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PART I

(Part II begins on page 933)

NOTICE TO AGENCIES

Agencies preparing documents for publication in the FEDERAL REGISTER are reminded that the revised rules of the Administrative Committee of the Federal Register are in effect as of January 3, 1973. (1 CFR Chapter I, 37 F.R. 23602, November 4, 1972.)

These revised rules include the following significant changes:

1. Requirement for a preamble in each proposed rule making and final rule making document that describes the contents of the document in a manner sufficient to apprise a reader who is not an expert in the subject area of the general subject matter of the document.

2. Requirement for setting forth specific effective dates and action dates.

3. Change in publication dates of the daily FEDERAL REGISTER (Monday through Friday instead of Tuesday through Saturday). See 1 CFR 17.2, 18.12, and 18.17.

HIGHLIGHTS OF THIS ISSUE

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

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FEDERAL REGISTER

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List of CFR Parts Affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

Rules and Regulations

Title 7—AGRICULTURE

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Gypsy Moth and Browntail Moth

REGULATED AREAS

Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), and § 301.45–2 of the Gypsy Moth and Browntail Moth Quarantine regulations, 7 CFR 301.45–2, as amended, a supplemental regulation designating regulated areas, 7 CFR 301.45–2a *Regulated areas; suppressive and generally infested areas,* is hereby amended to list additional gypsy moth regulated areas in the States of Maryland, New York, and Pennsylvania as set forth below.

A. In § 301.45–2a(a) a description of regulated areas in the State of Maryland is added to read as follows:

MARYLAND

(1) *Generally infested area.*
Harford County. The entire county.
Washington County. That area bounded by a line beginning at a point where U.S. Highway 40A intersects State Highway 66, thence northerly along State Highway 66 to its intersection with State Highway 64, thence west along said Highway to its intersection with the Hagerstown City limits, thence southerly, westerly, and northerly along said city limits to its intersection with U.S. Highway 40, thence west along said Highway to its intersection with Interstate 81, thence southerly along Interstate 81 to its intersection with State Highway 68, thence southerly along State Highway 68 to its intersection with U.S. Highway 40A, thence southerly along U.S. 40A to point of beginning.

(2) *Suppressive Area.* None.

B. In § 301.45–2a(a) relating to the State of New York under generally infested areas, the entire description for that State is changed to read as follows:

NEW YORK

(1) *Generally infested area.*
Albany County. The entire county.
Allegany County. The entire county.
Bronx County. The entire county.
Broome County. The entire county.
Cayuga County. The entire county.
Chemung County. The entire county.
Chenango County. The entire county.
Columbia County. The entire county.
Cortland County. The entire county.
Delaware County. The entire county.
Dutchess County. The entire county.
Essex County. The entire county.
Franklin County. The entire county.
Fulton County. The entire county.
Greene County. The entire county.
Hamilton County. The entire county.
Herkimer County. The entire county.
Jefferson County. The entire county.
Kings County. The entire county.
Lewis County. The entire county.
Livingston County. The entire county.
Madison County. The entire county.
Monroe County. The Towns of Brighton, Henrietta, Irondequoit, Mendon, Penfield, Perinton, Pittsford, Rush, Webster, and Wheatland; and the city of Rochester.
Montgomery County. The entire county.
Nassau County. The entire county.
New York County. The entire county.
Oneida County. The entire county.
Onondaga County. The entire county.
Ontario County. The entire county.
Orange County. The entire county.
Oswego County. The entire county.
Otsego County. The entire county.
Putnam County. The entire county.
Queens County. The entire county.
Rensselaer County. The entire county.
Richmond County. The entire county.
Rockland County. The entire county.
St. Lawrence County. The entire county.
Saratoga County. The entire county.
Schenectady County. The entire county.
Schoharie County. The entire county.
Schuyler County. The entire county.
Seneca County. The entire county.
Steuben County. The entire county.
Suffolk County. The entire county.
Sullivan County. The entire county.
Tioga County. The entire county.
Tompkins County. The entire county.
Ulster County. The entire county.
Warren County. The entire county.
Washington County. The entire county.
Wayne County. The entire county.
Westchester County. The entire county.
Yates County. The entire county.

C. In § 301.45–2a(a) relating to the State of New York under (2) *Suppressive area,* the entire description for that State is changed to read as follows:

NEW YORK

* * * * *

(2) *Suppressive area.* None

D. In § 301.45–2a(a) relating to the State of Pennsylvania under generally infested areas, the entire description for that State is changed to read as follows:

PENNSYLVANIA

(1) *Generally infested area.*
Adams County. The entire county.
Bedford County. The entire county.
Berks County. The entire county.
Blair County. The entire county.
Bradford County. The entire county.
Bucks County. The entire county.
Cambria County. The entire county.
Cameron County. The entire county.
Carbon County. The entire county.
Centre County. The entire county.
Chester County. The entire county.
Clearfield County. The entire county.
Clinton County. The entire county.
Columbia County. The entire county.
Cumberland County. The entire county.
Dauphin County. The entire county.
Delaware County. The entire county.
Elk County. The entire county.
Franklin County. The entire county.
Fulton County. The entire county.
Huntingdon County. The entire county.
Indiana County. The entire county.
Jefferson County. The entire county.
Juniata County. The entire county.
Lackawanna County. The entire county.
Lancaster County. The entire county.
Lebanon County. The entire county.
Lehigh County. The entire county.
Luzerne County. The entire county.
Lycoming County. The entire county.
McKean County. The entire county.
Mifflin County. The entire county.
Monroe County. The entire county.
Montgomery County. The entire county.
Montour County. The entire county.
Northampton County. The entire county.
Northumberland County. The entire county.
Perry County. The entire county.
Philadelphia County. The entire county.
Pike County. The entire county.
Potter County. The entire county.
Schuylkill County. The entire county.
Snyder County. The entire county.
Somerset County. The entire rcounty.
Sullivan County. The entire county.
Susquehanna County. The entire county.
Tioga County. The entire county.
Union County. The entire county.
Wayne County. The entire county.
Wyoming County. The entire county.
York County. The entire county.

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 FR 16210 as amended; 37 FR 6327, 6505, and 10554; 37 FR 12298; 7 CFR 301.45–2)

Effective date: January 5, 1973.

The Deputy Administrator of the Plant Protection and Quarantine Programs has determined that infestations of the gypsy moth exist or are likely to exist in the civil divisions and parts of civil divisions listed as regulated areas in paragraph (a), or that it is necessary to regulate such areas because of their proximity to gypsy moth infestations or their inseparability for quarantine enforcement purposes from gypsy moth infested localities.

The Deputy Administrator has further determined that each of the quarantined States, wherein only portions of the State have been designated as regulated areas, is enforcing a quarantine or regulation with restrictions on intrastate movement of the regulated articles substantially the same as the restrictions on interstate movement of such articles imposed by the quarantine and regulations in this subpart, and that designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of the gypsy moth. Therefore, such civil divisions and parts of civil divisions listed above in paragraph (a) are designated as gypsy moth regulated areas.

This amendment adds to the gypsy moth regulated areas all or parts of two previously nonregulated counties in Maryland; 15 previously nonregulated counties and six previously regulated counties in the State of New York; and 15

previously nonregulated counties in the State of Pennsylvania. There is no change in the browntail moth regulated areas.

This document imposes restrictions that are necessary in order to prevent the dissemination of the gypsy moth and should be made effective promptly to accomplish its purpose in the public interest. Accordingly, it is found upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to the foregoing regulation are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 2d day of January 1973.

LEO G. K. IVERSON,
Deputy Administrator, Plant Protection and Quarantine Programs.

[FR Doc.73-309 Filed 1-4-73;8:45 am]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 730—RICE

Subpart—1973–74 Marketing Year

PROCLAMATIONS AND DETERMINATIONS WITH RESPECT TO MARKETING QUOTA AND NATIONAL ACREAGE ALLOTMENT FOR 1973 CROP RICE, AND APPORTIONMENT OF 1973 NATIONAL ACREAGE ALLOTMENT OF RICE AMONG THE SEVERAL STATES

The provisions of §§ 730.1501 to 730.1503 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.) (referred to as the "act"), with respect to the 1973 crop of rice. The purpose of these provisions is to (1) proclaim that marketing quotas shall be in effect for the 1973 crop of rice, (2) establish the national acreage allotment for such crop, and (3) apportion the national acreage allotment among the States. The latest available statistics of the Federal Government have been used in making determinations under these provisions.

Notice that the Secretary was preparing to make determinations with respect to these provisions was published in the FEDERAL REGISTER on October 6, 1972 (37 FR 21173) in accordance with the provisions of 5 U.S.C. 553. Data, views and recommendations were submitted pursuant to such notice and consideration was given thereto to the extent permitted by law.

It is essential that these provisions be made effective as soon as possible, since the proclamation of quotas is required to be made not later than December 31, 1972, and a referendum to determine whether rice producers favor or oppose the quotas must be held within 30 days after proclamation of the quotas. Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest and §§ 730.1501 to 730.1503 shall be effective upon filing this document with the Director, Office of the Federal Register.

§ 730.1501 Marketing quotas for the 1973 crop of rice.

The total supply of rice in the United States for the marketing year beginning August 1, 1972, is determined to be 98 million hundredweight (rough basis). The normal supply of rice for such marketing year is determined to be 97.2 million hundredweight (rough basis). Since the total supply of rice for the 1972–73 marketing year exceeds the normal supply for such marketing year, marketing quotas shall be in effect for the 1973 crop of rice.

§ 730.1502 National acreage allotment of rice for 1973.

(a) The normal supply of rice for the marketing year commencing August 1, 1973, is determined to be 99.4 million hundredweight (rough basis). The carryover of rice on August 1, 1973, is estimated at 8.5 million hundredweight. Therefore, the production of rice needed in 1973 to make available a supply of rice for the 1973–74 marketing year equal to the normal supply for such marketing year is 90.9 million hundredweight. The national average yield of rice for the 5 calendar years 1968 through 1972 is determined to be 4,500 pounds per planted acre. The national acreage allotment of rice for 1973 computed on the basis of the normal supply for 1973, less estimated carryover, and the national average yield per planted acre for the 5 calendar years, 1968 through 1972, is 2,020,107 acres.

(b) Since such amount is more than the minimum national acreage allotment of 1,652,596 acres prescribed under section 353(c)(6) of the act, the national acreage allotment for rice for the calendar year 1973 shall be 2,020,107 acres.

§ 730.1503 Apportionment of 1973 national acreage allotment of rice among the several States.

The national acreage allotment proclaimed in § 730.1502, less a reserve of 747 acres, is hereby apportioned among the several rice producing States as follows:

State	Acres
Arizona	279
Arkansas	487,664
California	366,359
Florida	1,169
Illinois	24
Louisiana:	
Farm Administrative Area	559,816
Producer Administrative Area	20,716
State total	580,532
Mississippi	57,044
Missouri	5,815
North Carolina	47
Oklahoma	183
South Carolina	3,479
Tennessee	633
Texas	516,132
Total Apportioned to States	2,019,380
Unapportioned National Reserve	747
U.S. Total	2,020,107

(Secs. 301, 352, 353, 354, 375, 52 Stat. 38, 60, 61, 66, as amended; 7 U.S.C. 1301, 1352, 1353, 1354, 1375)

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

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

EARL L. BUTZ,
Secretary.

[FR Doc.72-22445 Filed 12-29-72;10:23 am]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 811, Amdt. 15]

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

Requirements, Quotas and Quota Deficits for 1972

Basis and purpose and bases and considerations. This amendment is issued pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended; 7 U.S.C. 1101) hereinafter referred to as the "Act." The purpose of this amendment to Sugar Regulation 811, as amended, is to determine and prorate or allocate the deficits in quotas established pursuant to the Act.

Section 204(a) of the Act provides that the Secretary shall, as often as facts are ascertainable by him but in any event not less frequently than each 60 days after the beginning of each calendar year, determine whether, any area or country will not market the quota for such area or country.

On the basis of information recently available to the Department, three Western Hemisphere countries (Peru, Venezuela, and Guatemala) and one Eastern Hemisphere country (India) will not be able to market their currently established 1972 sugar quotas. Accordingly, additional deficits are determined herein totalling 5,155 short tons, raw value, of sugar, consisting of 4,240 tons for Peru, 461 tons for Venezuela, 219 tons for Guatemala, and 235 tons for India.

The deficits herein determined for the Western Hemisphere countries of 4,920 short tons, raw value, have been prorated to other countries in the Western Hemisphere able to supply additional sugar. The deficit determined for India of 235 tons has been prorated to countries outside the Western Hemisphere

able to supply additional sugar which have quotas currently in effect with the exception of Ireland.

No allocations were made to the Republic of the Philippines since it had previously informed the Department that it would be unable to supply additional sugar in 1972.

On the basis of available information, it appears that the additional quota allocations determined herein can be filled with sugar currently held in bond awaiting quota or with sugar scheduled to arrive into the United States before the end of December.

It is hereby determined that the deficits declared herein and those previously declared constitute all known deficits on which data are currently ascertainable by the Department.

By virtue of the authority vested in the Secretary of Agriculture by the Act, Part 811 of this chapter is hereby amended by amending §§ 811.12 and 811.13 as follows:

1. Section 811.12 is amended by amending paragraph (a) to read as follows:

§ 811.12 Proration and allocation of deficits in quotas.

(a) The total deficits determined in quotas established under section 202 of the Act in short tons, raw value, are as follows: Domestic Beet Sugar Area 242,000; Hawaii 103,600; Puerto Rico 704,000; the West Indies, 3,751; Haiti, 4,721; Bahamas, 23,667; Bolivia, 5,659; and Uganda, 15,252. The deficits for the domestic areas and Western Hemisphere countries totaling 1,087,398 tons are reallocated by allocating 305,741 tons to the Republic of the Philippines (the maximum quantity which it can supply in 1972), providing a special allocation of 21,507, 17,950, and 4,415 tons to Costa Rica, Guatemala, and Honduras, respectively, and prorating the remainder to Western Hemisphere quota countries on the basis of quotas determined under section 202 of the Act, except such prorations to Peru, West Indies, Argentina, Guatemala, Venezuela, Panama, Haiti, Honduras, Bahamas, and Bolivia are limited so that total quotas for each country will not exceed 449,662, 177,288, 87,908, 85,707, 70,210, 41,933, 22,522, 17,495, 61, and 54 tons respectively. The deficit in the quota for Uganda of 15,252 tons is reallocated by allocating 30.08 percent to the Republic of the Philippines and prorating the remainder on the basis of quotas determined under section 202 of the Act to Eastern Hemisphere quota countries, other than Ireland, except such proration to India is limited to that its total quota will not exceed 84,168 tons.

* * * * *

2. Section 811.13 is amended by amending paragraph (c) to read as follows:

§ 811.13 Quotas for foreign countries.

* * * * *

(c) For the calendar year 1972, the prorations to individual foreign countries other than the Republic of the Philippines, pursuant to section 202 of the Act, are shown in columns (1) and (2) of the following table. Deficits and deficit prorations previously established in this Sugar Regulation 811 are shown in column (3). The deficit prorations established herein are shown in column (4). Total quotas and prorations are shown in column (5).

Countries	Basic quotas	Temporary quotas and prorations pursuant to Sec. 202(d)[1]	Previous deficits and deficit prorations	New deficit prorations	Total quotas and prorations
	(1)	(2)	(3)	(4)	(5)
	(Short tons, raw value)				
Dominican Republic	430,738	141,713	172,986	1,370	736,807
Mexico	372,090	125,328	152,985	1,212	631,615
Brazil	362,887	122,228	149,201	1,182	635,498
Peru	259,674	87,463	106,765	−4,240	449,662
West Indies	135,425	45,614	−3,751	0	177,288
Ecuador	53,578	18,046	22,029	174	93,827
Argentina	50,291	16,940	20,677	0	87,908
Costa Rica	45,361	15,278	40,665	203	101,507
Colombia	44,703	15,057	18,381	146	78,287
Panama	27,940	9,411	4,582	0	41,933
Nicaragua	42,403	14,281	17,628	274	74,586
Venezuela	40,430	13,617	16,624	−461	70,210
Guatemala	38,787	13,064	34,075	−219	85,707
El Salvador	28,268	9,522	11,751	182	49,723
British Honduras	22,352	7,529	9,190	73	39,144
Haiti	20,379	6,864	−4,721	0	22,522
Bahamas	17,760	5,978	−23,667	0	61
Honduras	7,889	2,657	6,949	0	17,495
Bolivia	4,273	1,440	−5,659	0	54
Paraguay	4,273	1,440	1,767	14	7,484
Australia	165,008	41,932	3,857	99	210,896
Republic of China	68,699	17,458	1,606	41	87,804
India	66,069	16,790	1,544	−235	84,168
South Africa	46,676	11,861	1,091	28	59,656
Fiji Islands	36,157	9,188	845	22	46,212
Mauritius	24,324	6,181	569	15	31,089
Swaziland	24,324	6,181	569	15	31,089
Thailand	15,120	3,843	353	9	19,325
Uganda	12,162	3,090	−15,252	0	0
Malagasy Republic	9,861	2,506	230	6	12,603
Ireland	5,351	0	0	0	5,351
Total	2,473,242	792,500	743,859	0	4,009,601

[1] Proration of the quotas withheld from Cuba and Southern Rhodesia.

* * * * * * *

(Secs. 204 and 403; 61 Stat. 925, as amended, and 932; and 7 U.S.C. 1114 and 1153)

Effective date. In order to promote orderly marketing, it is essential that this amendment be effective immediately so that all persons selling and purchasing sugar for consumption in the continental United States can promptly plan and market under the changed marketing opportunities. Therefore, it is hereby determined and found that compliance with the notice, procedure, and effective date requirements of 5 U.S.C. 553 is unnecessary, impracticable and contrary to the public interest and this amendment shall be effective when filed for public inspection in the Office of the Federal Register.

Signed at Washington, D.C., on December 29, 1972.

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

[FR Doc.72-22458 Filed 12-29-72;4:12 pm]

PART 812—SUGAR REQUIREMENTS AND QUOTAS: HAWAII AND PUERTO RICO

Establishment of Quotas for Local Consumption in 1973

On page 25238 of the FEDERAL REGISTER of November 29, 1972, there was published a notice of proposed rule making to issue a regulation determining sugar requirements for 1973 and establishing quotas for Hawaii and Puerto Rico for the calendar year 1973. Interested persons were given until December 18, 1972, to submit written data, views, or arguments for consideration in connection with the proposed regulation.

No views or comments were received relative to the proposed regulation.

The proposed regulation is hereby adopted without change.

Effective date: January 1, 1973.

Signed at Washington, D.C., on December 29, 1972.

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

Basis and purpose. The purpose of Sugar Regulation 812 is to determine pursuant to sections 201 and 203 of the Sugar Act of 1948, as amended (hereinafter referred to as the "Act"), the amount of sugar needed to meet the requirements of consumers in Hawaii and in Puerto Rico and to establish quotas for local consumption in such areas for the calendar year 1973. To the extent required by section 201 of the Act, this regulation establishes sugar requirements based on official estimates of the Department of Agriculture and on statistics published by other agencies of the Government.

Since the Act provides that the Secretary of Agriculture determine sugar requirements for local consumption in Hawaii and in Puerto Rico and establish local consumption quotas to be effective on January 1, 1973, it is found to be impracticable and not in the public interest to comply with the 30-day effective date requirements in 5 U.S.C. 553(d) (80 Stat. 378), and these regulations shall be effective January 1, 1973.

Sec.
812.1 Sugar requirements and quota—Hawaii.
812.2 Sugar requirements and quota—Puerto Rico.
812.3 Restrictions on marketing.

AUTHORITY: The provisions of these §§ 812.1 through 812.3 issued under sec. 403, 61 Stat. 932; 7 U.S.C. 1153, secs. 201, 203, 209, 211, 61 Stat. 923, as amended, 925, 928; 7 U.S.C. 1111, 1113, 1119, 1121.

§ 812.1 Sugar requirements and quota—Hawaii.

It is hereby determined, pursuant to section 203 of the Act, that the amount of sugar needed to meet the requirements of consumers in Hawaii for the calendar year 1973 is 50,000 short tons, raw value, and a quota of 50,000 short tons, raw value, is hereby established for Hawaii for local consumption for the calendar year 1973.

§ 812.2 Sugar requirements and quota—Puerto Rico.

It is hereby determined, pursuant to section 203 of the Act, that the amount of sugar needed to meet the requirements of consumers in Puerto Rico for the calendar year 1973 is 140,000 short tons, raw value, and a quota of 140,000 short tons, raw value, is hereby established for Puerto Rico for local consumption for the calendar year 1973.

§ 812.3 Restrictions on marketing.

Pursuant to section 209 of the Act, for the calendar year 1973 all persons are hereby prohibited from marketing, pursuant to Part 816 of this chapter (33 F.R. 8495), in Hawaii or in Puerto Rico, for consumption therein, any sugar or liquid sugar after the quota for the area for the calendar year 1973 has been filled. Pursuant to section 211(c) of the Act, the quota for each area may be filled only with sugar produced from sugarcane grown in the respective area, except as provided in section 204(c). Furthermore, pursuant to section 211(c) of the Act, sugar may be unladed from a carrier and brought into a foreign trade zone for manipulating therein or manufacturing therein another product for the subsequent entry into Hawaii or Puerto Rico for consumption only if such sugar is charged, pursuant to S.R. 816, to the applicable respective local quota.

Statement of bases and consideration. Pursuant to section 203 of the Act, the determination of the amounts of sugar needed to meet the requirements of consumers in Hawaii and in Puerto Rico relate to (1) the quantities of sugar distributed for local consumption in Hawaii and in Puerto Rico during the 12-month period ended September 30, 1972, (2) deficiencies or surpluses in inventories of sugar, and (3) changes in consumption because of changes in population and demand conditions.

The quantities of sugar distributed for consumption in Hawaii and in Puerto Rico, including that which was lost in refining after charge to the local quotas, during such 12-month period are estimated to have been approximately 38,000 short tons of sugar, raw value, and 125,000 short tons of sugar, raw value, respectively.

Based on the latest U.S. Census data available, the population of Hawaii as of July 1, 1972, was 809,000 and the population of Puerto Rico as of April 1, 1970, was 2,712,000.

In Hawaii industrial use accounts for a substantial portion of the total consumption of sugar and this demand is a significant factor in the total sugar requirements. During the period 1962 through 1972 the annual sugar consumption in this area has varied from approximately 92.3 to 130.0 pounds, raw value, per person. These wide year-to-year variations suggest the possibility that requirements could be higher in 1973 than in the 12 months ended September 30, 1972, when sugar marketings approximated 38,000 short tons, raw value.

In Puerto Rico during the 12 months ended September 30, 1972, marketings of sugar for local consumption totaled approximately 125,000 short tons, raw value. After making allowance for possible consumption increases in 1973 resulting from probable population increases, the total sugar needed to meet requirements for local consumption in Puerto Rico in 1973 may be approximately 140,000 short tons, raw value.

Circumstances prevailing in the utilization of quota for local consumption in Hawaii and Puerto Rico are such that no special problems arise nor are the objectives of the Act jeopardized if the 1973 local quotas are not completely filled. It is, therefore, desirable to establish the 1973 requirements and quotas sufficiently high initially so that later adjustments may be avoided.

In accordance with the above, the requirements for local consumption in Hawaii and Puerto Rico for 1973 have been determined to be 50,000 and 140,000 short tons, raw value, respectively.

[FR Doc.72-22459 Filed 12-29-72;4:12 pm]

[Sugar Reg. 814.10, Amdt. 1]

PART 814—ALLOTMENT OF SUGAR QUOTAS, MAINLAND CANE SUGAR AREA

1972 Quota

Basis and purpose. This amendment is issued under section 205(a) of the Sugar Act of 1948, as amended (61 Stat. 922), as amended, hereinafter called the "Act," for the purpose of amending Sugar Regulation 814.10 (37 FR 16471) which established allotments for the Mainland Cane Sugar Area for the calendar year 1972.

This amendment is necessary to revise allotments to determine and prorate deficits in allotments.

On the basis of written advice from individual allottees, it is herein determined that 16 allottees are unable to fully utilize 1972 allotments of the Mainland Cane Sugar Area in excess of stated maximum quantities, and that there is a deficit in the allotments of such allottees amounting to 40,059 short tons, raw value, as follows:

Processors	*Short tons, raw value*
Albania Sugar Co.	4,500
Alma Plantation, Ltd.	850
Billeaud Sugar Factory	2,759
Columbia Sugar Co.	2,291
Duhe & Bourgeois Sugar Co.	6,333
Frisco Cane Co., Inc.	1,585
Levert-St. John, Inc.	6,762
Louisa Sugar Coop., Inc.	2,000
Louisiana State University	23
Milliken & Farwell, Inc.	241
M. A. Patout & Son, Ltd.	2,593
St. Mary Sugar Coop., Inc.	1,366
South Coast Corp.	700
Sterling Sugars, Inc.	100
Vida Sugars, Inc.	4,395
Talisman Sugar Corp.	3,556
	40,059

Accordingly, a deficit of 40,059 short tons, raw value, is declared and is herein prorated to other allottees on the basis of 1972 allotments made effective by Sugar Regulation 814.10 (37 FR 16471).

It was found after notice and public hearing that this order shall be revised without further notice or hearing, for the purpose of allotting any quantity of an allotment to other allottees when written notification of release by an allottee of any part of an allotment becomes a part of the official records of the Department.

The allotments set forth herein have been established in accordance with findings heretofore made by the Secretary in the course of this proceeding (37 FR 16471).

Order. Pursuant to the authority vested in the Secretary of Agriculture by section 205(a) of the Act: *It is hereby ordered,* That paragraph (a) of § 814.10 be amended to read as follows:

§ 814.10 Allotment of the 1972 sugar quota for the Mainland Cane Sugar Area.

