Administration.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72–18521 Filed 10–30–72;8:53 am]

[Docket No. CP73–94]

CITIES SERVICE GAS CO.

Notice of Application

OCTOBER 26, 1972.

Take notice that on October 6, 1972, Cities Service Gas Co. (Applicant), Post Office Box 25128, Oklahoma City, OK 73125, filed in Docket No. CP73–94 a budget-type application pursuant to sections 7(b) and 7(c) of the Natural Gas Act, as implemented by §§ 157.7(c) and 157.7(e) of the Commission's regulations thereunder, for a certificate of public convenience and necessity authorizing the construction during the calendar year 1973 and operation of gas sales and transportation facilities and for permission and approval to abandon during the calendar year 1973, certain direct natural gas service and facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states the purpose of this application is to enable it to act with reasonable dispatch during the calendar year 1973 in establishing new delivery points for direct sales of natural gas, in making miscellaneous rearrangements on its system and in abandoning service and direct sales measuring, regulating and related minor facilities no longer required for deliveries to its customers, without the delay incident to the filing and processing of numerous individual certificate applications.

The total cost of the proposed transportation and gas sales facilities will not exceed $300,000, which Applicant plans to finance from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 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. 72-18523 Filed 10-30-72;8:53 am]

[Docket No. CP73-67]

COASTAL STATES ENERGY

Notice of Petition and Application

OCTOBER 25, 1972.

Take notice that on August 30, 1972, Coastal States Energy Co. (Coastal), Petroleum Tower, Corpus Christi, Tex. 78403, filed in Docket No. CP73-67 a petition for disclaimer of jurisdiction over its proposed construction and operation of a gas synthesis plant near Corpus Christi, Tex., and sales of synthetic gas (SPG) from said plant, and in the alternative, an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the limited-term sale for resale and delivery of SPG to Trunkline Gas Co. (Trunkline) from the aforesaid plant with pregranted abandonment authorization, all as more fully set forth in the petition and application which is on file with the Commission and open to public inspection.

Coastal contends that the manufacture and sale of SPG, together with the facilities and feedstock supplies necessary to produce SPG, are nonjurisdictional. Coastal states that the arguments expressed by Coastal States Gas Producing Co. in the pending proceeding in Dockets Nos. CP72-35, et al., Algonquin SNG, Inc., et al., fully explain its position that this matter is nonjurisdictional.

In the alternative, Coastal requests authorization to sell and deliver to Trunkline for a term of 10 years a daily quantity of 125,000 Mcf of SPG and an annual quantity of 45,600,000 Mcf of SPG from its proposed gas synthesis plant near Corpus Christi, Nueces County, Tex.

Coastal proposes to charge Trunkline a rate of $1.10 per million B.t.u.'s, subject to upward and downward adjustment by 0.025 cent for each one cent per barrel change in the wholesale price of crude petroleum, east of California, as published monthly in the Petroleum Price Data of the IPAA Statistical and Economic Report of the Independent Petroleum Association of America. Coastal states that it is required to reimburse Trunkline for one-half of any savings accruing to Coastal from the use of imported feedstocks.

Coastal indicates that the proposed gas synthesis plant will be constructed adjacent to its affiliates' existing refinery and gasoline plant operations in Nueces County, at an estimated cost of $33 million. Coastal states that the $33 million and an estimated $5 million of necessary working capital will be financed from funds advanced by its corporate parent, Coastal Gas Producing Co., from funds on hand, and from a presently available commercial bank line of credit.

Coastal also requests a waiver of the requirement to file revenue, expense, and income statements (Exhibit N to the application) since it believes this matter is nonjurisdictional; however, it states that it is willing to supply this information at any hearing in this matter.

Any person desiring to be heard or to make any protest with reference to said petition and application should on or before November 14, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this petition and 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.72-18516 Filed 10-30-72;8:54 am]

[Docket No. CP73-100]

COLORADO INTERSTATE GAS CO.

Notice of Application

OCTOBER 25, 1972.

Take notice that on October 11, 1972, Colorado Interstate Gas Co., a division of Colorado Interstate Corp. (Applicant), filed in Docket No. CP73-100 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas storage facilities in Colorado, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to install and operate a 1,100-horsepower compressor unit at the Fort Morgan storage field in Morgan County, Colo. Applicant states that this unit is required to provide additional storage injection capacity as a result of increased heating season withdrawals. Applicant further states that the addition of this new unit is consistent with its plans for the ultimate development of the Fort Morgan storage field to a net annual withdrawal capacity of approximately 8 million Mcf of natural gas.

Applicant estimates the cost of the proposed project at $493,396.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 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.72-18527 Filed 10-30-72;8:53 am]

[Docket No. CP73-104]

COLUMBIA GULF TRANSMISSION CO.

Notice of Application

OCTOBER 25, 1972.

Take notice that on October 16, 1972, Columbia Gulf Transmission Co. (Appli-

cant), Post Office Box 683, Houston, TX 77001, filed in Docket No. CP73–104 a budget-type application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the Commission's regulations thereunder, for a certificate of public convenience and necessity authorizing the construction, during the period from January 6, 1973, to January 6, 1974, and operation of certain natural gas purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system, supplies of natural gas in various producing areas generally coextensive with its system.

The total cost of the proposed facilities is not to exceed $7 million with no single onshore project to exceed $1 million and no single offshore project to exceed $1,750,000. Applicant plans to finance these costs from current working funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 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.72–18513 Filed 10–30–72;8:54 am]

[Docket No. E–7790]

IOWA POWER AND LIGHT CO.

Notice of Application

OCTOBER 26, 1972.

Take notice that on October 16, 1972, Iowa Power and Light Co. (Applicant) of Des Moines, Iowa, filed an application seeking authority pursuant to section 204 of the Federal Power Act to enter into a guaranty agreement with the trustee of pollution control revenue bonds to be issued by the town of Pleasant Hill, Iowa, in the amount of $5 million, which bonds will be sold by the town as soon as possible after obtaining the approval of this guaranty.

Applicant is incorporated under the laws of the State of Iowa with its principal business office at Des Moines, Iowa, and is engaged in the electric and gas utility business within the State of Iowa.

The bonds of the town will be sold to purchase air pollution abatement equipment at Iowa Power and Light Co.'s Des Moines electric generating station at Pleasant Hill, Iowa, which installation is expected to be completed in the fall of 1974. Said equipment will be leased by the town to the Applicant and payments under said lease will be sufficient to pay principal, premium, if any, and interest due on said bonds. The bonds will not be issued by the Applicant. The rate of interest will be negotiated at a private sale of the bonds between the town and the underwriters.

The authorization sought is for Applicant to issue independent guaranty to the trustee and holders of the bonds of payment of principal, premium, if any, and interest on said bonds. No payments will be required under the guaranty if all payments are made pursuant to the lease.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 17, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–18525 Filed 10–30–72;8:53 am]

[Docket No. CP73–92]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

OCTOBER 25, 1972.

Take notice that on October 5, 1972, Michigan Wisconsin Pipe Line Co. (Michigan), One Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP73–92 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the establishment of an emergency pipeline interconnection with Southern Natural Gas Co. (Southern) and the transportation and exchange of natural gas with Southern, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to an August 15, 1972, exchange agreement with Southern, Applicant proposes to tap its 20-inch transmission pipeline which traverses the site of Southern's Shadyside compressor station in St. Mary Parish, La., so as to permit the interconnection of Applicant's pipeline with a proposed 14-inch pipeline to be constructed by Southern. Said agreement provides that Southern will construct and operate measuring facilities and a 14-inch pipeline within the compressor station site, interconnecting Applicant's 20-inch pipeline with the discharge of the Shadyside compressor station. Said agreement also provides that Applicant shall reimburse Southern for one-half of the total cost of the interconnecting line and measuring facilities, which will be jointly owned by Applicant and Southern. Southern has filed for authorization to effectuate its part of the agreement in Docket No. CP73–84.

Applicant proposes to deliver natural gas to Southern pursuant to the aforesaid exchange agreement which calls for the following:

1. An exchange of natural gas on a gas-for-gas basis;

2. An exchange of natural gas only when the delivering party in its sole judgement believes it has such gas available for delivery to the requesting party; and

3. Redeliveries within 30 days or at other mutually agreeable times.

Applicant states that at the present time it is not contemplating any such exchanges of gas.

Applicant estimates its cost of the facilities which Southern will construct, at $39,396, and the cost to tap its 20-inch transmission line at $6,638.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with

the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18517 Filed 10-30-72;8:54 am]

[Docket No. G-13324, etc.]

MOBIL OIL CORP. ET AL.