(a) *Allotments.* The 1972 sugar quota for the Mainland Cane Sugar Area of 1,643,000 short tons, raw value, is hereby allotted to the following processors in the quantities which appear opposite their respective names:

Processors	*Allotments (Short tons, raw value)*
Albania Sugar Co.	10,090
Alma Plantation, Ltd.	14,561
J. Aron & Co., Inc.	23,349
Billeaud Sugar Factory	15,051
Breaux Bridge Sugar Co-op.	14,993
Wm. T. Burton Industries, Inc.	11,181
Caire & Graugnard	9,858
Cajun Sugar Co-op, Inc.	32,432
Caldwell Sugars Co-op, Inc.	25,919
Columbia Sugar Co.	9,489
Cora-Texas Manufacturing Co., Inc.	13,496

Processors	Allotments (Short tons, raw value)
Dugas & LeBlanc, Ltd	26,548
Duhe & Bourgeois Sugar Co	11,214
Evan Hall Sugar Co-op, Inc	37,185
Frisco Cane Co., Inc	1,800
Glenwood Co-op, Inc	26,905
Helvetia Sugar Co-op, Inc	20,711
Iberia Sugar Co-op, Inc	27,818
LaFourche Sugar Co	36,096
Harry L. Laws & Co., Inc	22,969
Levert-St. John, Inc	12,592
Louisa Sugar Co-op, Inc	13,559
Louisiana State Penitentiary	6,688
Louisiana State University	2
Meeker Sugar Co-op, Inc	14,822
Milliken & Farwell, Inc	14,891
M. A. Patout & Son, Ltd	24,955
Poplar Grove Planting & Refining Co	13,172
Savoie Industries	23,961
St. James Sugar Co-op, Inc	32,844
St. Mary Sugar Co-op, Inc	21,636
South Coast Corp., Inc	85,868
Southdown Sugars, Inc	59,870
Sterling Sugars, Inc	41,270
J. Supple's Sons Planting Co., Ltd	7,574
Valentine Sugars, Inc	19,880
Vida Sugars, Inc	4,411
A. Wilbert's Sons Lumber & Shingle Co	14,588
Louisiana subtotal	804,248
Atlantic Sugar Association, Inc	51,326
Glades County Sugar Growers Co-op, Association	60,090
Gulf & Western Food Products Co	109,597
Osceola Farms Co	76,888
Sugarcane Growers Co-op, of Florida	155,818
Talisman Sugar Corp	82,470
United States Sugar Corp	302,563
Florida subtotal	838,752
Total all mainland cane	1,643,000

(Secs. 205, 209, 403; 61 Stat. 926, as amended, 928, 932; 7 U.S.C. 1115, 1119, 1153)

Effective date. Because of the limited time remaining in the quota year to which the allotments apply, it is imperative that this amendment become effective at the earliest date in order to permit processors to fully utilize the entire quota for the area. Accordingly, it is hereby found that compliance with the 30-day effective date requirements in 5 U.S.C. 553 is impracticable and contrary to the public interest and consequently, this amendment shall be effective when filed for public inspection in the Office of the Federal Register.

Signed at Washington, D.C., on December 29, 1972.

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

[FR Doc.72-22457 Filed 12-29-72;4:11 pm]

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

[Lemon Regulation 567]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period January 7-13, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.867 Lemon Regulation 567.

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

(2) (i) The need for this section to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(ii) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons is active this week. Average price is $4.88 per carton. Track and rolling supplies at 126 cars were down 15 cars from last week.

(iii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereon in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on January 2, 1973.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period January 7 through January 13, 1973, is hereby fixed at 175,000 cartons.

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

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

Dated: January 3, 1973.

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

[FR Doc.73-389 Filed 1-4-73;11:22 am]

[Grapefruit Reg. 88]

PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

Limitation of Handling

This regulation fixes the quantity of Florida Indian River grapefruit that may

be shipped to fresh market during the weekly regulation period January 8, through 14, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 912. The quantity of grapefruit produced in the Indian River District in Florida so fixed was arrived at after consideration of the total available supply of Indian River grapefruit, the quantity currently available for market, the fresh market demand for Indian River grapefruit, Indian River grapefruit prices, and the relationship of season average returns to the parity price for Florida grapefruit.

§ 912.388 Grapefruit Regulation 88.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Indian River Grapefruit Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) (i) The need for this section to limit the quantity of Indian River grapefruit that may be marketed during the ensuing week stems from the production and marketing situation confronting the Indian River grapefruit industry.

(ii) The committee has submitted its recommendation with respect to the total quantity of grapefruit which it deems advisable to be handled during the next succeeding week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the market demand for Indian River grapefruit is slow. Prices, f.o.b. per four-fifths bushel carton, for the week ended December 31, 1972, averaged $2.50 for white seedless and $2.85 for pink seedless. Shipments for the week ended December 31, 1972, and for the previous week were 230 carlots and 435 carlots, respectively. On December 12, 1972, there were 11,415 carlots of Indian River grapefruit remaining for interstate shipments, while 4,085 carlots have been shipped to date.

(iii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of grapefruit which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Indian River grapefruit, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Indian River grapefruit; it is necessary, in order effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on January 3, 1973.

(b) *Order.* (1) The quantity of grapefruit grown in the Indian River District which may be handled, is hereby fixed at 200,000 standard packed boxes.

(2) As used in the section, "handled," "Indian River District," "grapefruit," and "standard packed box" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: January 4, 1973.

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

[FR Doc.73-390 Filed 1-4-73;11:22 am]

[Grapefruit Reg. 54]

PART 913—GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT IN FLORIDA

Limitation of Handling

This regulation fixes the quantity of Florida Interior grapefruit that may be shipped to fresh market during the weekly regulation period January 8–14, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 913. The quantity of grapefruit produced in the Interior District in Florida so fixed was arrived at after consideration of the total available supply of Florida Interior grapefruit, the quantity currently available for market, the fresh market demand for Florida Interior grapefruit, Interior grapefruit prices, and the relationship of season average returns to the parity price for Florida grapefruit.

§ 913.354 Grapefruit Regulation 54.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 913, as amended (7 CFR Part 913), regulating the handling of grapefruit grown in the Interior District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Interior Grapefruit Marketing Committee, established under said marketing agreement and order and upon other available information, it is hereby found that the limitation of handling of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) (i) The need for this section to limit the quantity of Interior District grapefruit that may be marketed during the ensuing week stems from the production and marketing situation confronting the Interior District grapefruit industry.

(ii) The committee has submitted its recommendation with respect to the total quantity of grapefruit which it deems advisable to be handled during the next succeeding week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the market demand for Florida Interior District grapefruit continues to be slow. Prices, f.o.b., 4/5 bushel carton, were $2.30 for white seedless and $2.60 for pink seedless for the week ended December 31, 1972. Shipments for the week ended December 31, and for the previous week were 190 carlots and 185 carlots, respectively. On December 31, 1972, 6,870 carlots of Interior District grapefruit were remaining for interstate shipments while 4,630 carlots had been shipped to that date.

(iii) Having considered the recommendation and information submitted by the committee, and other available information the Secretary finds that the quantity of grapefruit which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for

making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Interior grapefruit, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Interior grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on January 3, 1973.

(b) *Order.* (1) The quantity of grapefruit grown in the Interior District which may be handled is hereby fixed at 187,500 standard packed boxes during the period January 8 through January 14, 1973.

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

Dated: January 4, 1973.

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

[FR Doc.73-391 Filed 1-4-73;11:23 am]

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

[Milk Order 50]

PART 1050—MILK IN THE CENTRAL ILLINOIS MARKETING AREA

Order Suspending Certain Provisions

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Central Illinois marketing area.

Notice of proposed rule making was published in the FEDERAL REGISTER (37 FR 28096) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the month of December 1972 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1050.14, paragraphs (c) (2) and (3).

STATEMENT OF CONSIDERATION

This suspension will remove for the month of December 1972 the limitations on the proportion of each producer's monthly milk production that may be diverted as producer milk from a pool plant to a nonpool plant. A similar suspension was in effect for the months of October and November 1972.

Associated Milk Producers, Inc., requests this suspension for another month in order to enable certain of its member producers to maintain producer status under the order for December and thereby continue receiving the uniform price for their milk, pursuant to the order.

On October 4, 1972, a large distributing plant to which many of this association's member producers shipped their milk ceased all receiving and processing operations. Since that time the cooperative association has been attempting to find alternative outlets for the milk of these producers.

The milk of a majority of these producers has been accommodated on other markets. More time, however, is needed to complete arrangements for satisfactory fluid market outlets for the remaining volume of milk.

While arrangements have been with other handlers in the market to receive this remaining volume of milk some of the time, such handlers cannot receive this milk on a regular basis.

This suspension of diversion limits will afford the cooperative an opportunity to divert the milk of these member producers, thereby maintaining their producer status under the order, and provide the association the needed time to complete other marketing arrangements with respect to the milk of these producers.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that it will provide a method for producers who have lost their pool plant outlet for milk to retain producer status under the order for an additional month while seeking other marketing arrangements.

(b) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rule making was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this suspension. There were no views filed in opposition to the proposed suspension.

Therefore, good cause exists for making this order effective with respect to producer milk deliveries during December 1972.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for December 1972.

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

Effective date: January 5, 1973.

Signed at Washington, D.C., on January 2, 1973.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.73-217 Filed 1-4-73;8:45 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

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

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

[Docket No. 72-599]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Area Quarantined

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

In § 76.2, in paragraph (e) (11) relating to the State of Pennsylvania, a new subdivision (iii) relating to Lehigh and Berks Counties is added to read:

(iii) The adjacent portions of Lehigh and Berks Counties bounded by a line beginning at the junction of U.S. Highway 222 and the northeast extension of the Pennsylvania Turnpike in Lehigh County; thence, following the northeast extension of the Pennsylvania Turnpike in a northwesterly direction to Legislative Road 39042; thence, following Legislative Road 39042 in a westerly direction to Legislative Road 39048; thence, following Legislative Road 39048 in a westerly direction to Township Road 593; thence, following Township Road 593 in a generally northwesterly direction to Legislative Road 39057; thence, following Legislative Road 39057 in a southwesterly direction to Legislative Road 39060; thence, following Legislative Road 39060 in a southwesterly, then northerly direction to Legislative Road 39059; thence, following Legislative Road 39059 in a southwesterly direction to U.S. Route 309; thence, following U.S. Route 309 in a generally northwesterly direction to Legislative Road 39072; thence, following

Legislative Road 39072 in a westerly direction to Legislative Road 39063; thence, following Legislative Road 39063 in a southwesterly direction to Township Road 555; thence following Township Road 555 in a westerly direction to Township Road 625; thence, following Township Road 625 in a southwesterly direction to Township Road 619; thence, following Township Road 619 in a westerly direction to Township Road 638; thence, following Township Road 638 in a generally southeasterly direction to Township Road 623; thence, following Township Road 623 in a southwesterly direction to Township Road 828 in Berks County; thence, following Township Road 828 in a southwesterly direction to Township Road 801; thence, following Township Road 801 in a southeasterly direction to Township Road 975; thence, following Township Road 975 in an easterly direction to Township Road 977; thence, following Township Road 977 in a southerly direction to Township Road 801; thence, following Township Road 801 in a southerly direction to Township Road 555; thence, following Township Road 799 in a southeasterly direction to Legislative Road 06137; thence, following Legislative Road 06137 in a southwesterly direction to Legislative Road 06136; thence, following Legislative Road 06136 in a generally southeasterly direction to Legislative Road 06138; thence, following Legislative Road 06138 in a southeasterly direction to Township Road 827; thence, following Township Road 827 in a southeasterly direction to Township Road 864; thence, following Township Road 864 in a southeasterly direction to Township Road 921; thence, following Township Road 921 in a northeasterly direction to Township Road 612, thence, following Township Road 612 in a southeasterly direction to Legislative Road 06041; thence, following Legislative Road 06041 in a northerly direction to Legislative Road 06057; thence, following Legislative Road 06057 in a generally northeasterly direction to Legislative Road 39023 in Lehigh County; thence, following Legislative Road 39023 in a generally northeasterly direction to Township Road 498; thence, following Township Road 498 in a northeasterly direction to U.S. Highway 222; thence, following U.S. Highway 222 in a northeasterly direction to its junction with the northeast extension of the Pennsylvania Turnpike in Lehigh County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 37 FR 28464, 28477)

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

The amendment quarantines portions of Lehigh and Berks Counties in Pennsylvania because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined area.

The amendment imposes certain further restrictions necessary to prevent the spread of hog cholera, and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 29th day of December 1972.

E. E. SAULMON,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.73-310 Filed 1-4-73;8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72-CE-35-AD; Amdt. 39-1579]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Model 310N, P and Q Airplanes

There have been reports of ice accumulation in the engine air induction system and on the engine throttle plate of Cessna Model 310N, P and Q airplanes operating in precipitation at below freezing temperatures. This renders the alternate air valve inoperative and causes loss of engine power and throttle control on these aircraft. To correct this condition the manufacturer has issued Service Letter ME70-43 recommending installation of Service Kit SK310-82D which incorporates a deflector baffle over the alternate air inlet in the engine cooling air plenum and increases the size of the warm air opening in the induction air cannister.

Since the condition described herein is likely to exist or develop in other airplanes of the same or similar type design an airworthiness directive is being issued requiring mandatory compliance with the aforementioned service letter within 50 hours' time in service after the effective date of the AD.

Since a situation exists which requires expeditious adoption of the amendment, notice and public procedure hereon are impracticable and good cause exists for making the amendment effective in less than 30 days.

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

CESSNA. Applies to Model 310N (Serial Numbers 310N0001 through 310N0198), Model 310P (Serial Numbers 310P0001 through 310P0240), and Model 310Q (Serial Numbers 310Q0001 through 310Q0130) airplanes.

NOTE: This AD is not applicable to Model T310 airplanes which fall within these serial number ranges.

Compliance: Required as indicated, unless already accomplished.

To prevent moisture from possibly entering the alternate air system and freezing on powerplant induction system components when operating in below freezing temperatures, accomplish the following:

Within 50 hours' time in service after the effective date of this AD, install deflector baffles over the alternate air inlet in the vertical baffle and enlarge the warm air cut out in the induction air cannister in accordance with Cessna Service Letter ME70-43 and Service Kit SK310-82D, or any other method approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective January 5, 1973.

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

Issued in Kansas City, Mo., on December 22, 1972.

CHESTER W. WELLS,
Acting Director, Central Region.

[FR Doc.73-340 Filed 1-4-73;8:45 am]

[Docket No. 72-EA-110; Amdt. 39-1580]

PART 39—AIRWORTHINESS DIRECTIVES

Air Cruiser Life Jackets

On page 24121 of the FEDERAL REGISTER for November 14, 1972, the Federal Aviation Administration published a proposed rule so as to issue an airworthiness directive applicable to Air Cruiser Co. Model AD-8 life jackets installed on civil aircraft.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received. However ATA requested that, in view of a serious backlog of orders involving air carrier Northwest Airlines, the compliance time be extended to 120 days. A review of all the factors affecting this rule would indicate that air safety is not diminished by such an extension, and the rule will be so amended. Since the extension is less restrictive, notice and public procedure thereon are unnecessary, and the rule as modified may be made effective.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13697), § 39.13 of the Federal Aviation Regulations is amended hereby and the airworthiness directive adopted as published, except as follows:

1. Delete in the compliance paragraph the figure "90" and insert in lieu thereof the figure "120".

This amendment is effective January 17, 1973.

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

Issued in Jamaica, N.Y., on December 27, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

1. Amend § 39.13 of the Federal Aviation Regulations so as to add a new airworthiness directive described as follows:

AIR CRUISERS CO. Applies to all Model AD-8 life jackets manufactured on or before 15 October 1971.

Compliance required within 120 days after the effective date of this AD, unless already accomplished.

To preclude air chamber deflation from defective inflator manifold stem assemblies, accomplish alteration of the aforementioned life jackets in accordance with either:

a. Air Cruisers Co. Service Bulletin No. 112-72-1, dated 6 March 1972; or

b. Any other method approved as equivalent by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

Upon request submitted through a maintenance inspector, accompanied by substantiating data, the compliance time specified in the AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

[FR Doc.73-259 Filed 1-4-73;8:45 am]

[Docket No. 72-NE-24; Amdt. 39-1581]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt and Whitney Aircraft Engines

Amendment 39-591 (33 FR 6286), AD 68-9-1 requires replacement or rework of the engine crankshaft flyweight liners on engines operated with Hartzell propeller models HC-93Z30, HC-B3Z30, or HC-B3W30, or combination thereof, before completion of 1000 hours time in service and thereafter at 1000 hour intervals. Due to service experience, the agency has determined that an increase in both the initial and recurrent compliance times is justified. Therefore the AD is being amended to increase the initial compliance time for engines with Hartzell propeller models HC-93Z30, HC-B3Z30, and HC-B3W30 from 950 hours to 1150 hours and the recurrent compliance time from 1000 hours to 1200 hours.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13397), § 39.13 of the Federal Aviation Regulations, Amendment 39-591 (33 FR 6286), AD 68-9-1, is amended as follows:

1. By deleting the words "950 hours" wherever they appear in paragraphs (a)(1), (a)(2), and (b), and inserting the words "1150 hours" in lieu thereof.

2. By deleting the words "1000 hours" wherever they appear in paragraphs (a)(1) and (a)(2) and inserting the words "1200 hours" in lieu thereof.

This amendment becomes effective January 17, 1973.

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

Issued in Burlington, Massachusetts, on December 27, 1972.

FERRIS J. HOWLAND,
Director, New England Region.

[FR Doc.73-258 Filed 1-4-73;8:45 am]

[Airspace Docket No. 72-SO-124]

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

Designation of Control Zone

On December 1, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 FR 25529), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Knoxville, Tenn. (Downtown Island Airport) control zone.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 29, 1973, as hereinafter set forth.

In § 71.171 (38 FR 351), the following control zone is added:

KNOXVILLE, TENN. (DOWNTOWN ISLAND AIRPORT)

Within a 3-mile radius of Downtown Island Airport (lat. 35°57'45" N., long. 83°52'30" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

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

Issued in East Point, Ga., on December 21, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.73-263 Filed 1-4-73;8:45 am]

[Airspace Docket No. 72-SO-111]

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

Designation of Transition Area

On November 11, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 FR 24047), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Jesup, Ga., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 1, 1973, as hereinafter set forth.

In § 71.181 (38 F.R. 435), the following transition area is added:

JESUP, GA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Jesup-Wayne County Airport (lat. 31°33'18" N., long. 81°52'54" W.); within 3 miles each side of the 286° bearing from Slover RBN (lat. 31°33'08" N., long. 81°52'48" W.), extending from the 6.5-mile radius area to 8.5 miles west of the RBN.

(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 December 19, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.73-261 Filed 1-4-73;8:45 am]

[Airspace Docket No. 72-SW-73]

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

Designation of Temporary Transition Areas

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate temporary transition areas at Longhorn, Hico, Camp Bowie, and Lanham, Tex.

On November 14, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 FR 24122) stating the Federal Aviation Administration proposed to designate temporary transition areas at Longhorn, Hico, Camp Bowie, and Lanham, Tex.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0601 G.m.t., January 15, 1973, to 0559 G.m.t., February 16, 1973, as hereinafter set forth.

In § 71.181 (38 FR 435), the following temporary transition areas are added:

LONGHORN, TEX.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Longhorn temporary nondirectional radio beacon (latitude 31°22'20" N., longitude 97°40'00" W.).

HICO, TEX.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Hico temporary Army helipad (latitude 31°59'12" N., longitude 97°55'45" W.).

CAMP BOWIE, TEX.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Camp Bowie temporary Army helipad (latitude 31°33'37" N., longitude 98°46'15" W.).

LANHAM, TEX.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Lanham temporary Army helipad (latitude 31°46'10" N., longitude 97°56'12" W.).

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

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

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.73-260 Filed 1-4-73;8:45 am]

[Airspace Docket No. 72-SO-115]

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

Alteration of Transition Area

On November 23, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 FR 24907), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Rome, Ga., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 1, 1973, as hereinafter set forth.

In § 71.181 (38 FR 435), the Rome, Ga., transition area is amended as follows:

"* * * 12-mile radius area to the VOR * * *" is deleted and "* * * 12-mile radius area of the VOR; within a 9.5-mile radius of Tom B. David Field, Calhoun, Ga. (lat. 34°27'18" N., long. 84°56'24" W.); excluding the portion within the Dalton, Ga. transition area * * *" 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 December 26, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.73-262 Filed 1-4-73;8:45 am]

[Docket No. 11464, Amdt. 91-108]

PART 91—GENERAL OPERATING AND FLIGHT RULES

Aircraft Lease Agreements: Requirements for "Truth in Leasing" Clause

This amendment to Part 91 of the Federal Aviation Regulations further clarifies the applicability of § 91.54, which prescribes requirements for including a "truth in leasing" clause in certain leases and contracts of conditional sales involving United States registered large civil aircraft.

Section 91.54 was issued by the FAA on September 27, 1972, as Amendment 91-104, to become effective on January 3, 1973 (37 FR 20934). Section 91.54 is intended to apply to only leases and contracts of conditional sale entered into after January 2, 1973. This amendment revises paragraph (a) of § 91.54 to make the intent of the rule expressly clear.

In addition, to make the definition of a lease in paragraph (e) conform to the intent of the rule, this amendment revises the definition to make it clear that the term lease does not include an agreement for the sale of an aircraft, or a contract of conditional sale under section 101 of the Federal Aviation Act of 1958.

Since this amendment is clarifying in nature and imposes no additional burden on any person, I find that notice and public procedure are unnecessary and that good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, Part 91 of the Federal Aviation Regulations, as amended by Amendment 91-104, is further amended by amending § 91.54, effective January 3, 1973, as follows:

1. By amending the introductory sentence of paragraph (a) and by amending paragraph (e) to read as follows:

§ 91.54 Truth in leasing clause requirement in leases and conditional sales contracts.

(a) Except as provided in paragraph (b) of this section, the parties to a lease or contract of conditional sale involving a United States registered large civil aircraft and entered into after January 2, 1973, shall execute a written lease or contract and include therein a written truth in leasing clause as a concluding paragraph in large print, immediately preceding the space for the signature of the parties, which contains the following with respect to each such aircraft:

* * * * *

(e) For the purpose of this section, a lease means any agreement by a person to furnish an aircraft to another person for compensation or hire, whether with or without flight crewmembers, other than an agreement for the sale of an aircraft and a contract of conditional sale under section 101 of the Federal Aviation Act of 1958. The person furnishing the aircraft is referred to as the lessor and the person to whom it is furnished the lessee.

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

Issued in Washington, D.C., on December 22, 1972.

J. H. SHAFFER,
Administrator.

[FR Doc.73-264 Filed 1-4-73;8:45 am]

[Docket No. 12458, Amdt. 845]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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

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

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtaind by subscription at an annual rate of $150 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30 each.

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

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

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAP's, effective February 15, 1973:

Albany, N.Y.—Albany County Airport; VOR Runway 1; Amdt. 11.
Albany, N.Y.—Albany County Airport; VOR Runway 19; Amdt. 11.
Albany, N.Y.—Albany County Airport; VOR/DME-1; Amdt. 2.
Anderson, S.C.—Anderson County Airport; VOR Runway 5; Amdt. 5.
Grand Forks, N. Dak.—Grand Forks International Airport; VOR Runway 17; Amdt. 5.
Grand Forks, N. Dak.—Grand Forks International Airport; VOR Runway 35; Amdt. 5.
Kinston, N.C.—Stallings Field; VOR Runway 22; Amdt. 7.
Kinston, N.C.—Stallings Fields; VOR/DME Runway 4; Amdt. 3.
La Crosse, Wis.—La Crosse Municipal Airport; VOR Runway 13; Amdt. 15.
La Crosse, Wis.—La Crosse Municipal Airport; VOR Runway 36; Amdt. 17.

* * * effective December 22, 1972:

Philadelphia, Pa.—Philadelphia International Airport; VOR/DME Runway 27R; Amdt. 1.

2. Section 97.25 is amnded by originating, amending, or canceling the following SDF-LOC-LDA SIAP's, effective February 15, 1973:

Albany, N.Y.—Albany County Airport; LOC (BC) Runway 1; Amdt. 3.
Grand Forks, N. Dak.—Grand Forks International Airport; LOC (BC) Runway 17; Amdt. 1.
La Crosse, Wis.—La Crosse Municipal Airport; LOC (BC) Runway 36; Amdt. 1.

* * * effective February 1, 1973:

Tacoma, Wash.—Tacoma Industrial Airport; LOC Runway 17; Amdt. 1; Canceled (Original remains in effect).

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAP's, effective February 15, 1973:

Albany, N.Y.—Albany County Airport; NDB Runway 19; Amdt. 9.
Charles City, Iowa—Charles City Municipal Airport; NDB Runway 12; Amdt. 3.
La Crosse, Wis.—La Crosse Municipal Airport; NBD Runway 18; Amdt. 1.

* * * effective February 1, 1973:

Tacoma, Wash.—Tacoma Industrial Airport; NDB Runway 17; Amdt. 1; Canceled (Original remains in effect).
Tacoma, Wash.—Tacoma Industrial Airport; NDB Runway 35; Amdt. 2; Canceled (Amendment 1 remains in effect).

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAP's, effective February 15, 1973:

Albany, N.Y.—Albany County Airport; ILS Runway 19; Amdt. 10.
Grand Forks, N. Dak.—Grand Forks International Airport; ILS Runway 35; Amdt. 1.
La Crosse, Wis.—La Crosse Municipal Airport; ILS Runway 18; Amdt. 1.

* * * effective December 22, 1972:

Philadelphia, Pa.—Philadelphia International Airport; ILS Runway 27R, Amdt. 2.

5. Section 97.31 is amended by originating, amending, or canceling the following Radar SIAP's effective February 15, 1973:

Albany, N.Y.—Albany County Airport; Radar-1; Amdt. 5.
Alexandria, La.—Alexandria-Pineville Airport; Radar-1; Amdt. 1; Canceled.

* * * effective February 1, 1973:

Tacoma, Wash.—Tacoma Industrial Airport; Radar-1; Amdt. 2; Canceled (Amendment 1 remains in effect).

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAP's effective February 15, 1973:

Anderson, S.C.—Anderson County Airport; RNAV Runway 23; Original.