Notice of Applications for "Small Producer" Certificates [1]

OCTOBER 26, 1972.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-13324 D 10-6-72	Mobile Oil Corp., Three Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Michigan Wisconsin Pipe Line Co., Laverne Field, Harper County, Okla.	Assigned	
CI61-1281 D 10-5-72	Mobile Oil Corp. (Operator), et al., Three Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Michigan Wisconsin Pipe Line Co., Cedardale Field, Major and Dewey Counties, Okla.	do	
CI64-804 E 10-10-72	Sanford P. Fagadau (successor to Lone Star Producing Co., 1200 One Main Place, Dallas, Tex. 75250.	Lone Star Gas Co., Blue Grove Field Area in Clay County, Tex.	14.525	14.65
CI70-355 C 10-4-72	High Crest Oils, Inc., 2100 First City National Bank Bldg., Houston, Tex. 77002.	Northern Natural Gas Co., Tiger Ridge Field, Blaine and Hill Counties, Mont.	[2] 23.5	15.025
CI72-25 C 7-3-72	Humble Oil & Refining Co.,[3] c/o J. P. Miller, president, Brewton, Ala. 36426.	Florida Gas Transmission Co., Flomaton Field, Escambia County, Ala.	32.5	14.65
CI73-17 (G-17379) B 6-23-72	Glen E. Jeffrey,[3] Post Office Box 52332, Houston, Tex. 77052.	Transwestern Pipeline Co., Harper Field, Clark County, Kans.	Uneconomical	
CI73-237 B 9-28-72	Graham, Forester & Harper, Post Office Box 6121, Corpus Christi, Tex. 78411.	Cities Service Oil Co., Agua Dulce Field, Nueces County, Tex.	do	
CI73-238 B 9-28-72	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Transwestern Pipeline Co., South Tangier Field, Woodward County (Hugoton-Anadarko Area), Okla.	(6)	
CI73-241 B 10-5-72	Mobile Oil Corp., Three Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Tennessee Gas Pipeline Co., Bethany Field, Panola County, Tex.	Depleted	
CI73-242 B 10-4-72	Sun Oil Co., Post Office Box 2880, Dallas, Tex. 75221.	Florida Gas Transmission Co., Krotz Springs Field, St. Landry Parish, La.	(7)	
CI73-243 A 9-28-72	General American Oil Company of Texas, 1800 First National Bank Bldg., Dallas, Tex. 75206.	Texas Gas Transmission Corp., Cotton Valley Field, Webster Parish, La.	19.25	15.025
CI73-244 B 9-28-72	Schimmel Oil Co. (Operator) et al., D-304 Petroleum Center, San Antonio, Tex. 78209.	Tennessee Gas Pipeline Co., Alte Hunde Field, Zapata County, Tex.	Depleted	
CI73-245 F 9-29-72	Graham-Michaelis Corp. (successor to Skelly Oil Co.), Post Office Box 247, Wichita, Kans. 67201.	Northern Natural Gas Co., Pleasant Valley Field, Ford County, Kans.	17.5	14.65
CI73-246 (CI61-74) F 10-6-72	Clinton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, Kans. 67202.	Mountain Fuel Supply Co., Pioneer Unit Field, Sweetwater County, Wyo.	[8] 14.07	15.025
CI73-247 (G-12273) F 9-28-72	Continental Oil Cl. (successor to Amoco Production Co.), 217 North Water St., Wichita, Kans. 67202.	El Paso Natural Gas Co., Blanco Field, San Juan County, N. Mex.	[8] 21.33	15.025
CI73-250 (G-18435) F 10-6-72	Clinton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, Kans. 67202.	Michigan Wisconsin Pipe Line Co., Laverne Field, Harper County, Okla.	19.9346	14.65
CI73-251 (G-15380) F 10-6-72	do	West Lake Natural Gasoline Co. & Atlantic Richfield Co., Lake Trammell, South (Canyon) Field, Nolan County, Tex.	[9] 9.5	14.65
CI73-252 A 10-6-72	Gulf Oil Corp., Post Office Box 1589, Tulsa, Okla. 74102.	Northern Natural Gas Co., Flying "W" (Ellenburger) Field, Winkler County, Tex.	[8] 38.70	14.65
CI73-254 F 10-10-72	Clinton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, Kans. 67202.	Northern Natural Gas Co., South Bechthold Field, Lipscomb County, Tex.	18.0675	14.65
CI73-259 A 10-10-72	Texas Gas Exploration Corp., 1111 First City National Bank Bldg., Houston, Tex. 77052.	Texas Gas Transmission Corp., Acreage in Vermilion Area, Offshore Louisiana.	[8] 26.0	15.025
CI73-260 A 10-10-72	do	Texas Gas Transmission Corp., N/2 of Block 314, Eugene Island Area, Offshore Louisiana.	[8] 26.0	15.025
CI73-261 F 10-10-72	Investors Royalty Co., Inc. (successor to Anadarko Production Co.), 1309 Thompson Bldg., Tulsa, Okla. 74103.	Cities Service Gas Co., Northeast and Northwest Avard Field, Woods County, Okla.	18.037	14.65
CI73-263 F 10-10-72	do	Panhandle Eastern Pipe Line Co., Avard Field, Woods County, Okla.	18.308	14.65
CI73-264 (CI67-374) F 10-10-72	Dawson Operating Co., Inc. (successor to Gulf Oil Corp.), 1010 Bank of the Southwest Bldg., Amarillo, Tex. 79109.	Panhandle Eastern Pipe Line Co., Southeast Gage Field, Ellis County, Okla.	[10] 20.2764	14.65
CI73-265 (CI61-1199) F 10-10-72	Getty Oil Co. (successor to John Franks), Post Office Box 1404, Houston, Tex. 77001.	Texas Gas Transmission Corp., Calhoun Field, Ouachita, Lincoln and Jackson Parishes, La.	[11] 21.125	15.025

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI73-266 (CI68-1352) F 10-10-72	The California Co., a Division of Chevron Oil Co. (successor to Atlantic Richfield Co.), 1111 Tulane Ave., New Orleans, La. 70112.	Transcontinental Gas Pipe Line Corp., Ship Shoal Block 99 Area (107 Field), Offshore Louisiana.	19.0	15.205
CI73-267 (G-18236) F 10-10-72	Amoco Production Co. (successor to Cities Service Oil Co.), Security Life Bldg., Denver, Colo. 80202.	Transwestern Pipeline Co., South Goodwin Field, Ellis County, Okla.	[12] 18.775	14.65
CI73-268 (G-17951) F 10-10-72	Amoco Production Co. (successor to Getty Oil Co.), Security Life Bldg., Denver, Colo. 80202.	do	[13] 18.77	14.65
CI73-269 (G-18726) F 10-10-72	Amoco Production Co. (successor to Mobil Oil Corp.), Security Life Bldg., Denver, Colo. 80202.	do	[14] 18.5	14.65
CI73-272 B 10-13-72	Cities Service Oil Co., Post Office Box 300, Tulsa, Okla. 74102.	Texas Eastern Transmission Corp., Midway Field, San Patricio County, Tex.	(4)	
CI73-274 [15] F 9-1-72	W. E. Bakke d.b.a. W. E. Bakke Oil Co. (successor to Sun Oil Co.), Post Office Box 6568, San Antonio, Tex. 78209.	Colorado Interstate Gas Co., Kearney County, Hugoton Field, Kans.	14.5	14.65
CI73-275 B 10-16-72	General American Oil Company of Texas, 1800 First National Bank Bldg., Dallas, Tex. 75202.	United Gas Pipe Line Co., South Cabeza Creek Field, Goliad County, Tex.	[16]	
CI73-276 A 10-16-72	Ashland Oil, Inc., Post Office Box 1503, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., North Chester Field, Major County, Okla.	[1] 38.316	14.650
CI73-277 B 10-16-72	Exchange Oil & Gas Corp., 1200 Oil and Gas Bldg., New Orleans, La. 70113.	Texas Gas Transmission Corp., Chalkley Field, Cameron Parish, La.	Depleted	
CI73-278 B 10-16-72	do	do	do	
CI73-279 F 10-16-72	Amoco Production Co. (successor to Sun Oil Co.) Security Life Bldg., Denver, Colo. 80202.	Transwestern Pipeline Co., South Goodwin Field, Ellis County, Okla.	[17] 18.778	14.65
CI73-280 (CI67-884) F 10-16-72	Amoco Production Co. (successor to Reading and Bates, Inc.), Security Life Bldg., Denver, Colo. 80202.	Northern Natural Gas Co., Mocane-Laverne Gas Area, Beaver County, Okla.	[18] 18.647	14.65
CI73-281 B 10-16-72	Texas Oil & Gas Corp., 2700 Fidelity Union Tower Bldg., Dallas, Tex. 75201.	Natural Gas Pipeline Company of America, Claybrook #1, Camrick Field, Beaver County, Okla.	(4)	
CI73-282 A 10-16-72	Phillips Petroleum Co., Bartlesville, Okla. 74004.	El Paso Natural Gas Co., NW James Ranch Prospect, Permian Basin Area, Eddy County, N. Mex.	[1] 35.0	14.65

[1] Subject to upward and downward B.t.u. adjustments.
[2] Application previously noticed Sept. 19, 1972 in G-2629, et al. as add acreage; however, application should be noticed to cover interest of coowners.
[3] Applicant acquired interests of Texaco Inc. in Docket No. G-17379.
[4] Expiration of leases.
[5] Rate in effect subject to refund in RI69-374 and RI70-171.
[6] Rate in effect subject to refund in RI73-170.
[7] Rate in effect subject to refund in RI70-90.
[8] Includes 8.70 cents per Mcf upward B.t.u. adjustment.
[9] Applicant is willing to accept a certificate at an initial rate of 26.0 cents; however, the contract price is 45.0 cents.
[10] Includes tax reimbursement of .3144 and 1.9620 cents per Mcf upward B.t.u. adjustment.
[11] Includes all adjustments and tax reimbursement.
[12] Applicant is willing to accept a certificate at an initial rate of 18.775 cents; however, the contract price is 26.0 cents plus tax reimbursement.
[13] Applicant is willing to accept a certificate at an initial rate of 18.77 cents; however, the contract price is 26.0 cents plus tax reimbursement.
[14] Applicant is willing to accept a certificate at an initial rate of 18.5 cents; however, the contract price is 26.0 cents plus tax reimbursement.
[15] Application previously noticed Sept. 27, 1972 as a succession in Docket No. G-4424; however, application should be noticed as a partial succession in Docket No. CI73-274.
[16] The only presently producing gas well is located on acreage that has been assigned to H. A. Stuart effective April 1, 1972.
[17] Applicant is willing to accept a certificate at an initial rate of 18.778 cents; however, the contract price is 26.0 cents.
[18] Includes base price of 17.0 cents, B.t.u. adjustment of 1.632 cents and .015 cents tax reimbursement.