* * * effective December 14, 1972:

Hutchinson, Kans.—Hutchinson Municipal Airport; RNAV Runway 31; Amdt. 1; Canceled.

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

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

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

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

[FR Doc.73-265 Filed 1-4-73;8:45 am]

Title 21—FOOD AND DRUGS

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

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

PART 131—INTERPRETATIVE STATEMENTS RE WARNINGS ON DRUGS AND DEVICES FOR OVER-THE-COUNTER SALE

Use of Mercury in Cosmetics Including Use as Skin-Bleaching Agent in Cosmetic Preparations Also Regarded as Drugs

In the FEDERAL REGISTER of June 30, 1972 (37 FR 12967), the Commissioner of Food and Drugs proposed to eliminate mercury from skin-bleaching preparations and from cosmetics except as a preservative in certain eye-area cosmetics. Interested persons were invited to submit comments on the proposal within 60 days. Comments were received from 13 consumers, one medical school faculty member, the American Medical Association, and five manufacturers.

Supporting the proposal were the following: 11 of the 13 consumers, the American Medical Association, and the medical school faculty member.

The principal comments opposing the proposed statement of policy were as follows:

1. One manufacturer agreed with the principle of limiting mercury compounds in cosmetics to use as preservatives in eye-area cosmetics. However, he pointed out that the phenylmercuric salts generally used contain just under 60 to 65 percent of mercury and that concentrations of 0.01 percent would put them over the 50 p.p.m. limit. He suggested that the limit be changed to 65 p.p.m. This request is granted, because it will provide an increased margin of safety in preventing *Pseudomonas* contamination of cosmetics, without adding a safety hazard.

2. Two manufacturers suggested that the proposed statement of policy be revised to permit the use of 50-to-100 p.p.m. mercury as a preservative in shampoos. Because of the known hazard of mercury and the availability of effective less toxic preservatives, the Commissioner concludes that this use cannot be justified.

3. One manufacturer of an ammoniated mercury bleach cream stated that his firm has never seen a verified case of mercury poisoning or skin irritation resulting from use of its product. He referred to studies conducted by the External Products Research Institute which was formed in 1939 to investigate the toxicity and efficacy of topical ammoniated mercury. He reported that animal work sponsored by that organization showed the products to be safe and effective on lightening the skin. This commentator further pointed out that ammoniated mercury is less toxic than methyl mercury. The Commissioner's response to these comments is that there exists a wealth of published material which verifies that all forms of mercury, including metallic mercury, are sensitizers. There also exists a wealth of published material which shows that mercury is absorbed through the skin. While some of these works do refer to absorption through psoriatic or damaged skin, there is enough experimental work conducted outside the Food and Drug Administration to show that appreciable amounts of mercury are absorbed through the unbroken skin. There is also unequivocal evidence of human injury resulting from long-term use of ammoniated mercury bleaching creams.

4. Another manufacturer of an ammoniated mercury bleach cream criticized the work of Marzulli and Brown, which was cited as support for the proposed statement of policy. The commentator stated that the method used to measure skin penetration is not specified in sufficient detail, the cases of mercury poisoning reported are too few in number, and the symptoms ascribed to mercury poisoning are nonspecific and are also attributable to many other diseases. The Commissioner finds that the criticism of the Marzulli and Brown study is unjustified. It is impossible to give the exact method by which an experiment is carried out in every minute detail. The

results of the Marzulli and Brown study are in general agreement with observations from other studies. The listing of common symptoms might appear to indicate that mercury poisoning is identical to such diseases as diabetes and pernicious anemia; however, this is not the case. There are differences in the prominence and characteristics of these symptoms which make the differential diagnosis uncomplicated. All of the patients cited in the Marzulli and Brown study were hospitalized on various occasions and all other reasonable diagnoses were ruled out.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502 (a), (f), (j), 505, 601(a), 701(a); 52 Stat. 1050, 1051, 1052–1053 as amended, 1054, 1055; 21 U.S.C. 352 (a), (f), (j), 355, 361(a), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 3 and 131 are amended as follows:

1. By revising Subpart A of Part 3 by adding a new statement of policy as follows:

§ 3.92 Use of mercury compounds in cosmetics including use as skin-bleaching agent in cosmetic preparations also regarded as drugs.

(a) Mercury-containing cosmetic preparations have been represented for many years as skin-bleaching agents or as preparations to remove or prevent freckles and/or brown spots (so-called age spots). Preparations intended for such use are regarded as drugs as well as cosmetics. In addition to such use as skin-bleaching agents, mercury compounds have also been widely used as preservatives in cosmetics such as hand and body creams and lotions; hair shampoos, hair sets and rinses, hair straighteners, hair coloring, and other preparations; bath oils, bubble bath, and other bath preparations; makeup; antiperspirants and deodorants; and eye-area cosmetics.

(b) The toxicity of mercury compounds is extensively documented in scientific literature. It is well-known that mercury compounds are readily absorbed through the unbroken skin as well as through the lungs by inhalation and by intestinal absorption after ingestion. Mercury is absorbed from topical application and is accumulated in the body, giving rise to numerous adverse effects. Mercury is a potent allergen and sensitizer, and skin irritation is common after topical application. Cosmetic preparations containing mercury compounds are often applied with regularity and frequency for prolonged periods. Such chronic use of mercury-containing skin-bleaching preparations has resulted in the accumulation of mercury in the body and the occurrence of severe reactions. Recently it has also been determined that microorganisms in the environment can convert various forms of mercury into highly toxic methyl mercury which has been found in the food supply and is now considered to be a serious environmental problem.

(c) The effectiveness of mercury-containing preparations as skin-bleaching agents is questionable. The Food and Drug Administration has not been provided with well-controlled studies to document the effectiveness of these preparations. Although mercurial preservatives are recognized as highly effective, less toxic and satisfactory substitutes are available except in the case of certain eye-area cosmetics.

(d) Because of the known hazards of mercury, its questionable efficacy as a skin-bleaching agent, and the availability of effective and less toxic nonmercurial preservatives, there is no justification for the use of mercury in skin-bleaching preparations or its use as a preservative in cosmetics, with the exception of eye-area cosmetics for which no other effective and safe nonmercurial preservative is available. The continued use of mercurial preservatives in such eye-area cosmetics is warranted because mercury compounds are exceptionally effective in preventing *Pseudomonas* contamination of cosmetics and *Pseudomonas* infection of the eye can cause serious injury, including blindness. Therefore:

(1) The Food and Drug Administration withdraws the opinion expressed in trade correspondence TC–9 (issued May 13, 1939) and concludes that any product containing mercury as a skin-bleaching agent and offered for sale as skin-bleaching, beauty, or facial preparation is misbranded within the meaning of sections 502(a), 502(f) (1) and (2), and 502(j), and may be a new drug without approval in violation of section 505 of the Federal Food, Drug, and Cosmetic Act. Any such preparation shipped within the jurisdiction of the Act after the date of publication in the FEDERAL REGISTER of this order (Jan. 5, 1973) will be the subject of regulatory action.

(2) The Food and Drug Administration withdraws the opinion expressed in trade correspondence TC–412 (issued Feb. 11, 1944) and will regard as adulterated within the meaning of section 601(a) of the Act any cosmetic containing mercury unless the cosmetic meets the conditions of paragraph (d)(1) (i) or (ii) of this section.

(i) It is a cosmetic containing no more than a trace amount of mercury and such trace amount is unavoidable under conditions of good manufacturing practice and is less than 1 part per million (0.0001 percent), calculated as the metal; or

(ii) It is a cosmetic intended for use only in the area of the eye, it contains no more than 65 parts per million (0.0065 percent) of mercury, calculated as the metal, as a preservative, and there is no effective and safe nonmercurial substitute preservative available for use in such cosmetic.

§ 131.15 [Amended]

2. By revising Part 131 in § 131.15 *Drugs for human use; recommended warning and caution statements* by deleting the warning concerning amoniated mercury bleach cream, since the above statement of policy makes this warning obsolete.

Effective date. The provisions of § 3.92(d)(1) and the amendment to § 131.15 above shall become effective on January 5, 1973. The provisions of § 3.92(d)(2) shall become effective on July 5, 1973.

(Secs. 502(a) (f), (j), 505, 601(a), 701(a); 52 Stat. 1050, 1051, 1052–1053 as amended, 1054, 1055; 21 U.S.C. 352(a), (f), (j), 355, 361(a), 371(a))

Dated: December 26, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73–159 Filed 1–4–73;8:45 am]

PART 128—HUMAN FOODS; CURRENT GOOD MANUFACTURING PRACTICE (SANITATION) IN MANUFACTURE, PROCESSING, PACKING, OR HOLDING

Natural or Unavoidable Defects in Food for Human Use that Present No Health Hazard

A notice of proposed rule making was published in the FEDERAL REGISTER of March 30, 1972 (37 FR 6497), to make publicly available the action levels of natural or unavoidable defects in foods for human use that present no health hazard. The defect levels, used in considering regulatory actions, were made available to the public on the date the notice was published. The notice provided for the filing of comments within 60 days after its publication.

More than 600 comments were received. About 98 percent of the comments were from consumers. The remainder were from consumer organizations, food processors and associations, a food industry consultant, a drug manufacturer and a State agency. Most of the comments referred not to the proposed regulation itself but to the defect action levels that were made public. These comments in general objected to the existence of any level of defects in food or maintained that the levels allow an excessive amount of defects in foods. The premise that defects in food should approach zero as nearly as possible is valid. However, the establishment of a zero defect action level in foods is not practicable in many cases because a zero defect action level cannot be realistically or routinely achieved for the reasons stated in the published proposal.

Few foods contain no natural or unavoidable defects. Even with modern technology, all defects in foods cannot be eliminated. Foreign material cannot be wholly processed out of foods, and many contaminants introduced into foods through the environment can be reduced only by reducing their occurrence in the environment. The food industry must, nevertheless, continually strive to minimize the presence of natural and unavoidable defects in foods, and defect

action levels have been and will continue to be reduced as improvements are made. Many of the defect action levels have been in existence for many years and the levels are being reviewed to determine their current validity. The defect action levels do not represent the average levels found in any instance; the average levels are significantly lower than the action levels.

All comments to, and suggested changes of, the proposed regulation have been evaluated. The Commissioner's conclusions are as follows:

1. There were comments that all or some of the defects in foods covered by this regulation present a health hazard. Two comments discussed the close association of mold and mycotoxins in certain foods. One comment suggested that defects indicate the presence of pathogens in foods. The Commissioner is aware of the health hazard of mycotoxins and the toxic metabolites produced by certain types of mold, and regulatory programs have previously been established to monitor and control mycotoxin contamination of food. Pathogens may occur in the absence of other defects. Therefore, the Commissioner does not regard the defect level in food as a reliable indicator of the presence of pathogens. When pathogens are found in food, regulatory action is taken against the food regardless of whether or not it contains defects that present no health hazard.

2. Some commented that public availability of the defect action levels eliminates the incentive to further reduce the levels of defects in foods. It was suggested that only the defect and not the defect action level be made publicly available. The Commissioner believes that public awareness of both the kinds and levels of defects in foods will provide both the food industry and government the incentive to actively increase their efforts to reduce the levels in food.

3. One comment suggested that a statement be included in the order that regulatory action may be taken against imported food at lower defect levels since imported food processors are not subject to factory inspection. Defect action levels represent the maximum levels for natural or unavoidable defects in foods produced under good manufacturing and/or processing practices and are the levels used for recommending regulatory action. The Commissioner concludes that the defect action level for such defects should be the same for a food regardless of whether a food is of domestic or foreign origin.

4. It was suggested that all defect action levels be established on the basis of published scientific and technological studies. The Commissioner finds that sources of information other than published studies are adequate to support defect action levels and the adoption of this suggestion would cause unnecessary expense and delay in the establishment of defect action levels.

5. One suggested change was to add a statement that the level of defects in the finished product is reduced during the manufacturing process and add a list of procedures used to remove defects during the manufacturing process. There is no question that the amounts of defects in a finished food are often reduced by the procedures incorporated in the various manufacturing processes. This reduction is significant where the defect action levels are for unprocessed commodities. However, the many manufacturing procedures used in processing foods that reduce the defects in food are variable in type, complexity, and efficiency. Therefore, these procedures do not permit delineation for purposes of the list that was suggested by this comment. The Commissioner concludes that paragraph (c) of the proposal is adequately explicit concerning the reduction of defects during processing and that a list of quality control procedures used to remove defects during processing is not pertinent to the intent of the regulation.

6. One comment suggested that paragraph (d) be modified to restrict its application to intent. The provisions of paragraph (d) are intended to prohibit the mixing of a food containing defects in excess of the current defect action level with another lot of the food not containing defects in excess of the current defect action level. The Commissioner concludes that the suggested modification would impose restriction on the application of the provisions of this paragraph that would not be in the best interest of consumers. As proposed, paragraph (d) could be interpreted to apply only when two lots of the same type of food are mixed. The paragraph has been edited to reflect its intended application to any mixing of a food containing defects above the action levels listed with the same or other foods whether or not the intended purpose of such mixing is to make a food containing the defects at a lower level.

7. Finally, it has been suggested that all defect levels be published for comment in the FEDERAL REGISTER. The Commissioner concurs in this suggestion. The defect levels were not included in the proposal, and are not contained in the final order, because many are out of date and all should be subject to a thorough review and, where appropriate, revision before they are proposed as formal action levels in the FEDERAL REGISTER. That review and revision is now under way, prompted in large part by making the defect levels a matter of public knowledge, and some reduction of these levels has already been found to be appropriate. When this review and revision is completed to the extent that the Food and Drug Administration can propose these as formal action levels, justified by current technology and methodology, they will be published in the FEDERAL REGISTER for public comment. Current defect action levels will, in the meanwhile, be available through the Office of the Assistant Commissioner for Public Affairs, Food and Drug Administration, Room 15B-42, 5600 Fishers Lane, Rockville, MD 20852. Paragraph (e) has been revised to reflect the fact that these action levels will in the future be included in the regulation.

Based on consideration of the comments received and other relevant information the Commissioner concludes that the proposed regulation should be adopted as set forth below.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201 et seq., 52 Stat. 1040 et seq., as amended; 21 U.S.C. 321 et seq.) and under authority delegated to the Commissioner (21 CFR 2.120), Part 128 is amended by adding the following new section:

§ 128.10 Natural or unavoidable defects in food for human use that present no health hazard.

(a) Some foods, even when produced under current good manufacturing and/or processing practices, contain natural or unavoidable defects at lower levels that are not hazardous to health. The Food and Drug Administration establishes maximum levels for such defects in foods produced under good manufacturing and/or processing practices and uses these levels for recommending regulatory actions.

(b) Defect action levels are established for products whenever it is necessary and feasible. Such levels are subject to change upon the development of new technology or the availability of new information.

(c) Compliance with defect action levels does not excuse failure to observe either the requirement in section 402(a)(4) of the Federal Food, Drug, and Cosmetic Act that food may not be prepared, packed, or held under insanitary conditions or the other requirements in this part that food manufacturers must observe current good manufacturing practices. Evidence obtained through factory inspection indicating such a violation renders the food unlawful, even though the amounts of natural or unavoidable defects are lower than the currently established action levels. The manufacturer of food must at all times utilize quality control procedures which will reduce natural or unavoidable defects to the lowest level currently feasible.

(d) The mixing of a food containing defects above the current defect action level with another lot of food is not permitted and renders the final food unlawful regardless of the defect level of the final food.

(e) Current action levels for natural and unavoidable defects in food for human use that present no health hazard are as follows. (Levels that have been adopted on a temporary basis prior to publication as a regulation may be obtained upon request at the Office of the Assistant Commissioner for Public Affairs, Food and Drug Administration, Room 15B-42, 5600 Fishers Lane, Rockville, MD 20852.)

Effective date. This order shall be effective January 5, 1973.

Dated: December 22, 1972.

(Secs. 201 et seq., 52 Stat. 1040 et seq., as amended; 21 U.S.C. 321 et seq.)

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73-158 Filed 1-4-73;8:45 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Thiabendazole

The Commissioner of Food and Drugs has evaluated supplemental new animal drug applications (30-103V and 14-350V) filed by Merck Sharp & Dohme Research Laboratories, Division of Merck and Co., Rahway, N.J. 07065, proposing the use of thiabendazole boluses for the control of the gastrointestinal roundworms *Nematodirus spp.* and *Oesophagostomum radiatum* in cattle. The supplemental applications are approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135c is amended in the table in § 135c.7(e)(2)(ii) by revising items 1 and 2 in the "Indications for use" column, as follows:

§ 135c.7 Thiabendazole.

* * * * *

(e) * * *

(ii) It is also used as follows:

(2) * * *

IN A BOLUS OR IN LIQUID FORM

	Amount	Limitations	Indications for use
1. Thiabendazole	* * *	* * *	Control of infections of gastrointestinal roundworms (genera *Trichostrongylus spp., Haemonchus spp., Nematodirus spp., Ostertagia spp.,* and *Oesophagostomum radiatum*).
2. Thiabendazole	* * *	* * *	Control of severe infections of gastrointestinal roundworms (genera *Trichostrongylus spp., Haemonchus spp., Nematodirus spp., Ostertagia spp.,* and *Oesophagostomum radiatum*). Control of infections with *Cooperia spp.*
* * *	* * *	* * *	* * *

Effective date. This order shall become effective January 5, 1973.

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

Dated: December 21, 1972.

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

[FR Doc.73-45 Filed 1-4-73;8:45 am]

Chapter II—Bureau of Narcotics and Dangerous Drugs, Department of Justice

PART 308—SCHEDULES OF CONTROLLED SUBSTANCES

Exempt Chemical Preparations

The Director of the Bureau of Narcotics and Dangerous Drugs has received applications pursuant to § 308.23 of Title 21 of the Code of Federal Regulations requesting that several chemical preparations containing controlled substances be granted the exemptions provided for in § 308.24 of Title 21 of the Code of Federal Regulations.

The Director hereby finds that each of the following chemical preparations and mixtures is intended for laboratory, industrial, educational, or special research purposes, is not intended for general administration to a human being or other animal, and either (a) contains no narcotic controlled substance and is packaged in such a form or concentration that the package quantity does not present any significant potential for abuse, or (b) contains either a narcotic or nonnarcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion or concentration, that the preparation or mixture does not present any potential for abuse. If the preparation or mixture contains a narcotic controlled substance, the preparation or mixture is formulated in such a manner that it incorporates methods of denaturing or other means so that the preparation or mixture is not liable to be abused, and so that the narcotic substance cannot in practice be removed. The Director further finds that exemption of the following chemical preparations and mixtures is consistent with the public health and safety as well as the needs of researchers, chemical analysis, and suppliers of these products.

Therefore, under the authority vested in the Attorney General by sections 301 and 501(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 821 and 871(b)) and redelegated to the Director of the Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby orders that Part 308 of Title 21 of the Code of Federal Regulations be amended as follows:

a. By amending 308.24(i) by adding the following chemical preparations:

§ 308.24 Exempt chemical preparations.

* * * * *

(i) * * *

Manufacturer or supplier	Product name and supplier's catalog number	Form of product	Date of application
* * *	* * *	* * *	* * *
Abbott Laboratories	T-7 I-125 diagnostic kit No. 7734	Vial: 11 ml	Nov. 15, 1972
Do	Quantisorb T-4 I diagnostic kit No. 6713.	Vial: 11 ml	Do.
* * *	* * *	* * *	* * *
Applied Sciences Laboratories, Inc	Mixture 1—Opiates	Vial: 1 ml	Oct. 4, 1972
Do	Mixture 2—Stimulants	do	Do.
Do	Mixture 3—Depressants	do	Do.
Do	Mixture 4—Barbiturates	do	Do.
Do	Mixture 5—Kit of representatives	do	Do.
* * *	* * *	* * *	* * *
Burroughs Wellcome Co	Lanoxitest beta digoxin radioimmunoassay kit with tritiated digoxin #KTW.	Bottle: 125 ml	Nov. 16, 1972
* * *	* * *	* * *	* * *
Collaborative Research, Inc	Kit to include: (a) LS antiserum #Z-20. (b) I-125-LSD-Polymer #Z-11. (c) LSD standard.	Bottle: 1 and 2 dram	Nov. 14, 1972
* * *	* * *	* * *	* * *
E. R. Squibb & Sons, Inc	Barbital buffer for use with gastrin immunotope kit, #0951B.	Vial: 20 cc	Nov. 21, 1972
* * *	* * *	* * *	* * *
Fisher Scientific Co	Electrophoretic buffer No. 1, pH 8.60, ionic strength 0.05, catalog No. E-1.	Packet: 12.14 grams	Oct. 27, 1972
Do	Electrophoretic buffer No. 2, pH 8.60, ionic strength 0.075, catalog No. E-2.	Packet: 18.16 grams	Do.
* * *	* * *	* * *	* * *
Hoffman-La Roche Inc	Abusereen radio-immunoassay for morphine (^{125}I), No. 43021.	Vial: 30 ml	Sept. 27, 1972
Do	Abusereen radio-immunoassay for morphine (^{3}H), No. 43026.	Vial: 60 ml	Do.
* * *	* * *	* * *	* * *
Hyland Division, Travenol Laboratories.	Toxicology serum control, dried, No. 0541.	Vial: 10 ml	Oct. 26, 1972
Do	Toxicology urine control, dried, No. 0542.	do	Do.
* * *	* * *	* * *	* * *
Schwarz/Mann Division, Becton Dickson and Co.	DL-amphetamine sulfate C14 sterile aqueous solution.	Flask: 0.05 mc, 0.1 mc, 0.5 mc, 1.0 mc.	Sept. 14, 1972
Do	D-amphetamine sulfate C14 sterile aqueous solution.	Flask: 0.05 mc, 0.1 mc, 0.5 mc, 1.0 mc.	Do.
Do	L-amphetamine sulfate C14 sterile aqueous solution.	Flask: 0.05 mc, 0.1 mc, 0.5 mc, 1.0 mc.	Do.
Do	Secobarbital 5 C14	Vial: 0.05 mc, 0.1 mc, 0.5 mc, 1.0 mc.	Do.
Do	Secobarbital 2 C14	Vial: 0.05 mc, 0.1 mc, 0.5 mc, 1.0 mc.	Do.
* * *	* * *	* * *	* * *

b. By amending § 308.24(i) by deleting the following chemical preparation:

Manufacturer or supplier	Product name and supplier's catalog number	Form of product	Date of application
• • •	• • •	• • •	• • •
Hoffman-La Roche Inc.	Radioimmunoassay for detection of morphinans.	Tubes: 4 ml., and vials: 5 ml.	Mar. 29, 1972.
• • •	• • •	• • •	• • •

Effective date. This order is effective January 5, 1973.

Dated: December 22, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.73-95 Filed 1-4-73;8:45 am]

PART 308—SCHEDULES OF CONTROLLED SUBSTANCES

Exempt Chemical Preparations

A notice was published in the FEDERAL REGISTER of November 4, 1972 (37 FR 23551) proposing that several chemical preparations containing controlled substances be granted the exemptions provided for in § 308.24 of Title 21 of the Code of Federal Regulations. All interested persons were invited to submit objections or comments on the proposal by November 30, 1972. No objections or comments have been received. However, one entry was erroneous and the supplier has notified the Bureau; this entry has been corrected.

The Director hereby finds that each of the following chemical preparations and mixtures is intended for laboratory, industrial, educational, or special research purposes, is not intended for general administration to a human being or other animal, and either (a) contains no narcotic controlled substance and is packaged in such a form or concentration that the package quantity does not present any significant potential for abuse, or (b) contains either a narcotic or nonnarcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion, or concentration, that the preparation or mixture does not present any potential for abuse. If the preparation or mixture contains a narcotic controlled substance, the preparation or mixture is formulated in such a manner that it incorporates methods of denaturing or other means so that the preparation or mixture is not liable to be abused or to have ill effects, if abused, and so that the narcotic substance cannot in practice be removed. The Director further finds that exemption of the following chemical preparations and mixtures is consistent with the public health and safety as well as the needs of researchers, chemical analysts, and suppliers of these products.

Therefore, under the authority vested in the Attorney General by sections 301 and 501(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 821 and 871(b)) and redelegated to the Director of the Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby orders that Part 308 of Title 21 of the Code of Federal Regulations be amended as follows:

a. By amending § 308.24(i) by adding the following chemical preparations:

Manufacturer or supplier	Product name and supplier's catalog number	Form of product	Date of application
Abbott Laboratories	AUS-tect CEP Barbital Acetate Buffer, No. 9025-02.	Plastic bag 2½" x 3¼"	8-21-72
Do	CEP Agarose Plates, No. 9023-01 and 9023-02.	Foil pouch: 4½" x 4" and 6½"x5¼".	8-21-72
Do	CEP Agarose Plates (For Research Studies Only), No. 9023-03 and 9023-04.	Foil pouch: 4½" x 4" and 6½"x5¼".	8-21-72
Do	DIL'U-tainer CEP Barbital Acetate Buffer, No. 9025-03.	Plastic bag: 6" x 13"	8-21-72
Do	Tetrasorb-125 T-4 Diagnostic Kit, No. 7775.	Vial: 11 ml	8-21-72
Do	Irosorb-69 Diagnostic Kit, No. 6764.	Vial: 10 ml	8-21-72
• • •	• • •	• • •	• • •
American Hospital Supply Corp. (Harleco Division).	Barbital-Sodium Buffer Salt, No. 11731.	Bottle: 250 ml	6- 6-72
Do	Barbital-Acid Buffer Salt, No. 1173	Bottle: 250 ml	6- 6-72
• • •	• • •	• • •	• • •
Amersham/Searle	Amobarbital-2-C14, No. CFA-401	Ampule: 110 mm. x 13 mm. or Vial: 38.40 mm. x 11 mm.	9-19-72
Do	Pentothal—S35 Sodium Salt, No. SJ-77.	Ampule: 110 mm. x 13 mm. or Vial: 38.40 mm. x 11 mm.	9-19-72
• • •	• • •	• • •	• • •
Becton, Dickinson and Co. (Spectra Biologicals Division).	HepaScreen CEP Barbital Buffer, No. K-751.	Envelope: 3.5" x 5.5"	8-11-72
Do	HepaScreen CEP Plates, Nos. K-742 and K-743.	Plate: 3.5" x 3.5"	8-11-72
• • •	• • •	• • •	• • •
Gelman Instrument Co.	Separachrom Drug System, No. 51920.	Chambers: 6 cm. x 9 cm.	9- 6-72
• • •	• • •	• • •	• • •
General Diagnostics	fas T³, No. 30903	Vial: 10.5 cm. x 1.2 cm	8-25-72
• • •	• • •	• • •	• • •
Hyland's Division, Travenol Laboratories, Inc.	Partial Thromboplastin, Dried, No. 3491.	Vial: 1 ml. and 5 ml.	8-31-71
Do	Agar Gel Plates, No. 8794	Plate: 25 ml	8-1-72
Do	Buffer, No. 8793	Vial: 250 ml	8-1-72
• • •	• • •	• • •	• • •
MCI Biomedical	IEP Buffer; pH 8.2, 0.04 Ionic Strength.	Package: 6.510 grams	8-28-72
• • •	• • •	• • •	• • •
MEAD Diagnostics	T-3 Test fas T_3, No. L6902	Vial: ½" x 1⅛"	8-31-72
Do	T-4 Test fas T_4, No. L6905	Vial: ½" x 1⅛"	8-31-72
• • •	• • •	• • •	• • •
Schering Corp.	Hepaquik	Vial: 9 drum and plate	7-16-72
SYVA Co.	Frat Benzoyl Ecgonine Calibrator	Vial: 1 ml.	9-13-72
Do	Frat Methadone Calibrator	do	Do.
Do	Frat Opiate Calibrator	do	Do.
Do	Frat Amphetamine Calibrator	do	Do.
Do	Frat Barbiturate Calibrator	do	Do.
• • •	• • •	• • •	• • •
TLC Corp.	Chromat/o/Screen Kit for Amphetamines, No. JJ-175.	Vial: 1.9 cm. X1.6 cm	7- 6-72
Do	Chromat/o/Screen Kit for Alkaloids, No. JJ-176.	Vial: 1.9 cm. X1.6 cm	Do.
Do	Chromat/o/Screen Kit for Barbiturates, No. JJ-177.	Vial: 1.9 cm. X1.6 cm	Do.
• • •	• • •	• • •	• • •

b. By amending § 308.24(i) by deleting the following chemical preparations:

Manufacturer or supplier	Product name and supplier's catalog number	Form of product	Date of application
American Hospital Supply Corp. (Scientific Products Division).	Scientific Products Buffer Salt Mixture B-2, No. 92053.	Vial: 18.18 grams per 10 dram vial.	9-15-71
American Hospital Supply Corp. (Harleco Division).	do	do	Do.
American Hospital Supply Corp. (Dade Division).	Adsorbed Plasma Reagent, Nos. B4233-1 and B4233-2.	Bottle: 1 ml	8-16-71
• • •	• • •	• • •	• • •
Syva Co.	Lyophilized Urine Base, Morphine Standard Set.	Vial: 2 ml	2-24-72
Do.	Lyophilized Urine Base, Amphetamine Standard Set.	do	Do.
Do.	Lyophilized Urine Base, Secobarbital Set.	do	Do.
Do.	Lyophilized Urine Base, Methadone Standard Set.	do	Do.

c. By amending § 308.24(i) by revising the listing of two chemical preparations to read as follows:

Manufacturer or supplier	Product name and supplier's catalog number	Form of product	Date of application
American Hospital Supply Corp. (Harleco Division).	Buffer Barbital, pH 8.6, No. 96804	Vial: 1.51 grams per 15 mm. x 45 mm. vial	9-15-71
• • •	• • •	• • •	• • •
Hyland Division, Travenol Laboratories, Inc.	Agar Gel Plates No. 3016	Package: 10 plates-25 ml. per plate.	8-31-71
• • •	• • •	• • •	• • •

Effective date: January 5, 1972.

Dated: December 22, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.73-4 Filed 1-4-73;8:45 am]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER M—MISCELLANEOUS

PART 274—REGULATIONS GOVERNING COMPETITIVE BIDDING ON U.S. GOVERNMENT GUARANTEED MILITARY EXPORT LOAN AGREEMENTS

The Secretary of Defense approved the following on November 28, 1972:

Sec.
274.1 Purpose.
274.2 Definitions.
274.3 Public notice.
274.4 U.S. guaranty.
274.5 Notice of intent to bid.
274.6 Submission of bids.
274.7 Acceptance of bids.
274.8 Bids - revocations - rejections - postponements.
275.9 Delegation of authority to the Secretary of the Treasury.
274.10 Reservations.

AUTHORITY: The provisions of this Part 274 are published under authority of section 24 of the Foreign Military Sales Act (22 U.S.C. 2764) and Executive Order 11501 (34 FR 20169).

§ 274.1 Purpose.

The purpose of this memorandum is to prescribe regulations under which the Secretary of Defense or his designee may, from time to time, by public notice, offer financial institutions the opportunity to bid on the interest rates for the subject agreements. The bids made will be subject to the terms, conditions, and procedures herein set forth, except as they may be supplemented in the public notice or notices issued by the Secretary of Defense or his designee in connection with particular offerings.

§ 274.2 Definitions.

(a) The terms "public notice," "notices," or "announcement" mean the public notice of invitation to bid and any supplementary or amendatory notices or announcements with respect thereto, including, but not limited to, any statement released to the press by the Secretary of Defense or his designee and notices sent to those who have filed notices of intent to bid or who have filed bids.

(b) The term "Loan Agreement" means the proposed agreement between the foreign government and the private U.S. lender as described in the particular notice of Invitation to Bid.

§ 274.3 Public notice.

(a) Bids hereunder will be invited through a public notice issued by the Secretary of Defense or his designee which will prescribe the amount of the loan for which bids are invited, the repayment schedule, the conditions under which bidders may specify the rate of interest, and the date and closing hour for receipt of bids.

(b) Accompanying the notice will be the form of the Loan Agreement which the successful bidder must execute with the borrower, except for those terms which will be subject to bidding.

§ 274.4 U.S. guaranty.

Under section 24 of the Foreign Military Sales Act (22 U.S.C. 2764), any individual, corporation, partnership, or other juridical entity (excluding U.S. Government agencies) will be guaranteed against political and credit risks of nonpayment arising out of their financing of credit sales of defense articles and defense services to friendly countries and international organizations. Section 24 explicitly provides that guarantees thereunder are backed by the full faith and credit of the United States. Fees in the amount of one-fourth of 1 percent of the amount of credits agreed upon shall be charged for such guaranties.

§ 274.5 Notice of intent to bid.

Any individual or organization, syndicates, or other group which intends to submit a bid, must, when required by the notice, give written notice of such intent on the appropriate form at the place and within the time specified in the public notice. Such notice, which shall be given to the Federal Reserve Bank of New York, 33 Liberty Street, New York, NY 10045, will not constitute a commitment to bid.

§ 274.6 Submission of bids.

(a) *General.* Bids will be received only at the place specified and not later than the time designated in the public notice. Bids shall be irrevocable.

(b) *Interest rates.* Bids must be expressed in terms of rates of interest not to exceed three decimals, for example, 5.125 percent.

(c) *Group bids.* A syndicate or other group submitting a bid must act through a representative who must be a member of the group. The representative must warrant to the Secretary of Defense or his designee, that he has all necessary power and authority to act for each member and to bind the members jointly and severally. In addition to whatever other data may be required by the Secretary of Defense or his designee, in the case of a syndicate, the representative must file, within 1 hour after the time for opening bids, at the place specified in the public notice for receipt of bids a final statement of the composition of the syndicate membership and the amount of each member's underwriting participation.

§ 274.7 Acceptance of bids.

(a) *Opening bids.* Bids will be opened at the time and place specified in the public notice.

(b) *Acceptance of successful bid.* The Secretary of Defense or his designee will notify any successful bidder of acceptance in the manner and form specified in the public notice.

§ 274.8 Bids-revocations-rejections-postponements.

The Secretary of Defense or his designee in his discretion, may (a) revoke the public notice of invitation to bid at any time before opening bids, (b) return all bids unopened either at or prior to the time specified for their opening, (c) reject any or all bids, (d) postpone the time for presentation and opening of bids, and (e) waive any immaterial or obvious defect in any bid. Any action the

Secretary of Defense or his designee may take in these respects shall be final. In the event of a postponement, known bidders will be advised thereof and their bids returned unopened.

§ 274.9 Delegation of authority to the Secretary of the Treasury.

There is hereby delegated to the Secretary or Acting Secretary of the Treasury the authority, in the name of and title of the Secretary of the Treasury, to invite bids under this memorandum, to issue, modify and revoke public notices, notices, and announcements concerning such bids, to prescribe additional terms and conditions with respect thereto, consistent with this memorandum, to receive, return, open, reject, and accept bids, and to take such other actions as may be necessary and proper to execute this delegation of authority to implement this memorandum, excluding, however, the issuance of guaranties under § 274.4.

§ 274.10 Reservations.

The Secretary of Defense reserves the right, at any time, or from time to time, to amend, repeal, supplement, revise or withdraw all or any of the provisions of this memorandum.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Comptroller).

[FR Doc.73-216 Filed 1-4-73;8:45 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Connecticut	Hartford	East Hartford, Town of.				Dec. 29, 1972, Emergency.
Illinois	Du Page	Lombard, Village of.				Do.
Iowa	Delaware and Dubuque.	Dyersville, City of.				Do.
Massachusetts	Barnstable	Sandwich, Town of.				Do.
Do	Plymouth	Hull, Town of				Do.
Do	Suffolk	Revere, City of				Do.
Michigan	Monroe	Monroe, City of				Do.
Missouri	Barry	Cassville, City of				Do.
New Jersey	Bergen	Englewood, City of.				Do.
New York	Tioga	Owego, Town of				Do.
Ohio	Lake	Mentor, City of				Do.
Oregon	Tillamook	Unincorporated areas.				Do.
Pennsylvania	Berks	Birdsboro, Borough of.				Do.
Do	do	Kenhorst, Borough of.				Do.
Do	do	Robeson, Township of.				Do.
Do	Lebanon	Jonestown, Borough of.				Do.
Wisconsin	Milwaukee	Franklin, City of				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator (34 FR 2680, Feb. 27, 1969); and designation of Acting Federal Insurance Administrator effective Aug. 13, 1971 (36 FR 16701, Aug. 25, 1971))

Issued: December 26, 1972.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.73-64 Filed 1-4-73;8:45 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER A—GENERAL

[CGD 72-234R]

PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT AREAS

Subpart 3.15—Third Coast Guard District

CAPTAINS OF THE PORT AREAS

This amendment establishes a new Captain of the Port Area at New Haven, Conn., and revises the boundaries of Captains of the Port New York, N.Y. and New London, Conn. The reason for the establishment of the new Captain of the Port New Haven, Conn. and the revision of the Captain of the Port New York, N.Y. and New London, Conn. areas is to provide full coverage of the major industrial ports within the Third Coast Guard District for matters related to port safety and environmental protection.

Since this is a matter relating to agency organization, it is exempted from notice of proposed rule making and public notice and procedure thereon by 5 U.S.C. 553.

Accordingly, Part 3 is amended to read as follows:

3.15–55 New London Captain of the Port.

(a) The New London Captain of the Port Office is located in New London, Conn.

(b) The New London Captain of the Port comprises all navigable waters of the United States and contiguous land areas with the following boundaries: West of a line from Watch Hill Light Station, R.I., due south to 41–09–48N and 71–51–30W; thence due west to Orient Point Light; thence westward along the northern shoreline of Long Island, N.Y. to 72–38–00W; thence north to the southern shoreline of Connecticut; westward along the shoreline to 72–40–00W; thence due north to the Connecticut-Massachusetts boundary; thence eastward along this boundary to the Rhode Island boundary; thence southward along the Rhode Island boundary to Watch Hill Light Station.

§ 3.15–57 New Haven Captain of the Port.

(a) The New Haven Captain of the Port is located in New Haven, Conn.

(b) The New Haven Captain of the Port area comprises all the navigable waters of the United States and contiguous land areas within the following boundaries: From the Connecticut-Massachusetts boundary at 72–40–00W south to the Connecticut shoreline; thence east along the shoreline to 72–38–00W; thence due south to the Long Island-New York shoreline; thence west along the Long Island shoreline to 73–00–00W; thence due south to 40–49–30N; thence west by south to 40–41–20N and 73–39–00W; thence due north to 40–59–00N; thence west to 73–40–00W; thence north to the Connecticut-New York boundary at 41–01–30N; thence northerly along the western boundary of Connecticut to the Massachusetts boundary; thence eastward along this boundary to 72–40–00W.

§ 3.15–60 New York Captain of the Port.

(a) The New York Captain of the Port is located in New York, N.Y.

(b) The New York Captain of the Port area comprises all the navigable waters of the United States and contiguous land areas within the following boundaries: A line extending from Navesink South Tower through Ambrose Light Tower to 40–35–00N and 73–39–00W; thence due north to 40–59–00N; thence west to 74–10–00W; thence southwesterly to 40–30–00N and 74–30–00W; thence due south to 40–23–48N; thence east to Navesink South Tower.

(80 Stat. 383, as amended, 63 Stat. 545, sec. 6(b), 80 Stat. 937; 5 U.S.C. 552, 14 U.S.C. 633, 49 U.S.C. 1655(b); and 49 CFR 1.45 and 1.46)

Effective date. This amendment becomes effective on January 5, 1973.

Dated: December 27, 1972.

C. R. BENDER,
Admiral,
U.S. Coast Guard Commandant.

[FR Doc.73-183 Filed 1-4-73;8:45 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7248]

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

PART 13—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1969

Termination of Private Foundation Status

On November 11, 1970, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under section 507(b)(1) of the Internal Revenue Code of 1954, as added by section 101(a) of the Tax Reform Act of 1969 (83 Stat. 492) was published in the FEDERAL REGISTER (35 FR 17336). After consideration of all such relevant matters as were presented by interested persons regarding the rules proposed, the amendments of the regulations as proposed is hereby adopted, subject to the changes set forth below.

Temporary Treasury Regulation § 13.12, added by T.D. 7063 (35 FR 15913), as modified by T.D. 7085 (36 FR 7005) and T.D. 7108 (36 FR 7005), is hereby superseded.

Section 1.507–2 as set forth in the notice of proposed rule making dated November 11, 1970, is amended to read as set forth below.

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

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

Approved: December 29, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

Temporary Treasury Regulation § 13.12, added by T.D. 7063 (35 FR 15913), as modified by T.D. 7085 (36 FR 7005) and T.D. 7108 (36 FR 7005), is hereby superseded.

The following regulations relating to the termination of private foundation status by transfer to, or operation as, a public charity are prescribed under section 507 of the Internal Revenue Code of 1954, as added by section 101(a) of the Tax Reform Act of 1969 (83 Stat. 492).

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

EXEMPT ORGANIZATIONS

PRIVATE FOUNDATIONS

§ 1.507 Statutory provisions; termination of private foundation status; general rule.

SEC. 507. *Termination of private foundation status.*—(a) *General rule.* Except as provided in subsection (b), the status of any organization as a private foundation shall be terminated only if—

(1) Such organization notifies the Secretary or his delegate (at such time and in such manner as the Secretary or his delegate may by regulations prescribe) of its intent to accomplish such termination, or

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

(B) The Secretary or his delegate notifies such organization that, by reason of subparagraph (A), such organization is liable for the tax imposed by subsection (c),

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

(b) *Special rules*—

(1) *Transfer to, or operation as, public charity.* The status as a private foundation of any organization, with respect to which there have not been either willful repeated acts (or failures to act) or a willful and flagrant act (or failure to act) giving rise to liability for tax under chapter 42, shall be terminated if—

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

months immediately preceding such distribution, or

(B) (i) Such organization meets the requirements of paragraph (1), (2), or (3) of section 509(a) by the end of the 12-month period beginning with its first taxable year which begins after December 31, 1969, or for a continuous period of 60 calendar months beginning with the first day of any taxable year which begins after December 31, 1969,

(ii) Such organization notifies the Secretary or his delegate (in such manner as the Secretary or his delegate may by regulations prescribe) before the commencement of such 12-month or 60-month period (or before the 90th day after the day on which regulations first prescribed under this subsection become final) that it is terminating its private foundation status, and

(iii) Such organization establishes to the satisfaction of the Secretary or his delegate (in such manner as the Secretary or his delegate may by regulations prescribe) immediately after the expiration of such 12-month or 60-month period that such organization has complied with clause (i).

If an organization gives notice under subparagraph (B)(ii) of the commencement of a 60-month period and such organization fails to meet the requirements of paragraph (1), (2), or (3) of section 509(a) for the entire 60-month period, this part and chapter 42 shall not apply to such organization for any taxable year within such 60-month period for which it does meet such requirements.

(2) *Transferee foundations.* For purposes of this part, in the case of a transfer of assets of any private foundation to another private foundation pursuant to any liquidation, merger, redemption, recapitalization, or other adjustment, organization, or reorganization, the transferee foundation shall not be treated as a newly created organization.

(c) *Imposition of tax.* There is hereby imposed on each organization which is referred to in subsection (a) a tax equal to the lower of—

(1) The amount which the private foundation substantiates by adequate records or other corroborating evidence as the aggregate tax benefit resulting from the section 501(c)(3) status of such foundation, or

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

(d) *Aggregate tax benefit*—

(1) *In general.* For purposes of subsection (c), the aggregate tax benefit resulting from the section 501(c)(3) status of any private foundation is the sum of—

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

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

(C) Interest on the increases in tax determined under subparagraphs (A) and (B) from the first date on which each such increase would have been due and payable to the date on which the organization ceases to be a private foundation.

(2) *Substantial contributor.*

(A) *Definition.* For purposes of paragraph (1), the term "substantial contributor" means any person who contributed or bequeathed an aggregate amount of more than $5,000 to the private foundation, if such amount is more than 2 percent of the total contributions and bequests received by the foundation before the close of the taxable year of the foundation in which the contribution or bequest is received by the foundation from such person. In the case of a trust, the term "substantial contributor" also means the creator of the trust.

(B) *Special rules.* For purposes of subparagraph (A)—

(i) Each contribution or bequest shall be valued at fair market value on the date it was received,

(ii) In the case of a foundation which is in existence on October 9, 1969, all contributions and bequests received on or before such date shall be treated (except for purposes of clause (i)) as if received on such date,

(iii) An individual shall be treated as making all contributions and bequests made by his spouse, and

(iv) Any person who is a substantial contributor on any date shall remain a substantial contributor for all subsequent periods.

(3) *Regulations.* For purposes of this section, the determination as to whether and to what extent there would have been any increase in tax shall be made in accordance with regulations prescribed by the Secretary or his delegate.

(e) *Value of assets.* For purposes of subsection (c), the value of the net assets shall be determined at whichever time such value is higher: (1) the first day on which action is taken by the organization which culminates in its ceasing to be a private foundation, or (2) the date on which it ceases to be a private foundation.

(f) *Liability in case of transfers of assets from private foundation.* For purposes of determining liability for the tax imposed by subsection (c) in the case of assets transferred by the private foundation, such tax shall be deemed to have been imposed on the first day on which action is taken by the organization which culminates in its ceasing to be a private foundation.

(g) *Abatement of taxes.* The Secretary or his delegate may abate the unpaid portion of the assessment of any tax imposed by subsection (c), or any liability in respect thereof, if—

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

(2) Following the notification prescribed in section 6104(c) to the appropriate State officer, such State officer within 1 year notifies the Secretary or his delegate, in such manner as the Secretary or his delegate may by regulations prescribe, that corrective action has been initiated pursuant to State law to insure that the assets of such private foundation are preserved for such charitable or other purposes specified in section 501(c)(3) as may be ordered or approved by a court of competent jurisdiction, and upon completion of the corrective action, the Secretary or his delegate receives certification from the appropriate State officer that such action has resulted in such preservation of assets.

[Sec. 507, as added by sec. 101(a), Tax Reform Act 1969 (83 Stat. 492)]

PAR. 2. There is inserted immediately after § 1.507–1 the following section:

§ 1.507–2 Special rules; transfer to, or operation as, public charity.

(a) *Transfer to public charities*—(1) *General rule.* Under section 507(b)(1)(A) a private foundation, with respect to which there have not been either willful repeated acts (or failures to act) or a willful and flagrant act (or failure to act) giving rise to liability for tax under chapter 42, may terminate its private foundation status by distributing all of its net assets to one or more organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)) each of which has been in existence and so described for a continuous period of at least 60 calendar months immediately preceding such distribution. Since section 507(a) does not apply to such a termination, a private foundation which makes such a termination is not required to give the notification described in section 507(a)(1). A private foundation which terminates its private foundation status under section 507(b)(1)(A) does not incur tax under section 507(c) and, therefore, no abatement of such tax under section 507(g) is required.

(2) *Effect of current ruling*—(i) *Distributions before final regulations.* With respect to distributions made before (insert day after the date these regulations are filed by the Office of the Federal Register), an organization to which a distribution of net assets is made will qualify as an organization "described in section 170(b)(1)(A) (other than clauses (vii) and (viii))" for purposes of meeting the requirements of section 507(b)(1)(A) without a further showing if such distributee organization:

(A) Has been in existence for a continuous period of at least 60 calendar months preceding the distribution described in subparagraph (1) of this paragraph;

(B) Has received a ruling or determination letter that it is an organization described in clause (i), (ii), (iii), (iv), (v), or (vi) of section 170(b)(1)(A);

(C) The facts and circumstances forming the basis for the issuance of the ruling have not substantially changed during the 60-month period referred to in (A) of this subdivision; and

(D) The ruling or determination letter referred to in (B) of this subdivision has not been revoked expressly or by a subsequent change of the law or regulations under which the ruling was issued.

(ii) *Distributions after final regulations.* With respect to distributions made after December 29, 1972, a private foundation seeking to terminate its private foundation status pursuant to section 507(b)(1)(A) may rely on a ruling or determination letter issued to a potential distributee organization that such distributee organization is an organization described in clause (i), (ii), (iii), (iv), (v), or (vi) of section 170(b)(1)(A) in accordance with the provisions of § 1.509(a)–7.

(3) *Organizations described in more than one clause of section 170(b)(1)(A).* For purposes of this paragraph and section 507(b)(1)(A), the parenthetical term "other than in clauses (vii) and (viii)" shall refer only to an organization which is described only in section 170(b)(1)(A) (vii) or (viii). Thus, an organization described in clause (i), (ii), (iii), (iv), (v), or (vi) of section 170(b)(1)(A) will not be precluded from being a distributee described in section 507(b)(1)(A) merely because it also appears to meet the description of an organization described in section 170(b)(1)(A) (vii) or (viii).

(4) *Applicability of chapter 42 to foundations terminating under section 507(b)(1)(A).* Except as provided in subparagraph (5) of this paragraph, an organization which terminates its private foundation status pursuant to section 507(b)(1)(A) will remain subject to the provisions of chapter 42 until the distribution of all of its net assets to distributee organizations described in section 507(b)(1)(A) has been completed.

(5) *Special transitional rule.* (i) Section 4940(a) imposes a tax upon private foundations with respect to the carrying on of activities for each taxable year. For purposes of section 4940, an organization which terminates its private foundation status under section 507(b)(1)(A) by the end of the period described in subdivision (ii) of this subparagraph will not be considered as carrying on activities within the meaning of section 4940 during such period. Such organization will therefore not be subject to the tax imposed under section 4940(a) for such period.

(ii) The period referred to in subdivision (i) of this subparagraph is the 12-month period beginning with the first day of the organization's first taxable year which begins after December 31, 1969, but such period shall not be treated as ending before February 20, 1973. In the case of a private foundation distributing assets pursuant to section 507(b)(1)(A) to a medical research organization or a community trust (or in the case of a private foundation seeking to terminate into such an organization or trust pursuant to section 507(b)(1)(B)), the period described in this subdivision shall not be treated as ending before the 45th day after the day on which regulations respectively designated as § 1.170A-9(b)(2) and (e)(10) et seq. become final.

(iii) If the period described in subdivision (ii) of this subparagraph has not expired prior to the due date for the organization's annual return required to be filed by section 6033 or 6012 (determined with regard to any extension of time for filing the return) for its first taxable year which begins after December 31, 1969 (or for any other taxable year ending before the expiration of the period referred to in subdivision (ii) of this subparagraph), and if the organization has not terminated its private foundation status under section 507(b)(1)(A) by such date, then notwithstanding the provisions of subdivision (ii) of this subparagraph, the organization must take either of the following courses of action:

(A) Complete and file its annual return, including the line entitled "Tax on investment income from Part III," by such date, and pay the tax on investment income imposed under section 4940 at the time it files its annual return. If such organization subsequently terminates its private foundation status under section 507(b)(1)(A) within the period specified in subdivision (ii) of this subparagraph, it may file a claim for refund of the tax paid under section 4940; or

(B) Complete and file its annual return, except for the line entitled "Tax on investment income from Part III", by such date, and, in lieu of paying the tax on investment income imposed under section 4940, file a statement with its annual return which establishes that the organization has taken affirmative action by such date to terminate its private foundation status under section 507(b)(1)(A). Such statement must indicate the type of affirmative action taken and explain how such action will result in the termination of its private foundation status under section 507(b)(1)(A). Such affirmative action may include making application to the appropriate State court for approval of the distribution of all net assets pursuant to section 507(b)(1)(A) in the case of a charitable trust, or the passage of a resolution by the organization's governing body directing the distribution of all net assets pursuant to section 507(b)(1)(A) in the case of a not-for-profit corporation. A written commitment or letter of agreement by the trustee or governing body to one or more section 509(a)(1) distributees indicating an intent to distribute all of the organization's net assets to such distributees will also constitute appropriate affirmative action for purposes of this subdivision. An organization may take such affirmative action and may terminate its private foundation status under section 507(b)(1)(A) in reliance upon 26 CFR 13.12 (rev. as of Jan. 1, 1972) and upon the provisions of the notices of proposed rule making under sections 170(b)(1)(A), 507(b)(1), and 509. Thus, if a distributee organization meets the requirements of the provisions of the notices of proposed rule making under sections 170(b)(1)(A), 507, or 509 as a distributee under section 507(b)(1)(A), the distributor organization may terminate its private foundation status under section 507(b)(1)(A) in reliance upon such provisions prior to the expiration of the period described in subdivision (ii) of this subparagraph. If such organization, however, fails to terminate its private foundation status under section 507(b)(1)(A) within the period specified in subdivision (ii) of this subparagraph by failing to meet the requirements of either the notices of proposed rule making under section 170(b)(1)(A), 507(b)(1), or 509 or the final regulations published under these Code sections, the tax imposed under section 4940 shall be treated as if due from the due date for its annual return (determined without regard to any extension of time for filing its return).