[FR Doc.72-18519 Filed 10-30-72;8:51 am]

[Docket No. CP71-50]

NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Petition to Amend

OCTOBER 25, 1972.

Take notice that on September 27, 1972, Natural Gas Pipeline Company of America (petitioner), 122 South Michigan Avenue, Chicago, IL 60603, filed in Docket No. CP71-50 a petition to amend the order issued in said docket on December 7, 1970 (44 FPC 1541), pursuant to section 7(c) of the Natural Gas Act by authorizing the construction and operation of certain additional natural gas facilities and the transportation and exchange of additional natural gas with Phillips Petroleum Co. (Phillips), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By Commission order in Docket No. CP71-50, inter alia, petitioner was authorized to exchange certain natural gas, which it had available from the Quinduno Field, Roberts County, Tex., with Phillips. Petitioner requests authorization to increase the volume of natural gas which is exchanged with Phillips from the Quinduno Field, and to construct and operate certain additional facilities in order to provide a new delivery point in Roberts County, Tex., and a new redelivery point in Woodward County, Okla., for the new exchange volume.

Applicant states that additional quantities of natural gas have become available in the Quinduno Field as a result of increases in oil allowables, gas-oil ratios, and gas cap production, and that it has entered into an amendment to Gas Exchange Agreement with Phillips providing for an additional delivery point and redelivery point and for exchange of up to 25,000 Mcf per day at such point. In order to effectuate such exchange, petitioner states that it will be necessary to construct and operate at 3,000 additional horsepower at its Quinduno Field compressor station, approximately 2.5 miles of 10-inch pipeline from petitioner's existing Quinduno line to an existing pipeline of Phillips, measuring facilities, side taps, and miscellaneous appurtenant facilities. Petitioner estimates the cost of the proposed facilities at $1,241,400, which it plans to finance from funds on hand.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10), and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18529 Filed 10-30-72;8:54 am]

[Docket No. CP73-96]

NORTHERN NATURAL GAS CO.

Notice of Application

OCTOBER 25, 1972.

Take notice that on October 10, 1972, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP73-96 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the retention and operation of its temporary Glenwood, Iowa, Compressor Station on a continuous basis, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to § 157.22 of the Commission's regulations, exemption of temporary acts and operations, applicant is presently operating at its Glenwood, Iowa, Midpoint Station, a 5,300 horsepower portable compressor unit which was relocated from its Owatonna, Minn., Station in order to accommodate the injection of gas volumes into storage for the coming winter season.

Applicant states that this 5,300 horsepower unit is no longer required for service at the Owatonna, Minn., Station

as the compression requirements of its system in its northern market area have been reduced, and requests herein authorization to retain the subject compressor unit at the Glenwood, Iowa, location on a permanent basis. Applicant further states that by retaining the unit at Glenwood, it can avoid the expenditure of approximately $100,000 per year required to move the unit to Owatonna for the winter and then return it to Glenwood for the summer injection season.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 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.72-18526 Filed 10-30-72;8:53 am]

[Docket No. E-7785]

PACIFIC POWER & LIGHT CO.

Notice of Application

OCTOBER 26, 1972.

Take notice that on October 10, 1972, Pacific Power & Light Co. (Applicant), a corporation organized under the laws of the State of Maine and qualified to transact business in the States of Oregon, Wyoming, Washington, California, Montana, and Idaho with its principal business office at Portland, Oreg., filed an application with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of not exceeding $105 million in principal amount at any one time outstanding of unsecured promissory notes (1) pursuant to a credit agreement with certain banks ($45 million), (2) pursuant to a Line of Credit ($20 million), and (3) in the form of Commercial Paper ($40 million).

(1) Unsecured promissory notes in the sum of not exceeding $45 million in aggregate principal amount at any one time outstanding would be issued under a credit agreement dated as of January 1, 1973 (1973 Credit Agreement), between Applicant and the 14-banks listed in section 1 thereof. Under such credit agreement Applicant would have the right to make borrowings and reborrowings from each bank, and each bank would be obligated to make loans to Applicant from time to time during the period from January 1, 1973, to June 30, 1974. Each note so issued would be dated the day of the borrowing evidenced thereby, would mature 11 months after its date or on June 30, 1974, whichever is earlier, and would bear interest at a rate per annum equivalent to the prime commercial rate of interest charged by the respective banks from time to time. In consideration of the commitments of the several banks to make loans, Applicant would pay to each bank on the last day of each quarter beginning with March 31, 1973, and ending with June 30, 1974, an amount computed at the rate of ½ of 1 percent per annum on the daily average unused amount which such bank was obligated to lend during the calendar quarter then ended. Applicant shall have the right to surrender all or part of the credit extended by the banks under the credit agreement and to prepay, without penalty, the whole or any part of notes outstanding thereunder, any partial prepayments to be in an aggregate amount of not less than $1 million.

(2) Unsecured promissory notes in an aggregate principal amount of not exceeding $20 million at any one time outstanding would be issued by Applicant to evidence borrowings under a line of credit extended by the 14 banks named in section 1 of the credit agreement. Each note so issued would be dated the day of issuance and would have a maturity of not more than 90 days from the date thereof. All notes issued pursuant to the line of credit would mature not later than January 1, 1974.

(3) Unsecured promissory notes in an aggregate principal amount of not exceeding $40 million at any one time outstanding would be issued and sold by Applicant to one or more commercial paper dealers. Each note issued as commercial paper would be dated the day of issuance, would have a maturity of not more than 270 days from the date thereof, and would be discounted at the rate prevailing at the time of issuance for commercial paper of comparable quality and maturity.

Proceeds from the borrowings to be made under the credit agreement, the line of credit and in the form of commercial paper would be used (1), in part, to temporarily finance Applicant's construction expenditures for 1973, presently estimated at $138,108,000, and (2) to pay installments of $5 million each on term loans due June 30, 1973, and December 31, 1973, under Applicant's $35 million term credit agreement dated April 1, 1968. The balance of funds expected to come, in part, from further permanent financing which Applicant proposes to undertake late in 1973, the amounts, types, of securities and exact timing of issuance of which have not yet been determined.

Any person desiring to be heard or to make any protest with reference to this application should, on or before November 10, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18530 Filed 10-30-72;8:54 am]

[Docket No. RI73-71]

PHILLIPS PETROLEUM CO.

Notice of Extension of Time

OCTOBER 25, 1972.

On October 24, 1972, Phillips Petroleum Co. filed a motion for extension of time for filing testimony and exhibits in the above matter as required by order issued October 13, 1972.

Upon consideration, notice is hereby given that the time is extended to and including November 3, 1972, for the filing by Phillips of evidence and exhibits. The date of the prehearing conference, November 15, 1972, is not changed.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18514 Filed 10-30-72;8:54 am]

[Docket No. E-7742]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE

Postponement of Prehearing Conference and Cross-Examination

OCTOBER 25, 1972.

The Commission order issued August 14, 1972, in the above-designated matter provided for the cross-examination to commence March 1, 1973. The Chief Administrative Law Judge's order issued September 14, 1972, postponed the commencement of the cross-examination to March 6, 1973, at 10 a.m. e.s.t., and

fixed February 27, 1973, for the convening of a prehearing conference. On September 20, 1972, counsel for the New Hampshire Electric Cooperative, Inc., filed a letter stating that he, staff counsel, and counsel for Public Service Co. of New Hampshire agree to a postponement of the prehearing conference to March 6, 1973, and a postponement of cross-examination to March 16, 1973. On September 27, 1972, Commission staff counsel filed a letter stating that the letter filed September 20, 1972, accurately represents staff counsel's acquiescence in the proposed dates.

Upon consideration, notice is hereby given that the prehearing conference is postponed to March 6, 1973, at 10 a.m. e.s.t.; the cross-examination is postponed to March 16, 1973, at 10 a.m.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18512 Filed 10-30-72;8:54 am]

[Docket No. RP73-57]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Notice of Proposed Changes in Rates and Charges

OCTOBER 26, 1972.