The provisions of this subdivision are applicable only to an organization terminating its private foundation status under section 507(b)(1)(A) and may not be relied upon by any other organization with respect to its own classification under section 509(a)(1) (except as to its liability as a transferee for the tax imposed by section 4940).

(6) *Return required from organizations terminating private foundation status under section 507(b)(1)(A).* (i) An organization which terminates its private foundation status under section 507(b)(1)(A) is required to file a return under the provisions of section 6043(b), rather than under the provisions of section 6050.

(ii) An organization which terminates its private foundation status under section 507(b)(1)(A) is not required to comply with section 6104(d) for the taxable year in which such termination occurs. For purposes of this subdivision, the term "taxable year" shall include the period described in subparagraph (5)(ii) of this paragraph.

(7) *Distribution of net assets.* A private foundation will meet the requirement that it "distribute all of its net assets" within the meaning of section 507(b)(1)(A) only if it transfers all of its right, title, and interest in and to all of its net assets to one or more organizations referred to in section 507(b)(1)(A).

(8) *Effect of restrictions and conditions upon distributions of net assets.* [Reserved]

(b) *Operation as a public charity—*(1) *In general.* Under section 507(b)(1)(B) an organization can terminate its private foundation status if the organization:

(i) Meets the requirements of section 509(a)(1), (2), or (3) by the end of the 12-month period (as extended by paragraph (c)(3)(i) of this section) beginning with its first taxable year which begins after December 31, 1969, or for a continuous period of 60 calendar months beginning with the first day of any taxable year which begins after December 31, 1969;

(ii) In compliance with section 507(b)(1)(B)(ii) and subparagraph (4) of this paragraph, properly notifies the district director before the commencement of such 12-month or 60-month period or before March 29, 1973 that it is terminating its private foundation status; and

(iii) Properly establishes immediately after the expiration of such 12-month or 60-month period that such organization has complied with the requirements of section 509(a)(1), (2), or (3) by the end of the 12-month period or during the 60-month period, as the case may be, in the manner described in subparagraph (4) of this paragraph.

(2) *Relationship of section 507(b)(1)(B) to section 507(a), (c), and (g).*

Since section 507 (a) does not apply to a termination described in section 507 (b) (1) (B), a private foundation's notification that it is commencing a termination pursuant to section 507(b) (1) (B) will not be treated as a notification described in section 507(a) even if the private foundation does not successfully terminate its private foundation status pursuant to section 507(b) (1) (B). A private foundation which terminates its private foundation status under section 507 (b) (1) (B) does not incur tax under section 507(c) and, therefore, no abatement of such tax under section 507(g) is required.

(3) *Notification of termination.* In order to comply with the requirements under section 507(b) (1) (B) (ii), an organization shall before the commencement of the 12-month or 60-month period under section 507(b) (1) (B) (i) (or before March 29, 1973) notify the district director of its intention to terminate its private foundation status. Such notification shall contain the following information:

(i) The name and address of the private foundation;

(ii) Its intention to terminate its private foundation status;

(iii) Whether the 12-month or 60-month period shall apply;

(iv) The Code section under which it seeks classification (section 509(a) (1), (2), or (3));

(v) If section 509(a) (1) is applicable, the clause of section 170(b) (1) (A) involved;

(vi) The date its regular taxable year begins; and

(vii) The date of commencement of the 12-month or 60-month period.

(4) *Establishment of termination.* In order to comply with the requirements under section 507(b) (1) (B) (iii), an organization shall within 90 days after the expiration of the 12-month or 60-month period, file such information with the district director as is necessary to make a determination as to the organization's status as an organization described under section 509(a) (1), (2), or (3) and the regulations thereunder. See paragraphs (c) and (d) of this section as to the information required to be submitted under this subparagraph.

(5) *Incomplete information; 12- and 60-month terminations.* The failure to supply, within the required time, all of the information required by subparagraph (3) or (4) of this paragraph is not alone sufficient to constitute a failure to satisfy the requirements of section 507 (b) (1) (B). If the information which is submitted within the required time is incomplete and the organization supplies the necessary additional information at the request of the Commissioner within the additional time period allowed by him, the original submission will be considered timely.

(6) *Application of special rules and filing requirements.* An organization which has terminated its private foundation status under section 507(b) (1) (B) is not required to comply with the special rules set forth in section 508 (a) and (b). Such organization is also not required to file a return under the provisions of section 6043(b) or 6050 by reason of termination of its private foundation status under the provisions of section 507(b) (1) (B).

(7) *Extension of time to assess deficiencies.* If a private foundation files a notification (described in subparagraph (3) of this paragraph) that it intends to begin a 60-month termination pursuant to section 507(b) (1) (B) and does not file a request for an advance ruling pursuant to paragraph (e) of this section, such private foundation may file with the notification described in subparagraph (3) of this paragraph a consent under section 6501(c) (4) to the effect that the period of limitation upon assessment under section 4940 for any taxable year within the 60-month termination period shall not expire prior to 1 year after the date of the expiration of the time prescribed by law for the assessment of a deficiency for the last taxable year within the 60-month period. Such consents, if filed, will ordinarily be accepted by the Commissioner. See paragraph (f) (3) of this section for an illustration of the procedure required to obtain a refund of the tax imposed by section 4940 in a case where such a consent is not in effect.

(c) *Twelve-month terminations*—(1) *Method of determining normal sources of support*—(i) *In general.* The 12-month termination provisions of section 507(b) (1) (B) permit a private foundation to terminate its private foundation status by changing its organizational structure, its operations, the sources of its support, or any combination thereof, in order to conform to the requirements of section 509(a) (1), (2), or (3) by the end of the 12-month period.

(ii) *Support requirements for 12-month termination under section 170(b) (1) (A) (vi).* A private foundation attempting to meet the requirements of section 509(a) (1) as an organization described in section 170(b) (1) (A) (vi) will be considered "normally" to receive a substantial part of its support from governmental units or direct or indirect contributions from the general public if it can establish that it has changed the sources of its support before the close of the 12-month period to those of an organization described in section 170(b) (1) (A) (vi) and it can reasonably be expected to maintain its private foundation status for subsequent years. In order to establish these facts, an organization shall submit all information sufficient to make a determination under § 1.170A–9 (e) as if such provisions applied, including a description of all organizational and operational changes which have occurred during the 12-month period. It shall also submit detailed information with respect to its sources of support for the 12-month period, as well as for the four taxable years immediately preceding the 12-month period. In applying the tests contained in § 1.170-A–9(e), however, data from periods preceding the 12-month period shall be disregarded except for purposes of determining whether the organization has effectively changed its sources of support and whether it can reasonably be expected to maintain such publicly supported status for subsequent years. Thus, for example, in applying the mathematical tests of § 1.170A–9(e) only data for the 12-month period may enter into the computation.

(iii) *Support requirements for 12-month terminations under section 170 (b) (1) (A) (iv).* Section 170(b) (1) (A) (iv) describes an organization which "normally" receives a substantial part of its support (exclusive of income from related activities) from the United States or any State or political subdivision thereof, or from the general public, and which is organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of certain colleges or universities. For purposes of the 12-month termination period, the rule set forth in subdivision (ii) of this subparagraph with respect to section 170 (b) (1) (A) (vi) organizations shall be applicable in determining whether an organization "normally" receives a substantial part of its support from the sources required under section 170(b) (1) (A) (iv).

(iv) *Support requirements for 12-month terminations under section 509 (a) (2).* An organization attempting to terminate its private foundation status under section 507(b) (1) (B) by meeting the requirements of section 509(a) (2) by the end of the 12-month period will be considered as "normally" receiving its support in compliance with the one-third support requirements of section 509(a) (2) if:

(A) For the 12-month period under section 507(b) (1) (B), the organization receives more than one-third of its support from gifts, grants, contributions, membership fees, and gross receipts from related activities (as limited by section 509(a) (2) (A) (ii)) and not more than one-third of its support from gross investment income, and

(B) The organization can establish that it can reasonably be expected to maintain its continued public support for subsequent years. In order to establish a reasonable expectation of continued public support, an organization shall submit a detailed statement describing its past and current operations, any organizational or operational changes and when such changes have occurred, and any changes in its foundation managers (as defined in section 4946(b) (1)). Duplicate copies of its governing instrument and bylaws, with an indication of any amendments made, and detailed information with respect to its sources of support for the 4 taxable years immediately preceding the 12-month period shall also be submitted as part of the evidence that the organization can reasonably be expected to maintain its publicly supported status.

(2) *Organizational and operational tests*—(i) *Section 509(a) (3) organizations*—(A) *In general.* An organization

attempting to terminate its private foundation status under section 507(b)(1)(B) by meeting the requirements of section 509(a)(3) by the end of the 12-month period is required to meet the organizational and operational test of section 509(a)(3)(A), in addition to the requirements of section 509(a)(3)(B) and (C), by the end of the 12-month period beginning with its first taxable year which begins after December 31, 1969. An organization may qualify under section 509(a)(3)(A) even though its original governing instrument did not limit its purposes to those set forth in section 509(a)(3)(A) and even though it operated for some other purpose before the end of the 12-month period, if it has amended its governing instrument and changed its operations to conform to the requirements of section 509(a)(3) by the end of the 12-month period.

(B) *Proof of changed status.* In order to establish that an organization described in (A) of this subdivision will continue to be operated exclusively for the required purposes in years subsequent to the end of the 12-month period, such organization shall submit a detailed statement describing its past and current operations, any organizational or operational changes and when such changes have occurred, any changes in foundation managers (as defined in section 4946(b)(1)), and duplicate copies of its governing instrument and bylaws, with an indication of any amendments made. A detailed statement of the relationship between such organization and the specified organizations described in section 509(a)(1) or (2) (as required by section 509(a)(3)(A) and (B)) and all pertinent information to establish that the organization does not violate the control requirements of section 509(a)(3)(C) shall also be submitted.

(ii) *Section 509(a)(1) organizations other than those described in section 170(b)(1)(A)(vi)*—

(A) *In general.* An organization attempting to terminate its private foundation status under section 507(b)(1)(B) by meeting the requirements of section 170(b)(1)(A)(i), (ii), (iii), (iv), or (v) by the end of the 12-month period is required to be operated as an organization described in clauses (i), (ii), (iii), (iv), or (v) of section 170(b)(1)(A) by the end of the 12-month period beginning with its first taxable year which begins after December 31, 1969.

(B) *Proof of changed status.* In order to establish that it will continue to be operated as an organization described in section 509(a)(1) in years subsequent to the end of the 12-month period, the organization shall submit a detailed statement describing its past and current operations, any organizational or operational changes and when such changes have occurred, and any changes in its foundation managers (as defined in section 4946(b)(1)). Duplicate copies of its governing instrument and bylaws, with an indication of any amendments made, and its financial statements for the 4-taxable years immediately preceding the 12-month period shall also be submitted as evidence that the organization can reasonably be expected to maintain its status as an organization described in section 170(b)(1)(A)(i), (ii), (iii), (iv), or (v).

(3) *Extensions of the 12-month period.* (i) For purposes of this section, an organization may accomplish a 12-month termination if it meets the requirements of section 507(b)(1)(B) and this paragraph for such a termination with respect to any of the following periods:

(A) The 12-month period beginning with the organization's first taxable year which begins after December 31, 1969;

(B) The period described in paragraph (a)(5)(ii) of this section; or

(C) Any period consisting of two or more taxable years beginning with the organization's first taxable year beginning after December 31, 1969, and ending with any taxable year ending before the end of the period described in paragraph (a)(5)(ii) of this section.

(ii) An organization will be considered as "normally" meeting the requirements of section 170(b)(1)(A)(iv) or (vi) or 509(a)(2), as the case may be, if it meets the requirements of such provision with respect to any period described in subdivision (i)(A), (B), or (C) of this subparagraph. Thus, for example, an organization on a calendar year basis which seeks to convert to a section 509(a)(2) organization under section 507(b)(1)(B) may meet the one-third support requirement based on the aggregate support received during a period described in subdivision (i)(A), (B), or (C) of this subparagraph, for purposes of subparagraph (1)(iv) of this paragraph.

(4) *Status of organization subsequent to the 12-month period.* For purposes of sections 507 through 509, an organization, the status of which as a private foundation is terminated under section 507(b)(1), shall (except as provided in paragraph (b)(6) of this section) be treated as an organization created on the day after the date of such termination. However, termination of private foundation status under the provisions of section 507(b)(1)(B) is based upon an organization's submission of information establishing compliance by the end of the 12-month period with the requirements of subparagraph (1) or (2) of this paragraph. Therefore, if in the 4 taxable years immediately following the end of the 12-month period, the sources of support or the methods of operation of the organization are materially different from the facts and circumstances presented during the 12-month period upon which the determination under section 507(b)(1)(B)(iii) was made (and such material difference adversely affects such determination), the organization will be deemed not to have satisfied the requirements of section 507(b)(1)(B). Under such circumstances, section 509(c) will not apply and the organization will continue to remain subject to the provisions of section 507. However, the status of grants and contributions under sections 170, 4942, and 4945 will not be affected until the Internal Revenue Service makes notice to the public (such as by publication in the Internal Revenue Bulletin) that the organization has been deleted from classification as an organization described in section 509(a)(1), (2), or (3) unless the donor (1) was in part responsible for, or was aware of, the act or failure to act that resulted in the organization's inability to satisfy the requirements of section 507(b)(1)(B), or (2) had knowledge that such organization would be deleted from classification as an organization described in section 509(a)(1), (2), or (3). Prior to the making of any grant or contribution which allegedly will not result in the grantee's loss of classification under section 509(a)(1), (2), or (3), a potential grantee organization may request a ruling whether such grant or contribution may be made without such loss of classification. A request for such ruling may be filed by the grantee organization with the district director. The issuance of such ruling will be at the sole discretion of the Commissioner.

(d) *Sixty-month terminations*—(1) *Method of determining normal sources of support.* (i) In order to meet the requirement of section 507(b)(1)(B) for the 60-month termination period as a section 509(a)(1) or (2) organization, an organization must meet the requirements of section 509(a)(1) or (2), as the case may be, for a continuous period of at least 60 calendar months. In determining whether an organization seeking status under section 509(a)(1) as an organization described in section 170(b)(1)(A)(iv) or (vi) or under section 509(a)(2) "normally" meets the requirements set forth under such sections, support received in taxable years prior to the commencement of the 60-month period shall not be taken into consideration, except as otherwise provided in this section. Therefore, in such cases rules similar to the rules applicable to new organizations would apply.

(ii) For purposes of section 507(b)(1)(B), an organization will be considered to be a section 509(a)(1) organization described in section 170(b)(1)(A)(vi) for a continuous period of 60 calendar months only if the organization satisfies the provisions of § 1.170A-9(e) based upon aggregate data for such entire period, rather than for any shorter period set forth in § 1.170A-9(e). Except for the substitution of such 60-month period for the periods described in § 1.170A-9(e), all other provisions of such regulations pertinent to determining an organization's normal sources of support shall remain applicable.

(iii) For purposes of section 507(b)(1)(B), an organization will be considered to be a section 509(a)(2) organization only if such organization meets the support requirements set forth in section 509(a)(2)(A) and (B) for the continuous period of 60 calendar months prescribed under section 507(b)(1)(B), rather than for any shorter period set forth in the regulations under section 509(a)(2). Except for the substitution of such 60-month period for the periods

described in the regulations under section 509(a)(2), all other provisions of such regulations pertinent to determining an organization's normal sources of support shall remain applicable.

(2) *Organizational and operational tests.* In order to meet the requirements of section 507(b)(1)(B) for the 60-month termination period as an organization described in section 170(b)(1)(A)(i), (ii), (iii), (iv), or (v) or section 509(a)(3), as the case may be, an organization must meet the requirements of the applicable provision for a continuous period of at least 60 calendar months. For purposes of section 507(b)(1)(B), an organization will be considered to be such an organization only if it satisfies the requirements of the applicable provision (including with respect to section 509(a)(3), the organizational and operational test set forth in subparagraph (A) thereof) at the commencement of such 60-month period and continuously thereafter during such period.

(e) *Advance rulings for 60-month terminations*—(1) *In general.* An organization which files the notification required by section 507(b)(1)(B)(ii) that it is commencing a 60-month termination may obtain an advance ruling from the Commissioner that it can be expected to satisfy the requirements of section 507(b)(1)(B)(i) during the 60-month period. Such an advance ruling may be issued if the organization can reasonably be expected to meet the requirements of section 507(b)(1)(B)(i) during the 60-month period. The issuance of a ruling will be discretionary with the Commissioner.

(2) *Basic consideration.* In determining whether an organization can reasonably be expected (within the meaning of subparagraph (1) of this paragraph) to meet the requirements of section 507(b)(1)(B)(i) for the 60-month period, the basic consideration is whether its organizational structure (taking into account any revisions made prior to the beginning of the 60-month period), proposed programs or activities, intended method of operation, and projected sources of support are such as to indicate that the organization is likely to satisfy the requirements of section 509(a)(1), (2), or (3) and paragraph (d) of this section during the 60-month period. In making such a determination, all pertinent facts and circumstances shall be considered.

(3) *Reliance by grantors and contributors.* For purposes of sections 170, 545(b)(2), 556(b)(2), 642(c), 4942, 4945, 2055, 2106(a)(2), and 2522, grants or contributions to an organization which has obtained a ruling referred to in this paragraph will be treated as made to an organization described in section 509(a)(1), (2), or (3), as the case may be, until notice that such advance ruling is being revoked 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 aware of, the act or failure to act that resulted in the organization's failure to meet the requirements of section 509(a)(1), (2), or (3), or acquired knowledge that the Internal Revenue Service had given notice to such organization that its advance ruling would be revoked. Prior to the making of any grant or contribution which allegedly will not result in the grantee's failure to meet the requirements of section 509(a)(1), (2), or (3), a potential grantee organization may request a ruling whether such grant or contribution may be made without such failure. A request for such ruling may be filed by the grantee organization with the district director. The issuance of such ruling will be at the sole discretion of the Commissioner. The organization must submit all information necessary to make a determination on the factors referred to in subparagraph (2) of this paragraph. If a favorable ruling is issued, such ruling may be relied upon by the grantor or contributor of the particular contribution in question for purposes of sections 170, 507, 545(b)(2), 556(b)(2), 642(c), 4942, 4945, 2055, 2106(a)(2), and 2522.

(4) *Reliance by organization.* An organization obtaining an advance ruling pursuant to this paragraph cannot rely on such a ruling. Consequently, if the organization does not pay the tax imposed by section 4940 for any taxable year or years during the 60-month period, and it is subsequently determined that such tax is due for such year or years (because the organization did not in fact complete a successful termination pursuant to section 507(b)(1)(B) and was not treated as an organization described in section 509(a)(1), (2), or (3) for such year or years), the organization is liable for interest in accordance with section 6601 if any amount of tax under section 4940 has not been paid on or before the last date prescribed for payment. However, since any failure to pay such tax during the 60-month period (or prior to the revocation of such ruling) is due to reasonable cause, the penalty under section 6651 with respect to the tax imposed by section 4940 shall not apply.

(5) *Extension of time to assess deficiencies.* The advance ruling described in subparagraph (1) of this paragraph shall be issued only if such organization's request for an advance ruling is filed with a consent under section 6501(c)(4) to the effect that the period of limitation upon assessment under section 4940 for any taxable year within the advance ruling period shall not expire prior to 1 year after the date of the expiration of the time prescribed by law for the assessment of a deficiency for the last taxable year within the 60-month period.

(f) *Effect on grantors or contributors and on the organization itself*—(1) *Effect of satisfaction of requirements for termination*—(i) *Treatment during the termination period.* In the event that an organization satisfies the requirements of section 507(b)(1)(B) for termination of its private foundation status by the end of the 12-month period or during the continuous 60-month period, such entire 12-month or 60-month period in the same manner as an organization described in section 509(a)(1), (2), or (3).

(ii) *Twelve-month terminations by fiscal year organizations.* In the case of an organization which operates on a fiscal year basis and terminates its private foundation status by the end of the 12-month period beginning with its first taxable year which begins after December 31, 1969, such 12-month period shall, for purposes of this paragraph, be treated as including the period between January 1, 1970, and the last day of the taxable year immediately preceding its first taxable year which begins after December 31, 1969, so long as the requirements of section 507(b)(1)(B) and paragraph (c) of this section are met by the end of the 12-month period (including such additional period).

(2) *Failure to meet termination requirements*—(i) *In general.* Except as otherwise provided in subdivision (ii) of this subparagraph and paragraph (e) of this section, any organization which fails to satisfy the requirements of section 507(b)(1)(B) for termination of its private foundation status by the end of the 12-month period or during the continuous 60-month period shall be treated as a private foundation for the entire 12-month or 60-month period, for purposes of sections 507 through 509 and chapter 42, and grants or contributions to such an organization shall be treated as made to a private foundation for purposes of sections 170, 507(b)(1)(A), 4942, and 4945.

(ii) *Certain 60-month terminations.* Notwithstanding subdivision (i) of this subparagraph, if an organization fails to satisfy the requirements of section 509(a)(1), (2), or (3) for the continuous 60-month period but does satisfy the requirements of section 509(a)(1), (2), or (3), as the case may be, for any taxable year or years during such 60-month period, the organization shall be treated as a section 509(a)(1), (2), or (3) organization for such taxable year or years and grants or contributions made during such taxable year or years shall be treated as made to an organization described in section 509(a)(1), (2), or (3). In addition, sections 507 through 509 and chapter 42 shall not apply to such organization for any taxable year within such 60-month period for which it does meet such requirements. For purposes of determining whether an organization satisfies the requirements of section 509(a)(1), (2), or (3) for any taxable year in the 60-month period, the organization shall be treated as if it were a new organization with its first taxable year beginning on the date of the commencement of the 60-month period. Thus, for example, if an organization were attempting to terminate its private foundation status under section 507(b)(1)(B) by meeting the requirements of section 170(b)(1)(A)(vi), the rules under § 1.170A-9(e) relating to the initial determination of status of a new organization would apply.

(iii) *Aggregate tax benefit.* For purposes of section 507(d), the organization's aggregate tax benefit resulting

from the organization's section 501(c)(3) status shall continue to be computed from the date from which such computation would have been made, but for the notice filed under section 507(b)(1)(B)(ii), except that any taxable year within such 60-month period for which such organization meets the requirements of section 509(a)(1), (2), or (3) shall be excluded from such computations.

(iv) *Excess business holdings.* See section 4943 and the regulations thereunder for rules relating to decreases in a private foundation's holdings in a business enterprise which are caused by the foundation's failure to terminate its private foundation status after giving the notification for termination under section 507(b)(1)(B)(ii).

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

Example. Y, a calendar year private foundation, notifies the district director that it intends to terminate its private foundation status by converting into a publicly supported organization described in section 170(b)(1)(A)(vi) and that its 60-month termination period will commence on January 1, 1974. Y does not obtain a ruling described in paragraph (e) of this section. Based upon its support for 1974 Y does not qualify as a publicly supported organization within the meaning of § 1.170A-9(e) and this paragraph. Consequently, in order to avoid the risks of penalties and interest if Y fails to terminate within the 60-month period, Y files its return as a private foundation and pays the tax imposed by section 4940. Similarly, based upon its support for the period 1974 through 1975, fails to qualify as such a publicly supported organization and files its return and pays the tax imposed by section 4940 for both 1975 and 1976. Since a consent (described in paragraph (b)(7) of this section) which would prevent the period of limitation from expiring is not in effect, in order to be able to file a claim for refund, Y and the district director agree to extend the period of limitation for all taxes imposed under chapter 42. However, based upon its support for the period 1974 through 1976 Y does qualify as a publicly supported organization, and therefore shall not be treated as a private foundation for either 1977 or 1978 even if it fails to terminate within the 60-month period. However, based upon the aggregate data for the entire 60-month period (1974 through 1978), Y does qualify as an organization described in section 170(b)(1)(A)(vi). Consequently, pursuant to this paragraph, Y is treated as if it had been a publicly supported organization for the entire 60-month period. Y files claim for refund for the taxes paid under section 4940 for the years 1974, 1975, and 1976, and such taxes are refunded.