Take notice that South Texas Natural Gas Gathering Co. (South Texas) on October 17, 1972, tendered for filing proposed changes in its rate for sale of gas to Transcontinental Gas Pipe Line Corp. (Transco). The proposed rate change is described in the company's transmittal letter as follows:

The change in rate proposed herein is required, among other reasons, to permit the flow through of South Texas' increased purchased gas cost which will result from the settlement submitted to the Commission by the McAllen Ranch Producers in Docket Nos. RI72-240, et al. on September 14, 1972. The settlement in that docket is conditioned upon such a flow through. Accordingly it is requested that the Commission, pursuant to § 154.51 of its regulations, waive notice requirements to permit the tendered increase to become effective coincidentally with the increase of the McAllen Ranch Producers or November 15, 1972, whichever is earlier.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 8, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18522 Filed 10-30-72;8:53 am]

[Docket No. CS73-287, etc.]

C. C. STEPHENSON, JR., ET AL.

Applications for "Small Producer" Certificates [1]

OCTOBER 25, 1972.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Name of applicant
CS73-287...	10-12-72	C. C. Stephenson, Jr., 1209 Mid-Continent Bldg., Tulsa, Okla. 74103.
CS73-288...	10-12-72	R. W. Stough, Box 555, Carthage, TX 75633.
CS73-289...	10-16-72	Helen Loraine Harvey, Post Office Box 177, Wichita Falls, TX 76307.
CS73-290...	10-16-72	R. J. Schumacher, 1329 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.
CS73-291...	10-16-72	Harry J. Owens, 1111 Judson Rd., Longview, TX 75601.
CS73-292...	10-16-72	R. L. Burns Corp., 334 West Third St., San Bernardino, CA 92401.
CS73-293...	10-16-72	Productive Exploration Co., 1122 United Founders Tower, Oklahoma City, Okla. 73112.
CS73-294...	10-18-72	Cecil Stein, 2112 Alabama, Houston, TX 77004.
CS73-295...	10-17-72	Wm. J. O'Connor, 1122 United Founders Tower, Oklahoma City, Okla. 73112.
CS73-296...	10-17-72	Energy Development Corp., 80 Park Place, Newark, NJ 07101.
CS73-300...	10-16-72	Yegua Stillwell Gas Corp., Post Office Box 145, Alice, TX 78332.
CS73-301...	10-13-72	Dan Schusterman d.b.a. Schusterman Development Co., 1201 Mid-Continent Bldg., Tulsa, Okla. 74103.
CS73-302...	10-16-72	Ray H. Eubank, 2310 Republic National Bank Tower, Dallas, Tex. 75201.
CS73-303...	10-16-72	H. H. Fullilove, et al., Post Office Box 13204, Houston, TX 77019.
CS73-304...	10-16-72	Magic Circle Oil Co., 1122 United Founders Tower, Oklahoma City, Okla. 73112.
CS73-305...	10-13-72	Robert P. Lammerts, 950 National Foundation Life Bldg., Oklahoma City, Okla. 73112.
CS73-306...	10-16-72	Wilco Properties, Inc., 2310 Republic Bank Tower, Dallas, Tex. 75201.
CS73-307...	10-13-72	American Natural Gas Exploration, Inc., 3801 Kirby, Suite 714, Houston, TX 77006.

[FR Doc.72-18518 Filed 10-30-72;8:51 am]

[Docket No. CP73-101]

TENNESSEE GAS PIPELINE CO.

Notice of Application

OCTOBER 25, 1972.

Take notice that on October 12, 1972, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Applicant), filed in Docket No. CP73-101 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for a limited term ending October 31, 1973, for the Greenwich Gas Co. (Greenwich), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Greenwich and The Southern Connecticut Gas Co. (Southern) presently purchase natural gas from Applicant under Applicant's Rate Schedule No. G-6. Applicant states that Greenwich has made arrangements with Southern to store and vaporize a maximum daily volume of 3,000 Mcf and a maximum winter volume of 25,000 Mcf of liquefiable natural gas (LNG) at Southern's Bridgeport Service

Area, which Greenwich plans to purchase from New England LNG Co., Inc., and to have delivered to the Bridgeport Service Area. Applicant further states that Southern has agreed to inject such vaporized LNG into its distribution system and to make available to Applicant for transportation to Greenwich an equivalent daily volume of natural gas by reducing its natural gas takes from Applicant.

Applicant seeks authorization pursuant to a precedent agreement dated October 10, 1972, with Greenwich to transport and deliver to Greenwich at Applicant's existing Greenwich Sales Meter Station in Fairfield County, Conn., the daily transportation volumes of natural gas made available by Southern up to a total maximum daily quantity of 3,000 Mcf of natural gas per day for the term ending October 31, 1973.

Applicant proposes to charge Greenwich a monthly transportation charge comprised of a demand charge of 29.41 cents per Mcf and a volume charge of 4.90 cents per Mcf, subject to certain minimum bill provisions.

Applicant states that it can render this proposed transportation service for the limited term through its existing facilities without affecting its ability to render its presently authorized firm service to any other existing customers.

Applicant indicates that Greenwich will utilize the natural gas received under this transportation arrangement for peak shaving purposes during the 1972–73 winter heating season.

Any person desiring to be heard or to make any protest with reference to said application should, on or before November 20, 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.72-18515 Filed 10-30-72;8:54 am]

[Docket No. CP73-99]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

OCTOBER 26, 1972.

Take notice that on October 11, 1972, Transcontinental Gas Pipe Line Corp. (Applicant), Post Office Box 1396, Houston, TX 77001, filed in Docket No. CP73-99 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon the following facilities:

1. Approximately 800 feet of 4-inch transmission line and one meter and regulator station and related facilities, known as Lyons-Johnson Bayou purchase facilities, in Cameron Parish, La.;

2. Approximately 2,261 feet of 8-inch transmission purchase line and one meter and regulator station and related facilities, known as Tennessee Gas No. 3 Block 77 purchase facilities, and one meter and regulator station and related facilities, known as Tennessee Gas No. 1 Block 77 purchase facilities, in Vermilion Area, offshore Louisiana; and

3. Approximately 1,209 feet of 4-inch transmission line, one meter and regulator station and related facilities known as the Inexco-Van Meter purchase facilities, in Hardin County, Tex.

Applicant states that these facilities which were originally used for the purchase of natural gas are no longer needed due to the exhaustion of natural gas reserves in the fields served by these facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 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 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.72-18524 Filed 10-30-72;8:53 am]

[Docket No. CP73-103]

UNITED GAS PIPE LINE CO.

Notice of Application

OCTOBER 25, 1972.

Take notice that on October 16, 1972, United Gas Pipe Line Co. (Applicant), 1500 Southwest Tower, Houston, TX 77002, filed in Docket No. CP73-103 a budget-type application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under the Act, for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1973, and the operation of certain natural gas purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of natural gas in producing areas generally coextensive with its system.

The total cost of the proposed facilities is not to exceed $7 million with no single onshore project to exceed $1 million and no single offshore project to exceed $1,750,000. Applicant proposes to finance these costs through funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 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.72-18528 Filed 10-30-72;8:54 am]

[Docket Nos. RI70-830, et al.]

ATLANTIC RICHFIELD CO., ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

OCTOBER 25, 1972.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto [18 CFR, Chapter I], and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in docket No.
RI70-830	Atlantic Richfield Co.	476	1-2	Kansas Nebraska Gas Co., Inc. (Castle Garden Field, Fremont County, Wyo.).	$(86)	[2] 9-28-72		5- 1-72	[12] 16.24	[12] 16.12	RI70-830.
RI70-829	do	291	1-2	Montana-Dakota Utilities Co. (Elk Basin Field, Park County, Wyo.).	(1)	9-28-72		9- 1-72	13.13	[1] 13.065	RI70-829.
RI73-76	Cities Service Oil Co.	382	[3] 4	El Paso Natural Gas Co. (Washing Ranch Field, Eddy County N. Mex., Permian Basin).	18,180	9-25-72		3-26-73	[4] [5] [12] 27.27	[6] [12] 30.30	
RI73-77	Cabot Corp. (SW)	44	[6] 8	Transwestern Pipe Line Co. (Estes Gasoline Plant, Winkler County, Tex.) (Permian Basin).		5-26-72	10-27-72	[11] Accepted			
	do		[7] 9	do	7,800	9-26-72		3-27-73	[12] 27.2	[12] 35.0	RI71-334.
	do	49	[6] 6	Transwestern Pipe Line Co. (Walton Gasoline Plant, Winkler County, Tex.) (Permian Basin).		9-26-72	10-27-72	[11] Accepted			
	do		[6] 7	do	24,000	9-26-72		3-27-73	[12] 27.2	[12] 35.0	RI71-334.
RI70-469	Humble Oil & Refining Co.	218	1-5	Mountain Fuel Supply Co. (Dry Piney Unit, Sublette County, Wyo.).	(574)	10- 3-72		10- 3-72	17.17	[1] 17.085	RI70-469.
RI70-469	do	226	1-3	Montana Dakota Utilities Co. (Elk Basin Field, Park County, Wyo.).	(268)	10- 3-72		10- 3-72	13.13	13.065	RI70-469.
RI73-78	Continental Oil Co.	298	5	Montana-Dakota Utilities Co. (Riverton East Field, Fremont County, Wyo.).		10- 2-72	11- 2-72	[10] Accepted			
	do		6	do	11,560	10- 2-72		12- 3-72	16.4667	16.9607	RI71-22.

*Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
[1] Rate reduction. Applicant has collected a double amount of tax reimbursement in order to recoup such reimbursement on production back to January 1, 1968, and now proposes only to collect the contractually due tax reimbursement.
[2] Corrected by filing of September 29, 1972.
[3] Applicable only to acreage added by Supplement No. 3.
[4] Initial rate prescribed by temporary certificate issued September 15, 1972.
[5] Includes B.t.u. adjustment.
[6] Contract amendment.
[7] Applicable only to new gas as defined in Supplement No. 8.
[8] Applicable only to new gas as defined in Supplement No. 6.
[9] Contract amendment.
[10] Accepted to be effective on the date shown in the "Effective Date" column.
[11] Accepted to be effective on the date shown in the "Effective Date" column on the condition that such acceptance does not constitute Commission approval of the provisions therein and in particular the definition of "new gas" as stated therein.
[12] The pressure base is 14.65 p.s.i.a.

The proposed decreases of Atlantic Richfield Co. and Humble Oil & Refining Co. reflect a decrease in reimbursement of the Wyoming production tax. Atlantic and Humble have been collecting a double amount of the contractually due tax reimbursement so as to recoup taxes on past sales of gas. Since the back taxes have been recovered, Atlantic and Humble now propose to collect only the contractual tax reimbursement for current sales of gas. The proposed decreases are suspended in the existing rate proceedings to be effective subject to refund as of the proposed effective dates.

The increase proposed by Continental Oil Co. under its FPC Gas Rate Schedule No. 298 does not exceed the corresponding rate filing limitations imposed in Southern Louisiana and therefore is suspended for 1 day from the expiration of the 60-day notice period.

The proposed increases of Cabot Corp. (SW) are for sales of "new gas" from the Permian Basin Area of Texas as defined in the contract amendment. The amendment defines "new gas" as residue gas derived from casinghead gas or gas-well gas covered by "producer to plant" contracts, contract renewals or extensions of existing contracts entered into on or after October 1, 1968, for gas supplied to the plant. For such "new gas," the amendment provides for 35 cents per Mcf effective January 1, 1972, and for a 1 cent per Mcf periodic increase each year thereafter or for such higher just and reasonable rate that may be established by the

Commission. The contract amendments are accepted for filing 30 days after filing with the stipulation that acceptance of the agreements does not constitute Commission approval of the provisions therein and in particular the definition of "new gas" as stated therein. Cabot's proposed rates exceed the corresponding rate filing limitation imposed in Southern Louisiana and are therefore suspended for 5 months.

The other proposed increased rates involved here exceed the corresponding rate filing limitations imposed in Southern Louisiana and therefore are suspended for 5 months.

The producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61–1, as amended (18 CFR, Chapter I, Part 2, § 2.56).

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(1)(3) of the Price Commission rules and regulations, 6 CFR 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by Area Rate Proceeding, Docket No. AR61–1, et al., Opinion No. 468, 34 FPC 159 (1965), and affirmed by the Supreme Court in Permian Basin Area Rate Case, 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a 1-day suspension.

(3) By Order No. 423 (36 F.R. 3464) issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act (15 U.S.C. 717c(d)) in a situation where the proposed rate exceeds the increased rate ceiling, but does not exceed the ceiling for a 1-day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinion Nos. 595, 598, and 607, and Order No. 435.) In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well as the rules and regulations of the Price Commission, 6 CFR 300 (1972). Specifically, this Commission is of the opinion that the authorized suspension is required to assure continued, adequate and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

[FR Doc. 72–18575 Filed 10–30–72;8:45 am]

[Docket No. G–13324, etc.]

MOBIL OIL CORP. ET AL.

Notice of Applications for "Small Producer" Certificates; Correction [1]

OCTOBER 26, 1972.

Change heading of F.R. Doc. 72–18519 appearing at page — of this issue to read: Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates.[1]

Change text of first paragraph to read:

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–18682 Filed 10–30–72;11:23 am]

FEDERAL RESERVE SYSTEM

AMERICAN CAPITAL CORP.

Formation of Bank Holding Company

American Capital Corp., Houston, Tex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of: (1) The successor by merger to the First National Bank of Raymondville, Raymondville, and the successors by reorganization to (2) First State Bank of Alamo, Alamo, (3) First State Bank of Willis, Willis, and (4) Union State Bank, Carrizo Springs, all in Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application 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 application 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 November 20, 1972.

Board of Governors of the Federal Reserve System, October 24, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72–18471 Filed 10–30–72;8:46 am]

BRONKEN AGENCY, INC.

Order Approving Acquisition of Bank

Bronken Agency, Inc., Barron, Wis., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 40.8 percent of the voting shares of Bank of Barron, Barron, Wis. (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant's only banking subsidiary is Bank (deposits of about $11 million) of which it presently owns approximately 39.2 percent of the voting shares.[1] Bank is the third largest of 11 banks located in Barron County and controls about 13 percent of total commercial bank deposits in the area. The additional shares Applicant seeks to acquire are substantially those that are presently owned by the three principal officers of Applicant. Since the consummation of this transaction would result only in a change of ownership from individual holdings to corporate form, there appears to be no effect on existing or potential competition in any relevant area.

Considerations relating to the managerial and financial prospects of Applicant and Bank appear generally satisfactory and are consistent with approval of the application. Considerations relating to the convenience and needs of the community to be served also are consistent with approval of the application. It is the Board's judgment that the proposed transaction is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order, or (b) later than 3 months after the effective 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.

By order of the Board of Governors,[2] effective October 20, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72–18472 Filed 10–30–72;8:46 am]

C-M CO., INC.

Formation of Bank Holding Company

The C-M Co., Inc., Medicine Lodge, Kans., has filed an amended application for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a registered bank holding company through retention of 90 percent or more of the voting shares of Isabel State Bank, Isabel, Kans. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)). Notice of the original application was published on February 5, 1972 (37 F.R. 2807).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views

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[1] All banking data are as of Dec. 31, 1971.

[2] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governor Brimmer.

in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 16, 1972.

Board of Governors of the Federal Reserve System, October 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18479 Filed 10-30-72;8:47 am]

THE C-M CO., INC.

Proposed Acquisition of The Clyde S. Boots Insurance Agency

The C-M Co., Inc., Medicine Lodge, Kans., has filed an amended application pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire the assets of the Clyde S. Boots Insurance Agency, Isabel, Kans. Notice of the application was published on January 6, 1972, in the Barber County Index, a newspaper circulated in Barber County, Kans. Notice of the original application was published on February 5, 1972 (37 F.R. 2807).

Applicant states that the proposed subsidiary would engage in the activities of a general fire and casualty insurance agency in Isabel, Kans., a community with less than 5,000 people. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 16, 1972.

Board of Governors of the Federal Reserve System, October 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18475 Filed 10-30-72;8:47 am]

CENTENNIAL BANK CORP.

Formation of One-Bank Holding Company

Centennial Bank Corp., Englewood, Colo., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Centennial State Bank, Englewood, Colo., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than November 16, 1972.

Board of Governors of the Federal Reserve System, October 24, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18470 Filed 10-30-72;8:46 am]

CENTURY BANCORP, INC.

Acquisition of Bank

Century Bancorp, Inc., Somerville, Mass., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 95 percent or more of the voting shares of North Shore Bank & Banking Co., Lynn, Mass. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application 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 November 16, 1972.

Board of Governors of the Federal Reserve System, October 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18477 Filed 10-30-72;8:47 am]

FIRST NATIONAL STATE BANCORPORATION

Acquisition of Bank

First National State Bancorporation, Newark, N.J., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of the successor by merger to Somerset Hills and County National Bank, Basking Ridge, N.J. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application 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 November 16, 1972.

Board of Governors of the Federal Reserve System, October 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18481 Filed 10-30-72;8:47 am]

FORT WORTH NATIONAL CORP.

Acquisition of Bank

The Fort Worth National Corp., Fort Worth, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Exchange Bank & Trust Co., Dallas, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The Fort Worth National Corp., is also engaged in the following nonbank activities: Mortgage banking, ranch management, land development, acting as agent for credit life, accident, and health insurance that is directly related to any extension of credit, and operating a savings and loan association. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application 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 application 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 November 16, 1972.

Board of Governors of the Federal Reserve System, October 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18476 Filed 10-30-72;8:47 am]

K.B.J. ENTERPRISES, INC.

Formation of Bank Holding Company

K.B.J. Enterprises, Inc., Sibley, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 58.6 percent or more of the voting shares of Sibley State Bank, Sibley, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application 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 November 16, 1972.

Board of Governors of the Federal Reserve System, October 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18480 Filed 10-30-72;8:47 am]

MANUFACTURERS HANOVER CORP.

Acquisition of Bank

Manufacturers Hanover Corp., Dover, Del., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Citizens Bank of Monroe, Monroe, N.Y. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application 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 November 20, 1972.

Board of Governors of the Federal Reserve System, October 24, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18469 Filed 10-30-72;8:46 am]

NATIONAL DETROIT CORP.