(g) *Special transitional rules for organizations operating as public charities.* Section 4940 imposes a tax upon private foundations with respect to the carrying on of activities for each taxable year. For purposes of section 4940, an organization which terminates its private foundation status under section 507(b)(1)(B) by the end of the period described in paragraph (a)(5)(ii) of this section will not be considered as carrying on activities within the meaning of section 4940 during such period. Such organization will therefore not be subject to the tax imposed under section 4940 for such period. Consequently, in the case of an organization seeking to terminate its private foundation status under section 507(b)(1)(B) if the period described in paragraph (a)(5)(ii) of this section has not expired prior to the due date for the organization's annual return required to be filed under section 6033 or 6012 (determined with regard to any extension of time for filing the return) for its first taxable year which begins after December 31, 1969 (or any other taxable year ending before the expiration of the period described in paragraph (a)(5)(ii) of this paragraph) and if the organization has not terminated its private foundation status under section 507(b)(1)(B) by such date, then notwithstanding the provisions of paragraph (f) of this section, the organization must take either of the following courses of action:

(1) Complete its annual return including the line entitled "Tax on investment income from Part III" by such date, and pay the tax on investment income imposed under section 4940 at the time it files its annual return. If such organization subsequently terminates its private foundation status under section 507(b)(1)(B) within a period specified in paragraph (c)(3)(i) of this section, it may file a claim for refund of the tax paid under section 4940; or

(2) Complete and file its annual return, except for the line entitled "Tax on investment income from Part III," by such date, and in lieu of paying the tax on investment income imposed under section 4940, file a statement with its annual return which establishes that the organization has taken affirmative action by such date to terminate its private foundation status under section 507(b)(1)(B). Such statement must indicate the type of affirmative action taken and explain how such action will result in the termination of its private foundation status under section 507(b)(1)(B). Such affirmative action may include making application to the appropriate State court for approval to amend the provisions of the organization's trust instrument to limit payments to specified section 509(a)(1) or (2) beneficiaries pursuant to section 509(a)(3) in the case of a charitable trust; commencing a fund-raising drive among the general public in the case of an organization seeking to become a section 170(b)(1)(A)(vi) or 509(a)(2) organization; or the passage of a resolution by the organization's governing body or the filing of an amendment to the organization's articles of incorporation permitting a change in the operations of the organization to enable it to conform to the provisions of section 509(a)(1), (2), or (3) in the case of a not-for-profit corporation. An organization may take such affirmative action and may terminate its private foundation status under section 507(b)(1)(B) in reliance upon 26 CFR 13.12 (rev. as of January 1, 1972) and upon the provisions of the notices of proposed rule making under sections 170(b)(1)(A), 507(b)(1), and 509. Thus, if an organization meets the requirements of the provisions of the notice of proposed rule making as a section 509(a)(3) organization, such organization may terminate its private foundation status under section 507(b)(1)(B) in reliance upon such provisions prior to the expiration of the period described in paragraph (a)(5)(ii) of this section. If such organization, however, fails to terminate its private foundation status under section 507(b)(1)(B) within the period specified in paragraph (a)(5)(ii) of this section by failing to meet the requirements of either the notices of proposed rule making under section 170(b)(1)(A), 507(b)(1), or 509 or the final regulations published under these code sections, the tax imposed under section 4940 shall be treated as if due from the due date for its annual return (determined without regard to any extension of time for filing its return).

While an organization can terminate its private foundation status under section 507(b)(1)(B) by operation as a section 509(a)(1), (2) or (3) organization in reliance upon the provisions of this paragraph, it will retain its status as a section 509(a)(1), (2) or (3) organization after the publication of final regulations under sections 170(b)(1)(A), 507, and 509 only if it meets the requirements of such final regulations.

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SUBCHAPTER C—EMPLOYMENT TAXES

[T.D. 7251]

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

Withholding With Respect to Part-Year Employment

On June 23, 1972, notice of proposed rule making with respect to the amendment of the Employment Tax Regulations (26 CFR Part 31) in order to authorize the use of a new method of computing the amount of income tax to be deducted and withheld with respect to part-year employment was published in the FEDERAL REGISTER (37 FR 12394). After consideration of all relevant matter presented by interested persons regarding the proposed rules, § 31.3402(h)(4)-1 of the Employment Tax Regulations is amended by inserting headings in paragraphs (a) and (b) and by adding a new paragraph (c), to read as set forth below.

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

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

Approved: December 29, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

In order to authorize the use of a new method of computing the amount of income tax to be deducted and withheld

with respect to part-year employment, § 31.3402(h)(4)–1 of the Employment Tax Regulations (26 CFR Part 31) is amended by inserting headings in paragraphs (a) and (b) and by adding a new paragraph (c) to read as follows:

§ 31.3402(h)(4)–1 Other methods.

(a) *Maximum permissible deviations.* * * *

(b) *Combined FICA and income tax withholding.* * * *

(c) *Part-year employment method of withholding*—(1) *In general.* In addition to the methods authorized by other paragraphs of this section, in the case of part-year employment (as defined in subparagraph (4) of this paragraph) of an employee who determines his liability for tax under subtitle A of the Code on a calendar-year basis and who has in effect a request that the amount of tax to be withheld from his wages be computed according to the part-year employment method described in this paragraph, the employer may determine the amount of tax to be deducted and withheld upon a payment of wages made to the employee on or after January 5, 1973, by taking the following steps:

Step 1. Add the amount of wages to be paid to the employee for the current payroll period to the total amount of wages paid by the employer to the employee for all preceding payroll periods included in the current term of continuous employment (as defined in subparagraph (3) of this paragraph) of the employee by the employer;

Step 2. Divide the aggregate amount of wages computed in Step 1 by the total of the number of payroll periods to which that amount relates plus the equivalent number of payroll periods (as defined in subparagraph (2) of this paragraph) in the employee's term of continuous unemployment immediately preceding the current term of continuous employment, such term of continuous unemployment to be exclusive of any days prior to the beginning of the current calendar year;

Step 3. Determine the total amount of tax that would have been required to be deducted and withheld under section 3402 if the average amount of wages (as computed in Step 2) had been paid to the employee for the number of payroll periods determined in Step 2 (including the equivalent number of payroll periods); and

Step 4. Determine the excess, if any, of the amount of tax computed in Step 3 over the total amount of tax already deducted and withheld by the employer from wages paid to the employee for all payroll periods during the current term of continuous employment.

The use of the method described in this paragraph does not preclude the employee from claiming additional withholding allowances for estimated itemized deductions pursuant to section 3402(m) or the standard deduction allowance pursuant to section 3402(f)(1)(G).

(2) *Equivalent number of payroll periods.* For purposes of this paragraph, the equivalent number of payroll periods shall be determined by dividing the number of calendar days contained in the current payroll period into the number of calendar days between the later of (i) the day certified by the employee as his last day of employment prior to his current term of continuous employment during the calendar year in which such term commenced, or (ii) the last day of the calendar year immediately preceding the current calendar year, and the first day of the current term of continuous employment. For purposes of the preceding sentence, the term "calendar days" includes holidays, Saturdays, and Sundays. In determining the equivalent number of payroll periods, any fraction obtained in the division described in the first sentence of this subparagraph shall be disregarded. An employee paid for a miscellaneous payroll period shall be considered to have a daily payroll period for purposes of this subparagraph. In a case in which an employee is paid for a daily or miscellaneous payroll period and the employer elects under paragraph (d)(2) of § 31.3402(b)–1 to compute the tax to be withheld as if the aggregate of the wages paid to the employee during the calendar week were paid for a weekly period, the employer shall determine the equivalent number of payroll periods for purposes of the computation of the tax to be withheld for the calendar week on the basis of a weekly payroll period (notwithstanding the fact that a determination of the equivalent number of payroll periods for purposes of the computation of the tax to be withheld upon wages paid for daily or miscellaneous payroll periods within such calendar week has been made on the basis of a daily or miscellaneous payroll period).

(3) *Term of continuous employment.* For purposes of this paragraph, a term of employment is continuous if it is either a single term of employment or two or more consecutive terms of employment with the same employer. A term of continuous employment begins on the first day on which any services are performed by the employee for the employer for which compensation is paid or payable. Such term ends on the earlier of (i) the last day during the current term of continuous employment on which any services are performed by the employee for the employer, or (ii) if the employee performs no services for the employer for a period of more than 30 calendar days, the last day preceding such period on which any services are performed by the employee for the employer. For example, a professional athlete who signs a contract on December 31, 1973, to perform services from July 1 through December 31 for the calendar years 1974, 1975, and 1976 has a new term of employment beginning each July 1 and accordingly may qualify for use of the part-year withholding method in each of such years. Likewise, a term of continuous employment is not broken by a temporary layoff of no more than 30 days. On the other hand, when an employment relationship is actually terminated the term of continuous employment is ended even though a new employment relationship is established with the same employer within 30 days. A "term of continuous employment" includes all days on which an employee performs any services for an employer and includes days on which services are not performed because of illness or vacation, or because such days are holidays or are regular days off (such as Saturdays and Sundays, or days off in lieu of Saturdays and Sundays), or other days for which the employee is not scheduled to work. For example, an employee who is employed 2 days a week for the same employer from March 1 through December 31 has a term of continuous employment of 306 days.

(4) *Part-year employment.* For purposes of this paragraph, the term "part-year employment" means a term of continuous employment (i) the total duration of which will not exceed 245 days, (ii) which, during the current calendar year, will not exceed 245 days, or (iii) which, during the calendar year will entitle the employee to wages of more than $30,000. For example, A graduates from college in June and accepts a permanent position with X Co., beginning July 1. Since the total duration of A's term of continuous employment will exceed 245 days it does not qualify as part-year employment for purposes of this section.

(5) *Employee's request.* (i) An employee's request that his employer withhold according to the part-year employment method shall be in writing and in such form as the employer may prescribe. Such request shall be made under the penalties of perjury and shall contain the following information—

(*a*) The last day of employment (if any) by any employer prior to the current term of continuous employment during the calendar year in which such term commenced.

(*b*) A statement that the employee reasonably anticipates that he will have no more than $30,000 in gross income from all sources for the calendar year and that he will have no more than 245 days of employment, either based upon all employment during the current calendar year or based upon the current term of continuous employment during the current calendar year and the following year (for this purpose days of employment shall include all days on which an employee performs any services for an employer,) and includes days on which services are not performed because of illness or vacation, or because such days are holidays or are regular days off (such as Saturdays and Sundays, or days off in lieu of Saturdays and Sunday or other days for which the employee is not scheduled to work), and

(*c*) The employee uses a calendar-year accounting period.

An employee's request furnished to his employer pursuant to this section shall be effective, and may be acted upon by his employer, with respect to wages paid after the furnishing of such request, and shall cease to be effective with respect to any wages paid on or after the beginning of the payroll period during which the current calendar year will end.

(ii) If, on any day during the calendar year, any of the anticipations stated by the employee in his statement provided pursuant to subdivision (i)(b) of this subparagraph becomes unreasonable, the employee shall revoke the request described in this subparagraph before the end of the payroll period during which it becomes unreasonable. The revocation shall be effective as of the beginning of the payroll period during which it is made.

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

Example (1). A, a calendar-year taxpayer, being unemployed for the period beginning on May 25, 1973, and ending on October 28, 1973, a period of 157 calendar days, is employed by X Co. X Co. anticipates that A's employment will last 8 calendar weeks, from October 29 to December 23, and A's wages therefor will not exceed $30,000. In the Form W-4 which A furnishes X Co. A claims four exemptions and married status. A makes a written request, incorporating the statements required under subparagraph (5)(i)(b), that X Co. withhold on the basis of the part-year employment method. A works for the period beginning October 29, 1973, and ending on November 11, 1973, and earns $1,800 in wages. Wages are paid on a biweekly basis. Using the part-year employment method, X Co. determines that $22.80 is required to be deducted and withheld from A's wages to be paid for his services from October 29 to November 11, 1973. The determination is made as follows:

Amount of wages to be paid for the payroll period (biweekly)		$1,800.00
Number of payroll periods:		
Payroll period—October 29 to November 11	1	
The equivalent number of payroll periods for the period of unemployment, disregarding the fractional payroll period	11	12
Average amount of wages per payroll period including equivalent number of payroll periods ($1,800÷12)		$150.00
Amount required to be withheld from a payment of $150 for a biweekly payroll period to a married person with 4 exemptions according to the wage bracket tables		1.90
Total amount required to be withheld under the wage bracket method with respect to all payroll periods (including equivalent number of payroll periods) ($1.90×12)		22.80
Amount already withheld by employer		0
Amount to be withheld under part-year employment method ($22.80−0 (the amount previously withheld))		22.80

Example (2). A works for X for another 2-week period beginning on November 12, 1973, and ending on November 25, 1973, for which he earns $2,100. X Co., using the part-year employment method, determines that $323 is required to be deducted and withheld with respect to the wages for the current payroll period, as follows:

Amount of wages to be paid for the payroll period (biweekly)		$2,100.00
Amount of wages previously paid by the employer		1,800.00
Sum of amount of wages to be paid with respect to current payroll period and amount of wages already paid		3,900.00
Number of payroll periods:		
Payroll periods—October 29 to November 11 and November 12 to November 25	2	
The equivalent number of payroll periods for the period of unemployment	11	13
Average amount of wages per payroll period ($3,900÷13)		$300.00
Amount required to be withheld according to wage bracket tables from a payment of $300 for a biweekly payroll period to a married person with 4 exemptions		26.60
Total amount required to be withheld under the wage bracket method with respect to all payroll periods (including equivalent number of payroll periods) ($26.60×13)		345.80
Amount already withheld by employer		22.80
Amount required to be withheld under the part-year employment method $345.80—$22.80)		323.00

[FR Doc.72-22465 Filed 12-29-72;5:08 pm]

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7250]

PART 53—FOUNDATION EXCISE TAXES

Subpart A—Taxes on Investment Income

On March 20, 1971, notice of proposed rule making was published with respect to promulgation of regulations under section 4940 of the Internal Revenue Code of 1954, as enacted by section 101(b) of the Tax Reform Act of 1969 (83 Stat. 498), relating to taxes on investment income. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the Foundation Excise Tax Regulations are amended as follows: Except where otherwise specifically provided, these regulations are applicable to taxable years beginning after December 31, 1969.

§ 53.4940 Statutory provisions; imposition of excise tax on investment income.

SEC. 4940. *Excise tax based on investment income*—(a) *Tax-exempt foundations.* There is hereby imposed on each private foundation which is exempt from taxation under section 501(a) for the taxable year, with respect to the carrying on of its activities, a tax equal to 4 percent of the net investment income of such foundation for the taxable year.

(b) *Taxable foundations.* There is hereby imposed on each private foundation which is not exempt from taxation under section 501(a) for the taxable year, with respect to the carrying on of its activities, a tax equal to:

(1) The amount (if any) by which the sum of (A) the tax imposed under subsection (a) (computed as if such subsection applied to such private foundation for the taxable year), plus (B) the amount of the tax which would have been imposed under section 511 for the taxable year if such private foundation had been exempt from taxation under section 501(a), exceeds

(2) The tax imposed under subtitle A on such private foundation for the taxable year.

(c) *Net investment income defined*—(1) *In general.* For purposes of subsection (a), the net investment income is the amount by which (A) the sum of the gross investment income and the net capital gain exceeds (B) the deductions allowed by paragraph (3). Except to the extent inconsistent with the provisions of this section, net investment income shall be determined under the principles of subtitle A.

(2) *Gross investment income.* For purposes of paragraph (1), the term "gross investment income" means the gross amount of income from interest, dividends, rents, and royalties, but not including any such income to the extent included in computing the tax imposed by section 511.

(3) *Deductions*—(A) *In general.* For purposes of paragraph (1), there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred for the production or collection of gross investment income or for the management, conservation, or maintenance of property held for the production of such income, determined with the modifications set forth in subparagraph (B).

(B) *Modifications.* For purposes of subparagraph (A)—

(i) The deduction provided by section 167 shall be allowed, but only on the basis of the straight line method of depreciation.

(ii) The deduction for depletion provided by section 611 shall be allowed, but such deduction shall be determined without regard to section 613 (relating to percentage depletion).

(4) *Capital gains and losses.* For purposes of paragraph (1) in determining net capital gain—

(A) There shall be taken into account only gains and losses from the sale or other disposition of property used for the production of interest, dividends, rents, and royalties, and property used for the production of income included in computing the tax imposed by section 511 (except to the extent gain or loss from the sale or other disposition of such property is taken into account for purposes of such tax).

(B) The basis for determining gain in the case of property held by the private foundation on December 31, 1969, and continuously thereafter to the date of its disposition shall be deemed to be not less than the fair market value of such property on December 31, 1969.

(C) Losses from sales or other dispositions of property shall be allowed only to the extent of gains from such sales or other dispositions, and there shall be no capital loss carryovers.

(5) *Tax-exempt income.* For purposes of this section, net investment income shall be determined by applying section 103 (relating to interest on certain governmental obligations) and section 265 (relating to expenses and interest relating to tax-exempt income).

[Sec. 4940 as added by sec. 101(b), Tax Reform Act 1969 (83 Stat. 498)]

§ 53.4940-1 Excise tax on net investment income.

(a) *In general.* Section 4940 imposes an excise tax of 4 percent on the net investment income (as defined in section 4940(c) and paragraph (c) of this section) of a tax-exempt private foundation (as defined in section 509) for each taxable year beginning after December 31, 1969. This tax will be reported on the form the foundation is required to file

under section 6033 for the taxable year and will be paid annually at the time prescribed for filing such annual return (determined without regard to any extension of time for filing). In addition, an excise tax is imposed in the manner prescribed in paragraph (b) of this section on certain taxable private foundations. This tax is to be reported by means of a schedule attached to its income tax return and is to be paid annually at the time the organization is required to pay its income taxes imposed under subtitle A. Except as otherwise provided herein, no exclusions or deductions from gross investment income or credits against tax are allowable under this section.

(b) *Taxable foundations.* (1) The excise tax imposed under section 4940 on private foundations which are not exempt from taxation under section 501(a) is equal to:

(i) The amount (if any) by which the sum of

(A) The tax on net investment income imposed under section 4940(a), computed as if such private foundation were exempt from taxation under section 501(a) and described in section 501(c)(3) for the taxable year, plus

(B) The amount of the tax which would have been imposed under section 511 for such taxable year if such private foundation had been exempt from taxation under section 501(a), exceeds,

(ii) The tax imposed under subtitle A on such private foundation for the taxable year.

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

Example (1). Assume that the tax liability under subtitle A for private foundation X, which is not exempt from taxation under section 501(a) for 1970, is $10,000. Had X been exempt under section 501(a) for 1970, the tax imposed under section 4940(a) would have been $4,000 and the tax imposed under section 511 would have been $7,000. The excess of the sum of the taxes which would have been imposed under sections 4940(a) and 511 ($11,000) over the tax that was imposed under subtitle A ($10,000) is $1,000, the amount of the tax imposed on such organization under section 4940(b).

Example (2). Assume the facts stated in Example (1), except that the tax liability under subtitle A is $15,000 rather than $10,000. Because the sum of the taxes which would have been imposed under sections 4940 (a) and 511 ($11,000) does not exceed the tax that was imposed under subtitle A ($15,000), there is no tax imposed under section 4940(b) with respect to such foundation.

(c) *Net investment income defined*—(1) *In general.* For purposes of section 4940(a), "net investment income" of a private foundation is the amount by which:

(i) The sum of the gross investment income (as defined in section 4940(c)(2) and paragraph (d) of this section) and the net capital gain (within the meaning of section 4940(c)(4) and paragraph (f) of this section) exceeds

(ii) The deductions allowed by section 4940(c)(3) and paragraph (e) of this section.

Except to the extent inconsistent with the provisions of this section, net investment income shall be determined under the principles of subtitle A.

(2) *Tax-exempt income.* For purposes of computing net investment income under section 4940, the provisions of section 103 (relating to interest on certain governmental obligations) and section 265 (relating to expenses and interest relating to tax-exempt income) and the regulations thereunder shall apply.

(d) *Gross investment income*—(1) *In general.* For purposes of paragraph (c) of this section, "gross investment income" means the gross amounts of income from interest, dividends, rents, and royalties (including overriding royalties) received by a private foundation from all sources, but does not include such income to the extent included in computing the tax imposed by section 511. Under this definition, interest, dividends, rents, and royalties derived from assets devoted to charitable activities are includible in gross investment income. Therefore, for example, interest received on a student loan would be includible in the gross investment income of a private foundation making such loan.

(2) *Certain estate and trust disbursements.* In the case of a distribution from an estate or a trust described in section 4947(a) (1) or (2), such distribution shall not retain its character in the hands of the distributee for purposes of computing the tax under section 4940; except that, in the case of a distribution from a trust described in section 4947(a)(2), the income of such trust attributable to transfers in trust after May 26, 1969, shall retain its character in the hands of a distributee private foundation for purposes of section 4940 (unless such income is taken into account because of the application of section 671).

(3) *Treatment of certain distributions in redemption of stock.* For purposes of applying section 302(b)(1), any distribution made to a private foundation by a disqualified person (as defined in section 4946(a)), in redemption of stock held by such private foundation in a business enterprise shall be treated as not essentially equivalent to a dividend if all of the following conditions are satisfied: (i) Such redemption is of stock which was owned by a private foundation on May 26, 1969 (or which is acquired by a private foundation under the terms of a trust which was irrevocable on May 26, 1969, or under the terms of a will executed on or before such date, which is in effect on such date and at all times thereafter, or would have passed under such a will but before that time actually passes under a trust which would have met the test of this subdivision but for the fact that the trust was revocable (but was not in fact revoked)); (ii) such foundation is required to dispose of such property in order not to be liable for tax under section 4943 (relating to taxes on excess business holdings); and (iii) such foundation receives in return an amount which equals or exceeds the fair market value of such property at the time of such disposition or at the time a contract for such disposition was previously executed in a transaction which would not constitute a prohibited transaction (within the meaning of section 503(b) or the corresponding provisions of prior law). In the case of a disposition before January 1, 1975, section 4943 shall be applied without taking section 4943(c)(4) into account. A distribution which otherwise qualifies under section 302 as a distribution in part or full payment in exchange for stock shall not be treated as essentially equivalent to a dividend because it does not meet the requirements of this subparagraph.

(e) *Deductions*—(1) *In general.* (i) For purposes of computing net investment income, there shall be allowed as a deduction from gross investment income all the ordinary and necessary expenses paid or incurred for the production or collection of gross investment income or for the management, conservation, or maintenance of property held for the production of such income, determined with the modifications set forth in subparagraph (2) of this paragraph. Such expenses include that portion of a private foundation's operating expenses which is paid or incurred for the production or collection of gross investment income. Taxes paid or incurred under this section are not paid or incurred for the production or collection of gross investment income. A private foundation's operating expenses include compensation of officers, other salaries and wages of employees, outside professional fees, interest, and rent and taxes upon property used in the foundation's operations. Where a private foundation's officers or employees engage in activities on behalf of the foundation for both investment purposes and for exempt purposes, compensation and salaries paid to such officers or employees must be allocated between the investment activities and the exempt activities. To the extent a private foundation's expenses are taken into account in computing the tax imposed by section 511, they shall not be deductible for purposes of computing the tax imposed by section 4940.

(ii) Where only a portion of property produces, or is held for the production of, income subject to the section 4940 excise tax, and the remainder of the property is used for exempt purposes, the deductions allowed by section 4940(c)(3) shall be apportioned between the exempt and non-exempt uses.

(iii) No amount is allowable as a deduction under this section to the extent it is paid or incurred for purposes other than those described in subdivision (i) of this subparagraph. Thus, for example, the deductions prescribed by the following sections are not allowable: (1) the charitable deduction prescribed under section 170 and 642(c); (2) the net operating loss deduction prescribed under section 172; and (3) the special deductions prescribed under Part VIII, Subchapter B, Chapter 1.

(2) *Deduction modifications.* The following modifications shall be made in

determining deductions otherwise allowable under this paragraph:

(i) The depreciation deduction shall be allowed, but only on the basis of the straight line method provided in section 167(b)(1).

(ii) The depletion deduction shall be allowed, but such deduction shall be determined without regard to section 613, relating to percentage depletion.

(iii) The basis to be used for purposes of the deduction allowed for depreciation or depletion shall be the basis determined under the rules of Part II of subchapter O of chapter 1, subject to the provisions of section 4940(c)(3)(B), and without regard to section 4940(c)(4)(B), relating to the basis for determining gain, or section 362(c). Thus, a private foundation must reduce the cost or other substituted or transferred basis by an amount equal to the straight line depreciation or cost depletion, without regard to whether the foundation deducted such depreciation or depletion during the period prior to its first taxable year beginning after December 31, 1969. However, where a private foundation has previously taken depreciation or depletion deductions in excess of the amount which would have been taken had the straight line or cost method been employed, such excess depreciation or depletion also shall be taken into account to reduce basis. If the facts necessary to determine the basis of property in the hands of the donor or the last preceding owner by whom it was not acquired by gift are unknown to a donee private foundation, then the original basis to such foundation of such property shall be determined under the rules of § 1.1015-1(a)(3).

(iv) The deduction for expenses paid or incurred in any taxable year for the production of gross investment income earned as an incident to a charitable function shall be no greater than the income earned from such function which is includible as gross investment income for such year. For example, where rental income is incidentally realized in 1971 from historic buildings held open to the public, deductions for amounts paid or incurred in 1971 for the production of such income shall be limited to the amount of rental income includible as gross investment income for 1972.

(f) *Capital gain and losses*—(1) *General rule.* In determining net capital gain for purposes of the tax imposed by section 4940, there shall be taken into account only capital gains and losses from the sale or other disposition of property held by a private foundation for investment purposes (other than program-related investments, as defined in section 4944(c)), and property used for the production of income included in computing the tax imposed by section 511 except to the extent gain or loss from the sale or other disposition of such property is taken into account for purposes of such tax. For taxable years beginning after December 31, 1972, property shall be treated as held for investment purposes even though such property is disposed of by the foundation immediately upon its receipt, if it is property of a type which generally produces interest, dividends, rents, royalties, or capital gains through appreciation (for example, rental real estate, stock, bonds, mineral interests, mortgages, and securities). Under this subparagraph, gains and losses from the sale or other disposition of property used for the exempt purposes of the private foundation are excluded. For example, gain or loss on the sale of the buildings used for the exempt activities of a private foundation would not be subject to the section 4940 tax. Where the foundation uses property for its exempt purposes, but also incidentally derives income from such property which is subject to the tax imposed by section 4940(a), any gain or loss resulting from the sale or other disposition of such property is not subject to the tax imposed by section 4940(a). For example, if a tax-exempt private foundation maintains buildings of a historical nature and keeps them open for public inspection, but requires a number of its employees to live in these buildings and charges the employees rent, the rent would be subject to the tax imposed by section 4940(a), but any gain or loss resulting from the sale of such property would not be subject to such tax. However, where the foundation uses property for both exempt purposes and (other than incidentally) for investment purposes (for example, a building in which the foundation's charitable and investment activities are carried on), that portion of any gain or loss from the sale or other disposition of such property which is allocable to the investment use of such property must be taken into account in computing net capital gain for such taxable year. For purposes of this paragraph, a distribution of property for purposes described in section 170(c)(1) or (2)(B) which is a qualifying distribution under section 4942 shall not be treated as a sale or other disposition of property.

(2) *Basis.* (i) The basis for purposes of determining gain from the sale or other disposition of property shall be the greater of:

(A) Fair market value on December 31, 1969, plus or minus all adjustments after December 31, 1969, and before the date of disposition under the rules of Part II of Subchapter O of Chapter 1, provided that the property was held by the private foundation on December 31, 1969, and continuously thereafter to the date of disposition, or

(B) Basis as determined under the rules of Part II of Subchapter O of Chapter 1,

subject to the provisions of section 4940(c)(3)(B) (and without regard to section 362(c)).

(ii) For purposes of determining loss from the sale or other disposition of property, basis as determined in subdivision (i)(B) of this subparagraph shall apply.

(3) *Losses.* Where the sale or other disposition of property referred to in section 4940(c)(4)(A) results in a capital loss, such loss may be subtracted from capital gains from the sale or other disposition of other such property during the same taxable year, but only to the extent of such gains. Should losses from the sale or other disposition of such property exceed gains from the sale or other disposition of such property during the same taxable year, such excess may not be deducted from gross investment income under section 4940(c)(3) in any taxable year, nor may such excess be used to reduce gains in either prior or future taxable years, regardless of whether the foundation is a corporation or a trust.

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

Example (1). A private foundation holds certain depreciable real property on December 31, 1969, having a basis of $102,000. The fair market value of such property on that date was $100,000. For its taxable year 1970 the foundation was allowed depreciation for such property of $5,100 on the straight line method, the allowable amount computed on the $102,000 basis. The property was sold on January 1, 1971, for $100,000. Because fair market value on December 31, 1969, less straight line depreciation of $5,100 ($94,900) is less than basis as determined by Part II of Subchapter O of Chapter 1, $96,900 ($102,000 less $5,100), a gain of $3,100 is recognized (i.e., sales price of $100,000 less the greater of the two possible bases).

Example (2). Assume the same facts in example 1, except that the sale price was $95,000. Because the sale price was $1,900 less than the basis for loss ($96,900 as determined by the application of subparagraph (2)(ii) of this paragraph), there is a capital loss of $1,900 which may be deducted against capital gains for 1971 (if any) in determining net capital gain.

Example (3). A private foundation holds certain depreciable real property on December 31, 1969, having a basis of $102,000. The fair market value of such property on that date was $110,000. For its taxable year 1970 the foundation was allowed depreciation for such property of $5,100 on the straight line method, the allowable amount computed on the $102,000 basis. The property was sold on January 1, 1971, for $100,000. Fair market value on December 31, 1969, less straight line depreciation of $5,100 ($104,900) exceeds basis as determined by Part II of Subchapter O of Chapter 1, $96,900 ($102,000 less $5,100), and will be used for purposes of determining gain. Because basis for purposes of determining gain exceeds sale price, there is no gain. There is no loss because basis for purposes of determining loss ($96,900) is less than sale price.

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

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

Approved: December 29, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.72-22464 Filed 12-29-72;5:07 pm]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

DEFINITIONS OF "WIFE," "WIDOW" AND "LEGALLY ADOPTED CHILD"

On page 24680 of the FEDERAL REGISTER of November 18, 1972, there was published a notice of proposed rule making to amend §§ 3.51, 3.57, 3.210, 3.315, 3.356, 3.403, and 3.503 to define "wife," "widow," and "legally adopted child." Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

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

Effective date. These VA Regulations are effective October 24, 1972.

Approved: December 27, 1972.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

1. Section 3.51 is revised to read as follows:

§ 3.51 Husband or widower.

(a) *General.* The term "wife" includes the husband of a female veteran and the term "widow" includes the widower of a female veteran.

(38 U.S.C. 102(b))

(b) *Entitlement.* A husband or widower is in the same status as a wife or widow of a male veteran and is eligible to receive the same benefits, if otherwise entitled, in a claim for pension, compensation, or dependency and indemnity compensation.

2. In § 3.57, paragraph (c) is amended to read as follows:

§ 3.57 Child.

* * * * *

(c) *Legally adopted child.* The term means a child adopted pursuant to a final decree of adoption, a child adopted pursuant to an unrescinded interlocutory decree of adoption while remaining in the custody of the adopting parent (or parents) during the interlocutory period, and a child who has been placed for adoption under an agreement entered into by the adopting parent (or parents) with any agency authorized under law to so act, unless and until such agreement is terminated, while the child remains in the custody of the adopting parent (or parents) during the period of placement for adoption under such agreement. The term includes, as of the date of death of a veteran, such a child who

(1) Was under age 18 and living in the veteran's household at the time of his death, and

(2) Was adopted by the veteran's spouse under a decree issued within 2 years after August 25, 1959, or the veteran's death whichever is later, and

(3) Was not receiving from an individual other than the veteran or his spouse, or from a welfare organization which furnishes services or assistance for children, recurring contributions of sufficient size to constitute the major portion of the child's support.

3. In § 3.210, the introductory portion of paragraph (c) preceding subparagraph (1) is amended to read as follows:

§ 3.210 Child's relationship.

* * * * *

(c) *Adopted child.* Except as provided in subparagraph (1) of this paragraph evidence of relationship will include a certified copy of the decree of adoption or a copy of the adoptive placement agreement and such other evidence as may be necessary.

* * * * *

4. Section 3.315 is revised to read as follows:

§ 3.315 Basic eligibility determinations; dependents, loans, education.

(a) *Child over 18 years.* A child of a veteran may be considered a "child" after age 18 for purposes of benefits under title 38, United States Code (except ch. 19 and sec. 5202(b) of ch. 85), if found by a rating determination to have become, prior to age 18, permanently incapable of self-support.

(38 U.S.C. 101(4)(B))

(b) *Loans.* Where a World War II veteran or a Korean conflict veteran had less than 90 days' service, or a veteran who served on or after February 1, 1955, had less than 181 days' service on active duty as defined in §§ 36.4301(gg) and 36.4501(o) of this chapter, eligibility of the veteran for a home, farm, or business loan under 38 U.S.C. ch. 37 requires a determination that the veteran was discharged or released because of a service-connected disability or that the official service department records show that he had at the time of separation from service a service-connected disability which in medical judgment would have warranted a discharge for disability. These determinations are subject to the presumption of incurrence under § 3.304(b). Determinations based on World War II, Korean conflict and Vietnam era service are also subject to the presumption of aggravation under § 3.306(b) while determinations based on service on or after February 1, 1955, and before August 5, 1964 are subject to the presumption of aggravation under § 3.306 (a) and (c). The provisions of this paragraph are also applicable, regardless of length of service, in determining eligibility to the maximum period of entitlement based on discharge or release for a service-connected disability.

(38 U.S.C. 1802, 1818)

(c) *Veterans' educational assistance.* Where a veteran who served on or after February 1, 1955, had less than 181 days service on active duty, as defined in § 21.1040 of this chapter, eligibility for educational assistance under 38 U.S.C. ch. 34 requires a determination that the veteran was discharged or released because of a service-connected disability or that the official service department records show that he had at the time of separation from service a service-connected disability which in medical judgment would have warranted a discharge for disability. These determinations are subject to the presumptions of incurrence under § 3.304(b) and aggravation under § 3.306 (a) and (c), based on service rendered on or after February 1, 1955 and before August 5, 1964, and under § 3.306 (b), based on service rendered during the Vietnam era.

(38 U.S.C. 1652(a))

5. In § 3.356, paragraph (a) and the introductory portion and subparagraphs (1) and (2) of paragraph (b) are amended to read as follows:

§ 3.356 Conditions which determine permanent incapacity for self-support.

(a) *Basic determinations.* A child must be shown to be permanently incapable of self-support by reason of mental or physical defect at the date of attaining the age of 18 years.

(b) *Rating criteria.* Rating determinations will be made solely on the basis of whether the child is permanently incapable of self-support through his own efforts by reason of physical or mental defects. The question of permanent incapacity for self-support is one of fact for determination by the rating agency on competent evidence of record in the individual case. Rating criteria applicable to disabled veterans are not controlling. Principal factors for consideration are:

(1) The fact that a claimant is earning his or her own support is prima facie evidence that he or she is not incapable of self-support. Incapacity for self-support will not be considered to exist when the child by his or her own efforts is provided with sufficient income for his or her reasonable support.

(2) A child shown by proper evidence to have been permanently incapable of self-support prior to the date of attaining the age of 18 years, may be so held at a later date even though there may have been a short intervening period or periods when his or her condition was such that he or she was employed, provided the cause of incapacity is the same as that upon which the original determination was made and there were no intervening diseases or injuries that could be considered as major factors. Employment which was only casual, intermittent, tryout, unsuccessful, or terminated after a short period by reason of disability, should not be considered as rebutting permanent incapability of self-support otherwise established.

* * * * *

6. In § 3.403, paragraph (f) is amended to read as follows:

§ 3.403 Children.

Awards of pension, compensation, or dependency and indemnity compensation, to or for a child, or to or for a veteran or widow on behalf of such child, will be effective as follows:

* * * * *

(f) *Adopted child.* Date of adoption either interlocutory or final or date of adoptive placement agreement, but not earlier than the date from which benefits are otherwise payable.

7. In § 3.503, paragraph (j) is amended to read as follows:

§ 3.503 Children.

The effective date of discontinuance of pension, compensation, or dependency and indemnity compensation to or for a child, or to or for a veteran or widow on behalf of such child, will be the earliest of the dates stated in this section. Where an award is reduced, the reduced rate will be payable the day following the date of discontinuance of the greater benefit.

* * * * *

(j) *Interlocutory adoption decree or adoptive placement agreement.* Date child left custody of adopting parent during the interlocutory period or during adoptive placement agreement, or date of rescission of the decree or date of termination of the adoptive placement agreement, whichever first occurs.

[FR Doc.73-308 Filed 1-4-73;8:45 am]

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

SURVIVOR BENEFIT PLAN ANNUITIES

On page 24049 of the FEDERAL REGISTER of November 11, 1972, there was published a notice of proposed rule making to amend § 3.261 to provide that annuities under the Survivor Benefit Plan shall be considered income under laws administered by the Veterans' Administration. The table was corrected on page 25180 of the FEDERAL REGISTER of November 28, 1972. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

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

Effective date. These VA Regulations are effective September 21, 1972.

Approved: December 27, 1972.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

	Dependency (parents)	Dependency and indemnity compensation (parents)	Pension; protected (veterans, widows, and children)	Pension; Public Law 86-211 (veterans, widows, and children)	See—
(a) *Income:*					
* * *	* * *	* * *	* * *	* * *	
(14) Retired Serviceman's Family Protection Plan; Survivor Benefit Plan (10 U.S.C. ch. 73):					
Retired Serviceman's Family Protection Plan (Subch. I):					
Annuities	Excluded	Excluded	Excluded	Excluded	
Refund (10 U.S.C. 1446)	Included	Included	Included	Included	
Survivor Benefit Plan (Subch. II).	do	do	do	do	§ 3.262(e).
(Public Law 92-425; 86 Stat. 706)					
* * *	* * *	* * *	* * *	* * *	

[FR Doc.73-306 Filed 1-4-73;8:45 am]

PART 13—DEPARTMENT OF VETERANS BENEFITS, CHIEF ATTORNEYS

Recovery of Payment of Indebtedness

On page 24198 of the FEDERAL REGISTER of November 15, 1972, there was published a notice of proposed rule making to amend §§ 13.205, 13.207, 13.208, 13.209, 13.210, 13.212, and 13.213 concerning recovery of payment of indebtedness. Interested persons were given 30 days in which to submit comments, suggestions or objections regarding the proposed regulations.

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

Effective date. These VA regulations are effective June 30, 1972.

Approved: December 27, 1972.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

1. Section 13.205 is revised to read as follows:

§ 13.205 Legal and technical assistance.

Legal questions involving a determination under § 2.6(f)(4) of this chapter will be referred to the Chief Attorney for action in accordance with delegations of the General Counsel, unless there is in existence a General Counsel's opinion or an approved Chief Attorney's opinion dispositive of the controlling legal principle. As to matters not controlled by § 2.6(f)(4) of this chapter, the chairman of the field station Committee or at his instance, a member, may seek and obtain advice from the Chief Attorney on legal matters within his jurisdiction and from other division chiefs in their areas of responsibility, on any matter properly before the Committee. Guidance may also be requested from the Central Office Board.

2. Section 13.207 is revised to read as follows:

§ 13.207 Waiver of overpayments.

The term "overpayment" means payments made and determined to be erroneous, indebtedness resulting from services erroneously furnished, and indebtedness of a veteran-borrower or veteran-transferee under the loan guaranty program or the indebtedness of his spouse, under laws administered by the Veterans Administration.

(a) Benefits subject to waiver include indebtedness due the Veterans Administration because of or in connection with hospitalization, domiciliary care, or treatment of a veteran, a person who claimed he was a veteran, or a person to whom such benefits were granted on the assumption that he was an eligible veteran.

(b) In any case where there is an indication of fraud or misrepresentation of a material fact on the part of the debtor or any other party having an interest in the claim, action on a request for waiver will be deferred pending appropriate disposition of the matter. However, the existence of a prima facie case of fraud shall, nevertheless, entitle a claimant to an opportunity to make a rebuttal with countervailing evidence; similarly, the misrepresentation must be more than nonwilliful or a mere inadvertence. The Committee may act on a request for waiver concerning such debts, after the Chief Attorney has determined that prosecution is not indicated, or the Department of Justice has notified the Veterans Administration that the alleged fraud or misrepresentation does not warrant action by that department, or the Department of Justice or the appropriate U.S. Attorney specifically authorized action on the request for waiver.

3. In § 13.208, paragraphs (a) and (b) are amended to read as follows:

§ 13.208 Waiver; other than loan guaranty.

(a) *General.* Recovery of overpayments of any benefits made under laws administered by the Veterans Administration shall be waived if recovery of

the indebtedness from the payee who received such benefits would be against equity and good conscience.

(b) *Application.* Request for waiver of an overpayment will be considered only if received within 2 years following the date of notice to the payee.

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4. In § 13.209, paragraphs (a), (c), and (e) are amended and paragraph (f) is added so that the amended and added material reads as follows:

§ 13.209 Waiver; loan guaranty.

(a) *General.* An indebtedness of a veteran or the indebtedness of his spouse may be waived only when both of the following factors are determined to exist:

(1) Following default there was a loss of the property which constituted security for the loan guaranteed, insured or made under chapter 37 of title 38, United States Code; and

(2) Collection of such indebtedness would be against equity and good conscience.

* * * * *

(c) *Widow or former spouse.* A widow of a veteran or the former spouse of a veteran may be granted a waiver of her indebtedness provided the requirements of paragraph (a) of this section are met.

* * * * *

(e) *Application.* There is no time limit for filing an application for waiver of indebtedness under this section.

(f) *Exclusion.* Except as otherwise provided in this section, the indebtedness of a nonveteran obligor under the loan program is excluded from waiver.

5. Section 13.210 is revised to read as follows:

§ 13.210 Application of standard.

(a) The standard "Equity and Good Conscience," will be applied when the facts and circumstances in a particular case indicate a need for reasonableness and moderation in the exercise of the Government's rights. The decision reached should not be unduly favorable or adverse to either side. The phrase "equity and good conscience" means arriving at a fair decision between the obligor and the Government. In making this determination, consideration will be given to the following elements, which are not intended to be all inclusive:

(1) Fault of debtor: Where actions of the debtor contribute to creation of the debt.

(2) Balancing of faults: Weighing fault of debtor against Veterans Administration fault.

(3) Undue hardship: Whether collection would deprive debtor or family of basic necessities.

(4) Defeat the purpose: Whether withholding of benefits or recovery would nullify the objective for which benefits were intended.

(5) Unjust enrichment: Failure to make restitution would result in unfair gain to the debtor.

(6) Changing position to one's detriment: Reliance on Veterans Administration benefits results in relinquishment of a valuable right or incurrence of a legal obligation.

(b) In applying this single standard for all areas of indebtedness, the following elements will be considered, anyone of which, if found, will preclude the granting of waiver:

(1) Fraud or misrepresentation of a material fact (see § 13.207(b)).

(2) Material fault: The inexcusable commission or omission of an act that directly results in the creation of a debt to the Government.

(3) Lack of good faith: Absence of an honest intention to abstain from taking unfair advantage of the holder and/or the Government.

§ 13.211 [Revoked]

6. Section 13.211 *Standards for waiver; loan guaranty* is revoked.

7. In § 13.212, paragraph (b)(2)(i) is amended to read as follows:

§ 13.212 Scope of waiver decisions.

* * * * *

(b) A field station committee or Central Office Board may:

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(2) Waive or decline to waive recovery from specific benefits or sources, except that:

(i) There shall be no waiver of recovery out of insurance of an indebtedness secured thereby; i.e., an insurance overpayment to an insured. However, recovery may be waived of any or all of such indebtedness out of benefits other than insurance then or thereafter payable to the insured.

* * * * *

8. In § 13.213, paragraph (c) is amended to read as follows:

§ 13.213 Refunds.

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(c) Amounts which have been recovered by the U.S. Government prior to the date of receipt by the Veterans Administration of a request for waiver, will not be refunded and will be excluded from waiver.

[FR Doc.73-307 Filed 1-4-73;8:45 am]

Title 49—TRANSPORTATION

Chapter II—Federal Railroad Administration, Department of Transportation

[Docket No. RST-1A]

PART 213—TRACK SAFETY STANDARDS

Miscellaneous Amendments

The purpose of this amendment is to modify a number of the standards for track and track inspection which were promulgated by the Administrator on October 15, 1971, as initial railroad safety standards under the Federal Railroad Safety Act of 1970. Most of the standards affected by this amendment became effective for track in the general railroad system of transportation on October 16, 1972.

On September 5, 1972, the Federal Railroad Administration (FRA) issued a notice of proposed rule making to amend the initial standards (37 FR 18397, 18634). Interested persons were invited to participate in the rule making by submitting written comments before September 30, 1972, and by presenting oral or written statements at a public hearing on September 22, 1972. In response to a request by the Association of American Railroads on behalf of its member railroads, the hearing was postponed, by notice issued September 20, 1972 (37 FR 20041), to October 6, 1972. The hearing was held and participants were given until close of business on October 9, 1972, to file rebuttal statements.

The information and views presented in the comments and at the public hearing have been fully considered and are reflected in the final rules as discussed hereinafter in the analysis of sections. Minor editorial modifications have been made to some sections contained in the notice. Many comments were beyond the scope of the notice of proposed rule making and may be considered for future rule making actions by the FRA.

Section 213.7. Paragraphs (a)(1) and (b)(1) of this section, which governs the qualifications of "qualified persons," are amended to provide an alternative to the requirement that individuals must have at least 1 year of field experience before they may qualify as track inspectors or supervisors for the purpose of Part 213.

It was proposed that in lieu of having 1 year of experience, an individual should be able to qualify after passing an FRA approved training course. However, the Congress of Railway Unions ("CRU") was strongly opposed to this proposal, stating that training alone would not be an adequate substitute for 1 year of practical experience. The FRA concurs with this criticism to the extent that a certain amount of track work is necessary before a person is entitled to be "qualified" as an inspector or supervisor. Consequently, paragraphs (a)(1) and (b)(1) have been revised to incorporate this viewpoint.

Furthermore, the proposal in the notice was made partly because of the many successful training courses presently conducted by rail carriers. At the same time, training from an educational program which is conducted by an institution outside the railroad industry also warrants consideration. For instance, a person who has completed requirements in a civil engineering curriculum at a college or university should be able to qualify as an inspector or supervisor after only a brief period of on the job experience. Therefore, under the final rule the required training may come from a course in track maintenance or inspection, or from a college level educational program related to track maintenance or inspection.

A person who does not have at least 1 year of experience may qualify under the revised requirements if instead he has a combination of some experience and training from an appropriate course or educational program. The amount of

experience a person must have in conjunction with training will be determined by the track owner who designates a person as qualified. In each case a track owner will have to consider the other minimum requirements for a qualified person set forth in § 213.7(a)(2) and (b)(2) in determining the amount of experience a person must have.

Section 213.7 places the responsibility on each track owner to "designate qualified persons" to supervise track maintenance and inspect track. Each person designated must have demonstrated the qualifications set forth in § 213.7 (a)(2) and (b)(2), and the track owner must maintain a written record of the basis for each such designation. The FRA believes that proper track inspection will be accomplished through this designation procedure and through FRA examination of the track inspected by the persons designated.

The CRU also suggested that the FRA publish its requirements for an approved "training course." At present, the FRA prefers to allow carriers to designate persons as qualified who have training which is suited to the carriers' own situations, rather than prescribe a particular curriculum. Moreover, the proposal that each training course be approved by the FRA has been deleted from the final rule as unnecessary. Nevertheless, if experience demonstrates that persons who qualify on the basis of training from an appropriate course or educational program are not as capable as those with 1 full year's experience, the CRU recommendation will be considered for future rule making.

Section 213.9. This section has been amended to establish higher speed limits for passenger trains than freight trains operating over Classes 1 through 5 track. The higher speed limits are justified by a number of safety factors discussed in the notice. None of the commenters objected to the validity of the proposed increases.

However, at the hearing, the National Railroad Passenger Corporation (Amtrak) suggested that passenger trains be permitted a 20 m.p.h. differential over freight trains on Class 5 track, and that a 10 m.p.h. differential be established for Class 6 track. A 20 m.p.h. differential on Class 5 track would permit passenger trains to operate at 100 m.p.h. The FRA believes that this speed is too high for Class 5 track. Given the minimum standards for safe operations which underlie the track classifications, only Class 6 track can safely accommodate 100 m.p.h. speeds. The request for a 10 m.p.h. differential on Class 6 track is beyond the scope of the notice and cannot be considered at this time. Amtrak originally requested that the speed limit for passenger trains on Class 6 track be increased by 10 m.p.h. in its petition for rule making (Docket No. RST-1; Pet. No. 2). This portion of the petition was denied for failure to show a relationship between high speed specialized equipment and Class 6 track which would support a safe increase in the maximum allowable speed. The FRA is currently studying this relationship, and speed limits for passenger trains above 110 m.p.h. will be the subject of a future notice of proposed rule making.

Section 213.13. No comments were received on the proposed change in the language of this section. It provides that if track is measured when under load, the proper measurement is determined by taking into account any movement of the rails that occurs while the track is loaded.

Section 213.61. Paragraph (b) in this section has been revoked. This paragraph reqired curve markings at the maximum and minimum elevation transition points on Classes 4–6 track. The requirement was deemed unnecessary because the information required to be maintained by paragraph (a) is sufficient for adequate inspection of curve geometry. One commenter stated that efficient inspection would suffer if the markers were not in place. Although this may be true, the absence of curve markers does not constitute a safety hazard, and a Federal standard is unnecessary.

Section 213.109. Paragraph (c) has been amended by transferring the requirement for minimum number of nondefective ties under a rail joint to the new paragraph (d). In addition, the maximum center-to-center distance between nondefective ties for Classes 4–6 track has been increased from 45 to 48 inches to permit cross tie spacings of 23 inches.

The new paragraph (d) restates the requirement for the minimum number of nondefective ties under a joint and provides for the correct positioning of those ties under the joint. Some questions had arisen as to where under a joint a nondefective tie should be placed. Two types of joints are now illustrated (supported and suspended), and in conjunction with a chart, proper tie placement can be discerned. One commenter objected that the new provision still permits a defective tie under a joint. This point was argued when the track standards were originally proposed and was settled at that time. It is not an appropriate issue to raise in this proceeding because the proposed revision did not alter the minimum number of nondefective ties required under a rail joint.

Section 213.113. Paragraph (a) of this section has been revised to provide greater flexibility in operating over a defective rail until the rail is replaced. In general, more stringent corrective action is required as the size of a particular defect increases.

In response to comments, the final rule has been modified in a number of respects from the proposed one. First, operating speed over a transverse fissure or compound fissure has been limited to 10 m.p.h. in all cases where the failure is less than 100 percent. If there is a 100-percent failure, a qualified person must visually supervise each movement over the defective rail, although no speed limit is prescribed. Second, the threshold lengths for horizontal and vertical split heads have been increased because the proposed lengths were deemed too restrictive. Although it was recommended that the threshold lengths for split web, piped rail, and head web separation be likewise increased, no change from the proposed lengths could be justified in the interest of safety. Third, in the case of a bolt hole crack which is more than 1½ inches long, upon reconsideration of the seriousness of the defect, a speed limit of 10 m.p.h. is now imposed rather than requiring a qualified person to supervise each movement over the defect as proposed. The more stringent remedy of having a qualified person at the scene of the defect is now required only after a breakout in the rail head occurs. Finally, comments were directed toward the purpose of Note A. This note is intended to prescribe the most stringent corrective action short of replacing a defective rail. Because there was apparently some difficulty in interpreting what a qualified person is supposed to do at the site of a rail defect, the note has been rewritten to require him to visually supervise each operation over the defective rail. This means, in response to some queries, personal observation and supervision of each operation over every rail defect along a route.

The FRA did not agree with those commenters who suggested that when joint bars are applied to a broken base less than 6 inches long the defect may be considered equivalent to a rail joint and full speed resumed. Therefore, the remedy of a 30 m.p.h. speed limit after joint bars are applied has been adopted as provided in the notice.

Section 213.127. As proposed, paragraph (a) of this section now requires only two spikes instead of three spikes in Class 3 track on curves between 4° and 6°. Also, in Class 4 track on curves between 2° and 4°, only two spikes are required instead of the previous three spikes. Further, the number of spikes required in Class 6 track has been reduced from three to two. One commenter stated that any reduction in the number of spikes previously required could cause a safety hazard. The FRA is cognizant of the importance of proper spiking on curves because of the increased stresses at these locations. However, past industry practice has shown that some minor reductions in spiking on curves can be made without affecting safe operations.

Section 213.133. This section has been rewritten in performance terms to clarify the meaning of the previous requirement. It now provides that fastenings must be maintained so as to keep components in turnouts and track crossings securely in place.