Formation of One-Bank Holding Company

National Detroit Corp., Detroit, Mich., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to National Bank of Detroit, Detroit, Mich. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than November 13, 1972.

Board of Governors of the Federal Reserve System, October 24, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18468 Filed 10-30-72;8:46 am]

SOUTHEAST BANKING CORP.

Acquisition of Bank

Southeast Banking Corp., Miami, Fla., has applied in two separate applications as set forth below for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)):

(1) To acquire 80 percent or more of the voting shares of Bankers Bank of Florida, Fort Lauderdale, Fla.; and

(2) To acquire 80 percent or more of the voting shares of Bank of Florida at Fort Lauderdale, Fort Lauderdale, Fla.

The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application 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 November 16, 1972.

Board of Governors of the Federal Reserve System, October 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18478 Filed 10-30-72;8:47 am]

SOUTHEAST BANKING CORP.

Order Approving Acquisition of Bank

Southeast Banking Corp., Miami, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of The Bank of Orange Park, Orange Park, Fla. (Orange Park Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 17 banks with aggregate deposits of $1.24 billion, representing 7.7 percent of the total commercial bank deposits held by Florida banks, and is the largest banking organization in the State. (All banking data are as of December 31, 1971, and reflect holding company formations and acquisitions approved through September 30, 1972.) The acquisition of Orange Park Bank ($12.1 million deposits) would increase Applicant's share of Florida deposits by 0.07 percentage points. Consummation of the acquisition would not result in a significant increase in the concentration of banking resources on a local or a statewide basis.

Orange Park Bank is located in the Jacksonville banking market where it controls 0.85 percent of total deposits as the 21st largest of 31 banks. Applicant's present two subsidiaries in this market control 3.36 percent of total deposits, whereas three of the six multibank holding companies represented therein control 71.73 percent. Upon consummation of this proposed acquisition Applicant would control 4.21 percent of total market deposits.

Applicant's present subsidiaries in the Jacksonville market are located approximately 12 and 20 miles, respectively, from Orange Park Bank. The St. Johns River acts as a natural barrier to present or potential competition between these banking offices. Competitive considerations are consistent with approval of the application. In addition, it appears that the proposed affiliation would enable Orange Park Bank to compete more effectively with the larger area banks.

The financial condition of Applicant and its subsidiary banks is considered to be generally satisfactory in view of Applicant's commitment to increase equity capital in its subsidiaries by the end of the year. Management is deemed capable and prospects for the group are favorable. The financial condition of Orange Park Bank is considered to be satisfactory; it has capable management; its earnings have been satisfactory; and its prospects appear favorable. Banking factors are consistent with approval of the application.

The prime banking needs of the area are satisfactorily served at the present time. Although no new services are proposed for Orange Park Bank, Applicant plans to expand and improve its present services; to enable it to meet the credit needs of the expanding area where residential construction is a prime economic activity; and to provide the bank with capital as needed. Considerations relating to the convenience and needs of the communities to be served are consistent with and lend some support toward approval of the application. It is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective October 20, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18473 Filed 10-30-72;8:46 am]

[1] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governor Brimmer.

SURVCO BANCORP, INC.

Formation of Bank Holding Company and Proposed Acquisition of Surco Co.

Survco Bancorp, Inc., Sugar Creek, Mo., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 94.4 percent of the voting shares of Sugar Creek National Bank, Sugar Creek, Mo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Survco Bancorp, Inc., has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire the assets of Surco Co., a partnership, of Sugar Creek, Mo., Notice of the application was published on August 31, 1972, in the Kansas City Star, a newspaper circulated in Kansas City, Mo.

Applicant states that the proposed subsidiary would engage in the activities of acting as agent for sale of credit life, accident and health insurance, on borrowers who have been extended credit by Sugar Creek National Bank or bank-related firms. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal under section 4(c)(8) can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 16, 1972.

Board of Governors of the Federal Reserve System, October 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18474 Filed 10-30-72;8:47 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 72-20]

GRAPH-DATA DIGITIZING, LOS ANGELES, CALIF.

Notice of Intent To Grant Exclusive Patent License

Notice is hereby given of intent to grant to Graph-Data Digitizing, Los Angeles, Calif., a limited exclusive license to practice the invention described in U.S. Patent No. 3,346,724 for "Random Function Tracer" issued October 10, 1967, to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The proposed license will be exclusive, revocable, and royalty-free for a term of 6 years in accordance with the NASA Patent Licensing Regulations, 14 CFR 1245.2, as revised April 1, 1972. NASA will grant the exclusive license unless, within 30 days of this notice, the Chairman, Inventions and Contributions Board, NASA, Washington, D.C. 20546, receives in writing any of the following, together with supporting documentation: (i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive license; or (ii) an application for a nonexclusive license under such invention, in accordance with § 1245.206(b), in which applicant states that he has already brought or is likely to bring the invention to practical application within a reasonable period. The Board will review all written responses to the notice and then recommend to the Administrator whether to grant the exclusive license.

JAMES C. FLETCHER,
Administrator.

[FR Doc.72-18483 Filed 10-30-72;8:47 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR ATMOSPHERIC SCIENCES

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given that the Advisory Panel for Atmospheric Sciences will meet at 9:30 a.m. on November 9, 1972, and at 9 a.m. on November 10, 1972, in Room 321, 1800 G Street NW., Washington, DC 20550. The purpose of this panel is to provide advice and recommendations (a) concerning support for research in Atmospheric Sciences; and (b) as part of the review and evaluation process for specific proposals and projects.

The agenda for this meeting will include:

OCTOBER 9 SESSION

1. Introductory remarks and committee operational guidelines, by the section head, Atmospheric Science Section.
2. Divisional highlights, presented by the Division Director, Division of Environmental Sciences.
3. Review of NSF Atmospheric Sciences activities, by the section head, Atmospheric Sciences Section.
4. Examination of ways for NSF to stretch present support of atmospheric sciences.
5. NSF support for incoherent scatter radar—

Jicamarca,

Chatanika,

Upper Atmosphere Observatory.

6. Role of NSF in the international magnetospheric survey.
7. 1973 solar eclipse.
8. Review of recent global atmospheric research program (GARP) activities.
9. Weather modification objectives and national hail research experiment (NHRE) review.
10. St. Louis air pollution study.
11. High altitude aircraft sampling.
12. Review and evaluation of selected research proposals.

OCTOBER 10 SESSION

1. National Science Computer Network.
2. National Center for Atmospheric Research (NCAR) computer plans.
3. Other NCAR/NSF activities.
4. Discussion of "Needs of the Atmospheric Sciences" and panel deliberation.
5. Panel discussion with the participation of the Assistant Director for Research; the Deputy Assistant Director for Research; and the Division Director, Division of Environmental Sciences.

The meeting will be open to the public except that portion represented by agenda item 12 of the November 9 session which will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated August 23, 1972, pursuant to the provisions of Executive Order 11671, section 13(d). Persons who desire to attend should notify the Atmospheric Science Section, Division of Environmental Sciences by telephone (202—632-4198), or by mail (Room 312, 1800 G Street NW., Washington, DC 20550), prior to the meeting.

For further information relative to this panel, contact Dr. Fred D. White, section head, Atmospheric Sciences Section, Division of Environmental Sciences, Room 312, 1800 G Street NW., Washington, DC 20550. Summary minutes of this meeting may be obtained from the Management Analysis Office, Room 245; 1800 G Street NW., Washington, DC 20550.

T. E. JENKINS,
Assistant Director for Administration.

OCTOBER 25, 1972.

[FR Doc.72-18492 Filed 10-30-72;8:48 am]

ADVISORY PANELS FOR BIOPHYSICS AND BIOCHEMISTRY

Notice of Meetings

Pursuant to Executive Order 11671, notice is hereby given of meetings of the following committees, including the individuals to contact for further information respecting each committee. The purpose of each of these advisory bodies is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects.

ADVISORY PANEL FOR BIOPHYSICS

Date and time of meeting: 9 a.m., November 10 and 11, 1972.

Location of meeting: Room 338, 1800 G Street NW., Washington, DC 20550.

Agenda: The agenda will be devoted to the review and evaluation of research proposals.

For further committee information, contact: Dr. Eloise E. Clark, section head, Molecular Biology Section, Division of Biological and Medical Sciences, Room 329, 1800 G Street NW., Washington, DC 20550.

ADVISORY PANEL FOR BIOCHEMISTRY

Date and time of meeting: 9 a.m., November 10 and 11, 1972.

Location of meeting: Room 338, 1800 G Street NW., Washington, DC 20550.

Agenda: The agenda will be devoted to the review and evaluation of research proposals.

For further committee information, contact: Dr. Roy Kisliuk, program director, Biochemistry Program, Division of Biological and Medical Sciences; Room 329, 1800 G Street NW., Washington, DC 20550.

These meetings will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated August 23, 1972, pursuant to the provisions of Executive Order 11671, section 13(d).

T. E. JENKINS,
Assistant Director for Administration.

OCTOBER 25, 1972.

[FR Doc.72-18491 Filed 10-30-72;8:48 am]

SECURITIES AND EXCHANGE COMMISSION

[811-2138, 812-3247]

ATLANTA/LASALLE CORP. AND ATLANTA/LASALLE CAPITAL CORP.

Notice of Application for Order Declaring That Company Has Ceased Being an Investment Company and Exempting Its Subsidiary From All Provisions

OCTOBER 25, 1972.

Notice is hereby given that Atlanta/LaSalle Corp. (Applicant), a Delaware corporation registered as a closed-end, nondiversified management investment company under the Investment Company Act of 1940 (Act) has filed an application on its own behalf for an order pursuant to section 8(f) declaring that it has ceased to be an investment company and on behalf of its wholly owned subsidiary Atlanta/LaSalle Capital Corp. (formerly LaSalle Street Capital Corp.) (SBIC subsidiary), 150 South Wacker Street, Chicago, IL, also registered as a closed-end, nondiversified management investment company for an order pursuant to section 6(c) of the Act exempting SBIC subsidiary from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

I. Applicant was originally incorporated in Illinois in 1962 under the name Milwaukee Braves Baseball Club, Inc. In 1966 its name was changed to Atlanta Braves Baseball Club, Inc., and in 1970 to BBR Corp. In 1970 applicant was reincorporated in Delaware under the name Atlanta/LaSalle Corp. Applicant's principal asset at that time was ownership of approximately 86 percent of the outstanding common stock of Atlanta Braves, Inc., (Braves) the owner and operator of the Atlanta Braves National League baseball franchise.

Applicant states that it registered under the Act in November 1970, because it believed that following a then proposed merger with LaSalle Street Capital Corp. (Old SBIC), Applicant would own investment securities exceeding 40 percent of the value of its total assets on an unconsolidated basis and consequently would be deemed to be an investment company as defined in the Act. Old SBIC which had previously been registered under the Act and which was licensed as a small business investment company under the Small Business Investment Company Act of 1958 as amended, filed an application pursuant to section 6(c) and 17(b) of the Act for an order of the Commission to permit its merger into Applicant. Following a hearing on the matter the Commission issued an order exempting Old SBIC from various provisions of the Act subject to certain conditions. (See I.C. Rel. No. 6693). Old SBIC was subsequently merged into Applicant on November 1, 1971. As a part of such merger its small business activities including SBIC license and the name LaSalle Street Capital Corp. (SBIC subsidiary) were transferred to a newly created, wholly owned subsidiary called LSC Corp. which was also registered as an investment company under the Act. As a further part of the merger, certain of Old SBIC's assets and liabilities which were not transferred to LSC were transferred to Applicant.

Section 3(a)(1), defines the term "investment company" as any issuer which is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities.

Section 3(a)(3) defines the term "investment company" as any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of the issuers total assets (exclusive of Government securities and cash items) on an unconsolidated basis.

Applicant represents that it has never operated, and does not presently intend to operate in such a manner as to bring it within the definition of an investment company. Applicant states that it directs the overall management of its four majority-owned subsidiaries, three of which are operating companies and one of which, SBIC subsidiary, is a small business investment company.

Applicant states further that with respect to its employees and those of its subsidiaries, 274 are employed in operating matters and three are engaged in investment matters and with respect to Applicant's officers, approximately 72 percent of their time is spent on operating matters and approximately 28 percent on investment matters on an average basis.

Table I shows the assets of Applicant at cost and at value as of April 30, 1972, excluding $978,000 of cash and cash items.

ATLANTA LASALLE CORPORATION ASSETS AT COST AND AT VALUE APRIL 30, 1972, ADJUSTED [1]

TABLE I

Assets	Cost	Directors' valuation as of April 30, 1972
Majority and wholly-owned investments, other than securities of small business investment company:		
Atlanta Braves, Inc., 265,371 shares common stock	$2,282,754	$11,167,000
A/L Sports, Inc., 1,000 shares common stock	971,000	971,000
Becknell and Grace Coal Co., 15,000 shares common stock	66,000	1
Subtotal	3,319,754	12,138,001
Investment Securities:		
A. E. Staley Manufacturing Co., 87,503 shares common	65,810	1,737,000
Belscot Retailers, Inc., 45,554 shares common stock	40,538	192,000
LaSalle Street Capital Corp., 1,000 shares common stock	2,280,788	2,492,000
Subtotal	2,387,136	4,421,000
Total assets	5,706,890	16,559,001
Percent Investment Securities to value of total assets, less cash		26.69%

[1] Applicant's assets, at cost and at value Apr. 30, 1972, adjusted to give effect to acquisition in July 1972 of securities of AL Sports Inc. (100 percent owned) which in turn acquired securities of Pete Bulkley Company of Atlanta and BH&B Manufacturing Co., both 100 percent owned.

If allocated as shown in Table 1, approximately 73.31 percent of Applicant's assets will be related to noninvestment company activity.

Table II shows respectively the Gross Income, Pretax Net Income (loss) and

net cash flow from Applicant's subsidiary operations.

TABLE II

Name of company	Most recent fiscal period [1]	
	Operating	Investment
Gross income:		
Braves	$6,061,000	
A/L Sports, Inc.	1,764,000	
SBIC Subsidiary		$368,000
Total	7,825,000	368,000
Pretax Net Income (loss):		
Braves	(58,000)	
A/L Sports, Inc.	360,000	
SBIC Subsidiary		(751,000)
Total	302,000	(751,000)
Net Cash Flow:		
Braves	652,000	
A/L Sports, Inc.	190,000	
SBIC Subsidiary		(751,000)
Total	842,000	(751,000)

[1] Braves—12 months ended Oct. 31, 1971; Sports—11 months ended June 30, 1972; SBIC Subsidiary—7 months ended Oct. 31, 1971.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order which may be made upon appropriate conditions if necessary for the protection of investors, and upon the taking effect of such order the registration of such company shall cease to be in effect.

II. Applicant also seeks an order pursuant to section 6(c) exempting SBIC subsidiary from all provisions of the Act. SBIC subsidiary is a wholly owned subsidiary of Applicant, a company represented not to be an investment company. Because of the nature of its business, the active continuation of the former SBIC business of LaSalle Street Capital Corp. as described above, SBIC subsidiary is an investment company.

Applicant represents that but for the outstanding debts of SBIC subsidiary to the SBA it would not be an investment company within the meaning of the Act by reason of the provisions of section 3(b)(3). That section excepts from the definition of "investment company" any issuer all of the outstanding securities of which (other than short-term paper and directors qualifying shares) are directly or indirectly owned by a company excepted from the definition of investment company by paragraph (1) or (2) of this subsection.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision of the Act, if and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant represents that under all the circumstances it would appear appropriate and consistent with the protection of investors as well as the purposes intended by the Act, to exempt SBIC subsidiary from all provisions of the Act. Applicant states that SBIC subsidiary's operations will be subject to extensive regulation by the SBA, including regulation of its relations with "associates," including applicant.

Applicant has consented that any order exempting SBIC subsidiary from the provisions of the Act may be issued with the imposition of the following conditions:

1. SBIC subsidiary shall:

(a) Not issue any securities (other than short-term paper as defined in section 2(a)(38) of the Act) except to Applicant or securities issued or guaranteed in connection with the SBA or State SBIC programs, unless this order is modified expressly by another order of the Commission to permit such transaction;

(b) File with the Commission within 120 days after the close of each fiscal year of SBIC subsidiary the data required by Items 5, 6, 7, and 8 of the annual report on Form N-5R adopted by the Commission pursuant to section 30(a) of the Act;

(c) File with the Commission within 120 days after the close of each fiscal year of SBIC subsidiary and Applicant (i) a balance sheet of each company showing assets in reasonable detail as of the close of such fiscal year, with a schedule showing such assets at value (taking securities for which market quotations are readily available at market value and taking other securities and assets at value as determined in good faith by the board of directors) and (ii) a statement of income for such fiscal year and a statement of paid-in surplus and retained earnings as of the close of such fiscal year for SBIC subsidiary and Applicant. SBIC subsidiary may incorporate by reference in any material filed to meet the requirements of this condition any document or part thereof previously or concurrently filed with the Commission pursuant to any of the Acts administered by the Commission.

2. No person other than Applicant or the SBA shall at any time own any outstanding security of SBIC subsidiary (other than short-term paper).

Notice is further given that any interested person may, not later than November 20, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service by affidavit (or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in the matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18557 Filed 10-30-72;8:49 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

OCTOBER 20, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value, of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 22, 1972, through October 31, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18465 Filed 10-30-72;8:46 am]

[File No. 500-1]

CRYSTALOGRAPHY CORP.

Order Suspending Trading

OCTOBER 20, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Crystalography Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this

order to be effective for the period from October 21, 1972, through October 30, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18462 Filed 10-30-72;8:45 am]

[File No. 500-1]

GOODWAY INC.

Order Suspending Trading

OCTOBER 19, 1972.

The common stock, $0.10 par value, of Goodway Inc., being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Goodway Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 20, 1972, through October 29, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18466 Filed 10-30-72;8:46 am]

[811-2173]

McKEE BENCHMARK, INC.

Application for Order Declaring That Company Has Ceased To Be an Investment Company

OCTOBER 24, 1972.

Notice is hereby given that the McKee Benchmark, Inc. (McKee Benchmark), 2900 United States Steel Building, Pittsburgh, Pa. 15219, registered under the Investment Company Act of 1940 (Act) as a nondiversified open-end management investment company, has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that McKee Benchmark has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

The McKee Benchmark, which registered under the Act in February of 1971, states that it has never issued any stock; that it has no assets; that in view of market conditions and projected market structure, no future private placement or public offering of its securities is contemplated; and that it will either remain a shell or be liquidated in the near future.

Section 3(c)(1) of the Act excludes from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 17, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18460 Filed 10-30-72;8:45 am]

[File No. 500-1]

MERIDIAN FAST FOOD SERVICES, INC.

Order Suspending Trading

OCTOBER 20, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of Meridian East Food Services, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 23, 1972 through November 1, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18464 Filed 10-30-72;8:46 am]

[File No. 500-1]

MINUTE APPROVED CREDIT PLAN, INC.

Order Suspending Trading

OCTOBER 20, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.05 par value, and all other securities of Minute Approved Credit Plan, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange, be summarily suspended, this order to be effective for the period from October 21, 1972 through October 30, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18461 Filed 10-30-72;8:45 am]

[File No. 500-1]

NORTH AMERICAN PLANNING CORP.

Order Suspending Trading

OCTOBER 20, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the Class B nonvoting common stock, $0.01 par value and all other securities of North American Planning Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 22, 1972 through October 31, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18463 Filed 10-30-72;8:45 am]

[70-5125]

NEW ENGLAND ELECTRIC SYSTEM ET AL.

Notice of Post-Effective Amendment Regarding Proposed Increase of Issue and Sale of Notes by Subsidiary Companies and Authority To Lend From Holding Company to Subsidiary Companies

OCTOBER 25, 1972.

Notice is hereby given that New England Electric System (NEES), 20 Turnpike Road, Westborough, MA 01581, a registered holding company, and three of its subsidiary companies (the borrowing companies), Lawrence Gas Co. (Lawrence), Lynn Gas Co. (Lynn) and New England Power Co. (NEPCO), have filed with this Commission a post-effective amendment to their application-declaration and prior amendment thereto in this proceeding pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 7, 9(a), 10, and 12 of the Act and Rules 42(a), 43, 45, and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By order dated December 30, 1971 (Holding Company Act Release No. 17418), the Commission authorized the borrowing companies to issue and sell, from time to time through December 31, 1972, unsecured short-term promissory notes to banks, to dealers in commercial paper, and/or to NEES or Massachusetts Gas Co. (Mass Gas), a NEES subsidiary company. The aggregate amount of funds loaned to the borrowing companies by NEES or Mass Gas to be outstanding at any one time were not to exceed $35 million and $15 million respectively. Borrowings by Lawrence and Lynn from banks or Mass Gas to be outstanding at any one time were not to exceed $7,600,000, and borrowings by NEPCO from banks or NEES to be outstanding at any one time were not to exceed $85 million, reduced by the principal amount of any commercial paper issued and sold by NEPCO then outstanding (not to exceed $85 million).

The applicants now propose to increase the amounts authorized to be borrowed by Lawrence and Lynn to $7,600,000 each and by NEPCO to $94 million. It is further proposed that the aggregate amount of funds loaned to the borrowing companies by NEES to be outstanding at any one time be increased to $60 million in that NEES anticipates having additional funds available for increased loans to its subsidiaries. The proceeds of the proposed additional borrowings are to provide new money for capital expenditures and, in the case of NEPCO, to provide necessary flexibility in the timing and arranging of permanent financing. In all other respects the transactions remain unchanged.

It is stated that there will be no additional fees or expenses incurred with the proposed transactions. NEPCO has sought authorization from the New Hampshire Public Utilities Commission with respect to the proposed issue of its short-term notes. No other State commission and no Federal commission, other than this Commission, has juridiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 16, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective in the manner provided by Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18558 Filed 10-30-72;8:49 am]

[File No. 500-1]

POWER CONVERSION, INC.

Order Suspending Trading

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Power Conversion, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 26, 1972, through November 4, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18561 Filed 10-30-72;8:49 am]

[File No. 500-1]

TOPPER CORP.

Order Suspending Trading

OCTOBER 25, 1972.

The common stock, $1 per value of Topper Corp. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Topper Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to Sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 26, 1972, through November 4, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18559 Filed 10-30-72;8:49 am]

DEPARTMENT OF LABOR

Office of the Secretary

[TEA-W-148]

FRANK H. PFEIFFER CO., INC.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

OCTOBER 3, 1972.

Under date of September 8, 1972, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-148) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of the workers formerly employed by the Frank H. Pfeiffer Co., Inc., Worcester, Mass. In this report, the Commission found that articles like or directly competitive with footwear for women and misses manufactured by the Pfeiffer Shoe Co. are, as a result in major part of concessions granted under trade agreements, being imported into the

United States in such increased quantities as to cause unemployment or underemployment of a significant number or proportion of the workers of such firm.

Upon receipt of the Tariff Commission's affirmative finding, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation. Following this the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 37 F.R. 19165; 29 CFR Part 90). In the recommendation she noted that imports like or directly competitive with the women's and misses footwear produced by the Pfeiffer Shoe Co. increased substantially. Despite the introduction of new product lines and cost-cutting techniques, the company's efforts to remain competitive failed. Customers turned to imports and Pfeiffer's sales declined. Employment levels and average weekly hours began to drop in 1969 and continued at depressed levels until the company closed. Unemployment and underemployment directly related to import competition began in August 1969. All production at Pfeiffer Shoe Co. ended in August 1971 and the plant was closed. After due consideration, I make the following certification:

All workers (hourly, piecework, and salaried) of the Frank H. Pfeiffer Co., Inc., Worcester, Mass. who become unemployed or underemployed after August 29, 1969, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 3d day of October 1972.

JOEL SEGALL,
Deputy Under Secretary for International Affairs.

[FR Doc.72-18506 Filed 10-30-72;8:52 am]

INTERSTATE COMMERCE COMMISSION

[Ex Parte 241, Rule 19; Exemption 11, Corrected, Amdt. 1]

EXEMPTION FROM MANDATORY CAR SERVICE RULES

Upon further consideration of Corrected Exemption No. 11 issued July 25, 1972.[1]

It is ordered, That, under authority vested in me by Car Service Rule 19, Corrected Exemption No. 11 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby, amended to expire November 30, 1972.

This amendment shall become effective October 31, 1972.

Issued at Washington, D.C., October 25, 1972.

INTERSTATE COMMERCE COMMISSION,
LEWIS R. TEEPLE,
Agent.

[FR Doc.72-18552 Filed 10-30-72;8:49 am]

DEPARTMENT OF THE INTERIOR

Bureau of Mines

LICENSES FOR INVENTIONS

Notice of Availability

The Bureau of Mines of the U.S. Department of the Interior announces that the following inventions are available for licensing pursuant to the Department's patent regulations, 43 CFR 6, Subpart B:

1. Devise and process for magneto-gravimetric particle separation using nonvertical levitation forces (MIN-1759).

In practicing the invention a volume of magnetic fluid is caused to function as a density spectrograph by impressing a magnetic field upon the fluid in an orientation such that nonvertical levitation forces are developed upon particles immersed in the fluid. Particles are separated according to their density by passing them through the magnetic fluid. Interaction of particles within the fluid with the vector sum of gravitational and levitation forces causes each particle to travel a trajectory through the fluid characteristic of its density. Particles exit from the fluid at different locations, according to their density, thus allowing collection of density-graded fractions.

[1] Published at 37 F.R. 15961, August 8, 1972.

2. Production of magnetic fluids by peptization techniques (MIN-1645).

In this process, magnetic liquids (ferrofluids) are produced by reacting an aqueous solution of iron salts with a base to produce a precipitate of colloidal-sized, ferrimagnetic iron oxide particles. The particles thus formed are coated with an adsorbed layer of a water soluble, but decomposable, dispersing agent which is thereafter decomposed to a non-water soluble form. Coated particles are then dispersed in a nonaqueous carrier liquid such as kerosene to form a stable magnetic fluid.

Inquiries should be addressed to:

Assistant Solicitor, Branch of Patents, U.S. Department of the Interior, Washington, D.C. 20240.

G. A. MELVILLE,
Chief, Division of Procurement and Property Management.

[FR Doc.72-18456 Filed 10-30-72;8:45 am]

Geological Survey

OFFICIALS AND EMPLOYEES

Delegation of Authority; Correction

OCTOBER 20, 1972.

F.R. Doc. 72-16211, published at page 20047 in the issue dated September 23, 1972, is corrected by changing paragraph .1 to read as follows:

.1 *Delegation.* Under authority delegated to heads of bureaus by the Secretary of the Interior in Departmental Manual Chapter 205 DM 11 dated November 13, 1968, and pursuant to the provisions of Public Law 85-934 dated September 6, 1958, 72 Stat. 1793, redelegation of procurement authority to officials and employees of the Geological Survey is hereby made within their normal areas of responsibilities.

EDMUND J. GRANT,
Assistant Director for Administration.

[FR Doc.72-18457 Filed 10-30-72;8:45 am]

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