Section 213.233. In paragraph (b), it was proposed to provide an alternative to the requirement that track structure be inspected visually by permitting the use of any mechnical or electrical inspection device which is approved by the Administrator. The purpose of the proposal was to encourage the development of instrumental inspection vehicles so that track inspectors would not be limited to the use of their eyesight in conducting an inspection. As pointed out by one commenter, if such a vehicle were used, it most likely could not detect defects in every component of the track

structure. Therefore, the amendment has been rewritten to provide that an approved device may be used, not in lieu of visual inspection, but as a supplement to visual inspection.

Section 213.237. The proposal to amend paragraph (a) in this section provided an initial 3-year deferment from the yearly inspection requirement for a new rail which has been inductively and ultrasonically inspected and all defects removed before it is installed. However, in consideration of the practice by many railroads, the final rule has been modified to allow a 3-year deferment for a new rail which is internally inspected and has all defects removed within 6 months after installation. The 3-year period between first and second inspections for a new rail is considered sufficient due to the improved metallurgical processes which are presently employed in manufacturing rails; and unlike a used rail which has been subjected to stresses, a new rail is not as likely to become defective.

Section 213.241. The amendments to this section are being adopted as proposed with one exception. It was proposed to add an alternative to the requirement that an inspection record indicate the remedial action taken upon discovery of a deviation. Under the alternative, it would have been permissible for the record to show what remedial action was "recommended" by the inspector. This was proposed because in many instances where an inspector does not actually take the remedial action himself, it is impossible for him to know what remedy was taken when he signs the record of inspection. The FRA now considers a record of "recommended" action to be unnecessary. However, in view of the rationale for the proposed modification, the final rule provides that the record must show the remedial action taken by the inspector. In other words, if an inspector does not actually take any remedial action himself after finding a defect, there would be no entry as to remedial action on the inspection record.

In consideration of the foregoing, Part 213 of Title 49 of the Code of Federal Regulations is amended as set forth below.

1. The table of sections is amended by revising the section heading of § 213.61 to read as follows:

Sec.
213.61 Curve data for Classes 4 through 6 track.

2. Paragraphs (a)(1) and (b)(1) in § 213.7 are amended to read as follows:

§ 213.7 Designation of qualified persons to supervise certain renewals and inspect track.

(a) * * *

(1) At least—

(i) One year of supervisory experience in railroad track maintenance; or

(ii) A combination of supervisory experience in track maintenance and training from a course in track maintenance or from a college level educational program related to track maintenance;

* * * * *

(b) * * *

(1) At least—

(i) One year of experience in railroad track inspection; or

(ii) A combination of experience in track inspection and training from a course in track inspection or from a college level educational program related to track inspection;

* * * * *

3. Paragraph (a) in § 213.9 is amended to read as follows:

§ 213.9 Classes of track: operating speed limits.

(a) Except as provided in paragraph (b) of this section and §§ 213.57(b), 213.59(a), 213.105, 213.113 (a) and (b), and 213.137 (b) and (c), the following maximum allowable operating speeds apply:

[In miles per hour]

Over track that meets all of the requirements prescribed in this part for—	The maximum allowable operating speed for freight trains is—	The maximum allowable operating speed for passenger trains is—
Class 1 track	10	15
Class 2 track	25	30
Class 3 track	40	60
Class 4 track	60	80
Class 5 track	80	90
Class 6 track	110	110

4. Section 213.13 is revised to read as follows:

§ 213.13 Measuring track not under load.

When unloaded track is measured to determine compliance with requirements of this part, the amount of rail movement, if any, that occurs while the track is loaded must be added to the measurement of the unloaded track.

5. In § 213.61 the heading is revised and paragraph (b) is revoked. As amended § 213.61 reads as follows:

§ 213.61 Curve data for Classes 4 through 6 track.

(a) Each owner of track to which this part applies shall maintain a record of each curve in its Classes 4 through 6 track. The record must contain the following information:

(1) Location;

(2) Degree of curvature;

(3) Designated elevation;

(4) Designated length of elevation runoff; and

(5) Maximum allowable operating speed.

6. In § 213.109, the table in paragraph (c) is amended, a new paragraph (d) is added, and the previous paragraph (d) is redesignated as paragraph (e), as follows:

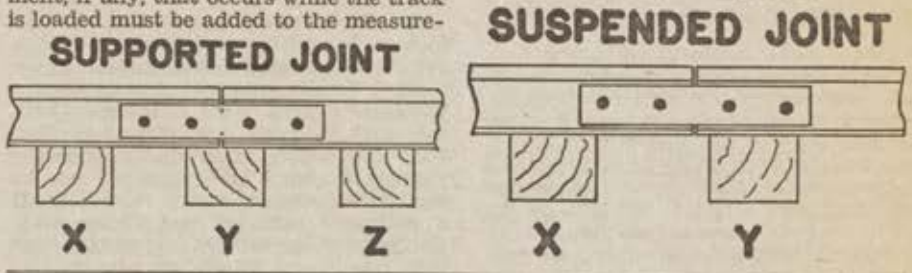
§ 213.109 Cross ties.

* * * * *

(c) * * *

Class of track	Minimum number of nondefective ties per 39 feet of track	Maximum distance between nondefective ties (center to center) (inches)
1	5	100
2, 3	8	70
4, 5	12	48
6	14	48

(d) If timber ties are used, the minimum number of nondefective ties under a rail joint and their relative positions under the joint are described in the following chart. The letters in the chart correspond to letters underneath the ties for each type of joint depicted.



Class of track	Minimum number of nondefective ties under a joint	Required position of nondefective ties	
		Supported joint	Suspended joint
1	1	X, Y, or Z	X or Y.
2, 3	1	Y	X or Y.
4, 5, 6	2	X and Y, or Y and Z.	X and Y.

(e) Except in an emergency or for a temporary installation of not more than 6-months duration, crossties may not be interlaced to take the place of switch ties.

7. Paragraph (a) in § 213.113 is revised to read as follows:

§ 213.113 Defective rails.

(a) When an owner of track to which this part applies learns, through inspection or otherwise, that a rail in that track contains any of the defects listed in the following table, a person designated under § 213.7 shall determine whether or not the track may continue in use. If he determines that the track may continue in use, operation over the defective rail is not permitted until—

(1) The rail is replaced; or

(2) The remedial action prescribed in the table is initiated:

Defect	Length of defect (inch)		Percent of railhead cross-sectional area weakened by defect		If defective rail is not replaced, take the remedial action prescribed in note—
	More than	But not more than	Less than	But not less than	
Transverse fissure			20		B.
			100	20	B.
				100	A.
Compound fissure			20		B.
			100	20	B.
				100	A.
Detail fracture			20		C.
Engine burn fracture			100	20	D.
Defective weld				100	A, or E and H.
Horizontal split head	0	2			H and F.
	2	4			I and G.
	4				B.
Vertical split head	(Break out in railhead)				A.
Split web	0	½			H and F.
Piped rail	½	3			I and G.
	3				B.
Head web separation	(Break out in railhead)				A.
	0	½			H and F.
	½	1½			I and G.
Bolt hole crack	1½				B.
	(Break out in railhead)				A.
Broken base	0	6			E and I.
	6				Replace rail.
Ordinary break					A or E.
Damaged rail					C.

REMEDIAL ACTION

Note:
A—Assign person designated under § 213.7 to visually supervise each operation over defective rail.
B—Limit operating speed to 10 m.p.h. over defective rail.
C—Apply joint bars bolted only through the outermost holes to defect within 20 days after it is determined to continue the track in use. In the case of classes 3 through 6 track, limit operating speed over defective rail to 30 m.p.h. until angle bars are applied; thereafter, limit speed to 50 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower.
D—Apply joint bars bolted only through the outermost holes to defect within 10 days after it is determined to continue the track in use. Limit operating speed over defective rail to 10 m.p.h. until angle bars are applied; thereafter, limit speed to 50 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower.
E—Apply joint bars to defect and bolt in accordance with § 213.121 (d) and (e).
F—Inspect rail 90 days after it is determined to continue the track in use.
G—Inspect rail 30 days after it is determined to continue the track in use.
H—Limit operating speed over defective rail to 50 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower.
I—Limit operating speed over defective rail to 30 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower.

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8. In § 213.127, the table in paragraph (a) is amended to read as follows:

§ 213.127 Track spikes.

(a) * * *

MINIMUM NUMBER OF TRACK SPIKES PER RAIL PER TIE, INCLUDING PLATE-HOLDING SPIKES

Class of track	Tangent track and curved track with not more than 2° of curvature	Curved track with more than 2° but not more than 4° of curvature	Curved track with more than 4° but not more than 6° of curvature	Curved track with more than 6° of curvature
1	2	2	2	2
2	2	2	2	3
3	2	2	2	3
4	2	2	3	
5	2	3		
6	2			

* * * * * * *

9. Paragraph (a) in § 213.133 is amended to read as follows:

§ 213.133 Turnouts and track crossings generally.

(a) In turnouts and track crossings, the fastenings must be intact and maintained so as to keep the components securely in place. Also, each switch, frog, and guard rail must be kept free of obstructions that may interfere with the passage of wheels.

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10. Paragraph (b) in § 213.233 is amended to read as follows:

§ 213.233 Track inspections.

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(b) Each inspection must be made on foot or by riding over the track in a vehicle at a speed that allows the person making the inspection to visually inspect the track structure for compliance with this part. However, mechanical or electrical inspection devices approved by the Federal Railroad Administrator may be used to supplement visual inspection. If a vehicle is used for visual inspection, the speed of the vehicle may not be more than 5 miles per hour when passing over track crossings, highway crossings, or switches.

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11. Paragraph (a) in § 213.237 is amended to read as follows:

§ 213.237 Inspection of rail.

(a) In addition to the track inspections required by § 213.233, at least once a year a continuous search for internal defects must be made of all jointed and welded rails in Classes 4 through 6 track, and Class 3 track over which passenger trains operate. However, in the case of a new rail, if before installation or within 6 months thereafter it is inductively or ultrasonically inspected over its entire length and all defects are removed, the next continuous search for internal defects need not be made until 3 years after that inspection.

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12. Paragraphs (a), (b), and (c) in § 213.241 are amended to read as follows:

§ 213.241 Inspection records.

(a) Each owner of track to which this part applies shall keep a record of each inspection required to be performed on that track under this subpart.

(b) Each record of an inspection under §§ 213.233 and 213.235 shall be prepared on the day the inspection is made and signed by the person making the inspection. Records must specify the track inspected, date of inspection, location and nature of any deviation from the requirements of this part, and the remedial action taken by the person making the inspection. The owner shall retain each record at its division headquarters for at least 1 year after the inspection covered by the record.

(c) Rail inspection records must specify the date of inspection, the location, and nature of any internal rail defects found, and the remedial action taken and the date thereof. The owner shall retain a rail inspection record for at least 2 years after the inspection and for 1 year after remedial action is taken.

* * * * * * *

Effective dates. Because the rules affected by the amendments contained herein, except §§ 213.61 and 213.109, became effective for most of the Nation's railroad track on October 16, 1972, good cause exists for making the amendments to these rules effective upon publication in the FEDERAL REGISTER (1-5-73). The amendments to §§ 213.61 and 213.109 shall become effective February 5, 1973.

This amendment is issued under the authority of section 202, 84 Stat. 971, 45 U.S.C. 431; and section 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Issued in Washington, D.C. on December 22, 1972.

JOHN W. INGRAM,
Administrator.

[FR Doc.73-7 Filed 1-4-73;8:45 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1083, Amdt. 3]

PART 1033—CAR SERVICE

Southern Pacific Transportation Co.; Authorization To Operate Over Tracks of the Texas and Pacific Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 22d day of December 1972.

Upon further consideration of Service Order No. 1083 (36 FR 21203, 23803; 37 FR 12726), and good cause appearing therefor:

It is ordered, That: § 1033.1083 *Service Order No. 1083* (Southern Pacific Transportation Co. authorized to operate over tracks of the Texas and Pacific Railway Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., July 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-192 Filed 1-4-73;8:45 am]

[S.O. 1086, Amdt. 2]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Co.; Authorization To Operate Over Tracks of the Peoria and Pekin Union Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 21st day of December 1972.

Upon further consideration of Service Order No. 1086 (36 FR 25425, 37 FR 12727), and good cause appearing therefor:

It is ordered, That: § 1033.1086 *Service Order 1086* (Chicago, Rock Island and Pacific Railroad Co. authorized to operate over tracks of the Peoria and Pekin Union Railway Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., February 28, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-195 Filed 1-4-73;8:45 am]

[S.O. 1087, Amdt. 2]

PART 1033—CAR SERVICE

Burlington Northern Inc.; Authorization To Operate Over Tracks of the Peoria and Pekin Union Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 22d day of December 1972.

Upon further consideration of Service Order No. 1087 (36 FR 25425, 37 FR 12497), and good cause appearing therefor:

It is ordered, That: § 1033.1087 *Service Order No. 1087* (Burlington Northern Inc. authorized to operate over tracks of the Peoria and Pekin Union Railway Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., February 28, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-193 Filed 1-4-73;8:45 am]

[S.O. 1089, Amdt. 4]

PART 1033—CAR SERVICE

New York Dock Railway; Authorization to Operate Over Trackage Abandoned by Bush Terminal Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 21st day of December 1972.

Upon further consideration of Service Order No. 1089 (37 FR 2677, 9118, 15930, and 23336), and good cause appearing therefor:

It is ordered, That: § 1033.1089 *Service Order 1089* (New York Dock Railway authorized to operate over trackage abandoned by Bush Terminal Railroad Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., March 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-194 Filed 1-4-73;8:45 am]

[S.O. 1091, Amdt. 2]

PART 1033—CAR SERVICE

Norfolk and Western Railway Co.; Authorization to Operate Over Tracks of Penn Central Transportation Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 20th day of December 1972.

Upon further consideration of Service Order No. 1091 (37 FR 4917, 12497), and good cause appearing therefor:

It is ordered, That § 1033.1091 *Service Order No. 1091* (Norfolk and Western Railway Co. authorized to operate over tracks of Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., May 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17 (2))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73–196 Filed 1–4–73;8:45 am]

[S.O. 1100, Amdt. 1]

PART 1033—CAR SERVICE

Union Pacific Railroad Co.; Authorization To Operate Over Tracks of Agricultural Products Corp.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 21st day of December 1972.

Upon further consideration of Service Order No. 1100 (37 FR 12324), and good cause appearing therefor:

It is ordered, That: § 1033.1100 *Service Order No. 1100* (Union Pacific Railroad Co. authorized to operate over tracks of Agricultural Products Corp. between Epco, Caribou County, Idaho, and Dry Valley, Caribou County, Idaho) be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* This order shall expire at 11:59 p.m., May 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73–199 Filed 1–4–73;8:45 am]

[Rev. S.O. 1110, Amdt. 3]

PART 1033—CAR SERVICE

Penn Central Transportation Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 20th day of December 1972.

Upon further consideration of Revised Service Order No. 1110 (37 FR 19616, 22871, and 23236), and good cause appearing therefor:

It is ordered, That: § 1033.1110 *Rev. Service Order No. 1110* (Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees, required to restore service at the Buttonwood (Wilkes-Barre), Pa., gateway and to reroute traffic originally routed via that gateway) be, and it is hereby, amended by substituting the following paragraphs (a) and (e) for paragraphs (a) and (e) thereof:

(a) The Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees (Penn Central) be, and it is hereby, ordered to restore service via its Buttonwood (Wilkes-Barre), Pa., gateway on or before

(e) *It is further ordered,* That this order shall become effective at 11:59 p.m., September 15, 1972, and, as to paragraph 1033.1110(b), shall expire at 11:59 p.m., January 31, 1973, unless sooner vacated by order of this Commission upon restoration of service through the Buttonwood (Wilkes-Barre) gateway.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73–198 Filed 1–4–73;8:45 am]

[S.O. 1111, Amdt. 3]

PART 1033—CAR SERVICE

Delaware and Hudson Railway Co.; Authorization To Operate Over Tracks of Erie Lackawanna Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 20th day of December 1972.

Upon further consideration of Service Order No. 1111 (37 FR 19617, 22872, and 25237), and good cause appearing therefor:

It is ordered, That: § 1033.1111 *Service Order No. 1111* (Delaware and Hudson Railway Co. authorized to operate over tracks of Erie Lackawanna Railway Co. Thomas F. Patton and Ralph S. Tyler, Jr., trustees) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 29, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17 (2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-197 Filed 1-4-73;8:45 am]

Title 50—WILDLIFE AND FISHERIES

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

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 10—MIGRATORY BIRDS

Open Seasons, Bag Limits, and Possession of Certain Migratory Game Birds

Section 10.105(e) published in the FEDERAL REGISTER on September 1, 1972 (37 FR 17841), established open hunting season for waterfowl in the Atlantic, Mississippi, and central flyways.

Quotas are established annually to control the harvest of Mississippi Valley population Canada geese at their major concentration points in Wisconsin (Horicon Zone) and Illinois (Southern Illinois Zone). The quotas are established cooperatively by Wisconsin and Illinois with the concurrence of the Mississippi Flyway Council and are designed to achieve a postseason level of 300,000 birds in the Mississippi Valley population.

The season in the Southern Illinois Quota Zone, consisting of Alexander, Jackson, Union, and Williamson Counties, is scheduled to close January 5, 1973. Illinois has asked that the season be extended 5 days to January 10 because of the unusually low harvest of geese in the quota zone. The State of Illinois anticipates that less than two-thirds of the 24,000 bird quota will be taken by the scheduled season closure date of January 5.

An aerial inventory on December 29 recorded 320,000 birds in the vicinity. This exceeds by 20,000 the planned postseason population of 300,000 birds. This management objective is largely achieved through quota harvest controls.

Both the State of Wisconsin and the Mississippi Flyway Council support the State of Illinois in its request for a 5-day extension. The Bureau of Sport Fisheries and Wildlife has reviewed the request and determined that it is in the public interest to grant the extension. The total length of season in the Southern Illinois Quota Zone including the 5-day extension will not exceed the framework originally offered.

Accordingly, § 10.105(e) is amended by deleting "January 5" and inserting "January 10" in the column of dates under geese in the table of seasons for the Illinois Counties of Alexander, Jackson, Union, and Williamson.

Notice and public procedure under 5 U.S.C. 553(d) is dispensed with for good cause as described above and this amendment is effective on January 5, 1973.

(16 U.S.C. 704)

SPENCER H. SMITH, *Director.*

JANUARY 4, 1973.

[FR Doc.73-394 Filed 1-4-73;11:50 am]

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

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Great Meadows National Wildlife Refuge, Mass.

The following special regulation is issued and is effective on January 5, 1973.

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

MASSACHUSETTS

GREAT MEADOWS NATIONAL WILDLIFE REFUGE

Entry to the parking area during daylight hours on foot, bicycle, or by motor vehicle is permitted. Entry by foot or bicycle during daylight hours is permitted on designated travel routes for the purposes of nature study, photography, hiking, skating, and cross-country skiing. Pets are permitted on a leash not exceeding 10 feet in length.

The refuge, comprising approximately 2,700 acres, is delineated on a map available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1973.

WILLARD M. SPAULDING, Jr., *Acting Regional Director, Bureau of Sport Fisheries and Wildlife.*

DECEMBER 29, 1972.

[FR Doc.73-237 Filed 1-4-73;8:45 am]

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Monomy National Wildlife Refuge, Mass.

The following special regulation is issued and is effective on January 5, 1973.

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

MASSACHUSETTS

MONOMOY NATIONAL WILDLIFE REFUGE

Entrance on the refuge and wilderness area in permitted for the purposes of bird watching, photography, nature study, hiking, and swimming during daylight hours. Shellfishing is permitted in conformance with regulations prescribed by the town of Chatham. Tidewater fishing is permitted 24 hours a day. Pets are permitted on a leash not exceeding 10 feet in length. Fires are permitted on the beach. Boats may be beached on the refuge. Erection of tents and other structures is prohibited.

The refuge, comprising of 2,696 acres, is delineated on a map available from the Refuge Manager, Great Meadows National Wildlife Refuge, 191 Sudbury Road, Concord, MA 01742 and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1973.

WILLARD M. SPAULDING, Jr., *Acting Regional Director, Bureau of Sport Fisheries and Wildlife.*

DECEMBER 29, 1972.

[FR Doc.73-239 Filed 1-4-73;8:45 am]

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Erie National Wildlife Refuge, Pa.

The following special regulation is issued and is effective on January 5, 1973.

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

PENNSYLVANIA

ERIE NATIONAL WILDLIFE REFUGE

Entry on foot or by motor vehicle is permitted on designated travel routes for the purpose of nature study, photography, and sightseeing during daylight hours. Pets are allowed if on a leash not over 10 feet in length. Use of the picnic area is permitted from 6 a.m. to 9:30 p.m., May 30 to October 15.

The refuge area, comprising 7,761 acres, is delineated on maps available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1973.

WILLARD M. SPAULDING, Jr., *Acting Regional Director, Bureau of Sport Fisheries and Wildlife.*

DECEMBER 29, 1972.

[FR Doc.73-238 Filed 1-4-73;8:45 am]

PART 33—SPORT FISHING

Bombay Hook National Wildlife Refuge, Del.

The following special regulation is issued and is effective on January 5, 1973.

§ 33.5 Special regulations: sport fishing; for individual wildlife refuge areas.

DELAWARE

BOMBAY HOOK NATIONAL WILDLIFE REFUGE

Sport fishing on the Bombay Hook National Wildlife Refuge, Smyrna, Del., is permitted in tidal waters. These open areas are delineated on maps available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Sport fishing shall be in accordance with all applicable State regulations subject to the following special condition:

(1) Fishing from boats only is permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas, generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1973.

WILLARD M. SPAULDING, Jr.,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 29, 1972.

[FR Doc.73-245 Filed 1-4-73;8:45 am]

PART 33—SPORT FISHING

Prime Hook National Wildlife Refuge, Del.

The following special regulation is issued and is effective on January 5, 1973.

§ 33.5 Special regulations: sport fishing; for individual wildlife refuge areas.

DELAWARE

PRIME HOOK NATIONAL WILDLIFE REFUGE

Sport fishing is permitted on the Prime Hook National Wildlife Refuge, Milton, Del. The refuge is delineated on maps available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Sport fishing shall be in accordance with all applicable State regulations and the following special condition: Boats, with or without motors, are permitted for fishing freshwater streams and ponds. Boats may be launched from designated access points or public roads.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33 and are effective through December 31, 1973.

WILLARD M. SPAULDING, Jr.,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 29, 1972.

[FR Doc.73-240 Filed 1-4-73;8:45 am]

PART 33—SPORT FISHING

Moosehorn National Wildlife Refuge, Maine

The following special regulation is issued and is effective on January 5, 1973.

§ 33.5 Special regulations; sport fishing, for individual wildlife refuge areas.

MAINE

MOOSEHORN NATIONAL WILDLIFE REFUGE

Sport fishing on the Moosehorn National Wildlife Refuge, Calais, Maine, is permitted on the areas designated by signs as open to fishing. These open areas, comprising 500 acres, are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The use of boats without motors is permitted on Bearce, Conic, and Cranberry Lakes.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1973.

WILLIAM M. SPAULDING, Jr.,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 29, 1972.

[FR Doc.73-247 Filed 1-4-73;8:45 am]

PART 33—SPORT FISHING

Great Meadows National Wildlife Refuge, Mass.

The following special regulation is issued and is effective on January 5, 1973.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

MASSACHUSETTS

GREAT MEADOWS NATIONAL WILDLIFE REFUGE

Sport fishing and entrance on foot for this purpose are permitted on the Great Meadows National Wildlife Refuge, Concord, Mass.

Areas open for fishing are delineated on maps available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement regulations which govern sport fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1973.

WILLARD M. SPAULDING, Jr.,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 29, 1972.

[FR Doc.73-250 Filed 1-4-73;8:45 am]

PART 33—SPORT FISHING

Monomoy National Wildlife Refuge, Mass.

The following special regulation is issued and is effective on January 5, 1973.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

MASSACHUSETTS

MONOMOY NATIONAL WILDLIFE REFUGE

Sport fishing in tidal waters is permitted from the shores of Monomoy National Wildlife Refuge, Chatham, Mass.

A map of the refuge is available from the Refuge Manager, Great Meadows National Wildlife Refuge, 191 Sudbury Road, Concord, MA 01742, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Sport fishing shall be in accordance with all applicable State regulations. Boats may be beached on the refuge and wilderness areas.

The provisions of this special regulation supplement the regulations which govern sport fishing on wildlife areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1973.

WILLARD M. SPAULDING, Jr.,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 29, 1972.

[FR Doc.73-246 Filed 1-4-73;8:45 am]

PART 33—SPORT FISHING

Parker River National Wildlife Refuge, Mass.

The following special regulation is issued and is effective on January 5, 1973.

§ 33.5 Special regulations; sport fishing; for individual wildlife areas.

MASSACHUSETTS

PARKER RIVER NATIONAL WILDLIFE REFUGE

Sport fishing on the Parker River National Wildlife Refuge, Mass., is permitted from May 1 through October 15, 1973, and at other times during daylight hours only, in the public use area on the ocean side of Plum Island consisting of 218 acres extending from the south boundary of the swimming and bathing area to the south boundary of the refuge. This area is delineated on maps available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Sport fishing shall be in accordance with all applicable State and town regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33 and are effective through December 31, 1973.

WILLARD M. SPAULDING, Jr.,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 29, 1972.

[FR Doc.73-248 Filed 1-4-73;8:45 am]

PART 33—SPORT FISHING

Brigantine National Wildlife Refuge, N.J.

The following special regulation is issued and is effective on January 5, 1973.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NEW JERSEY

BRIGANTINE NATIONAL WILDLIFE REFUGE

Saltwater sport fishing is permitted from the sand beach on Holgate Peninsula and Little Beach Island on the Brigantine National Wildlife Refuge through December 31, 1973, except from those areas posted as closed.

Freshwater sport fishing from the south dike of the west pool is permitted during daylight hours from July 20 through September 21, 1973. The possession of fish or minows for use as bait is prohibited. Parking by freshwater fishermen is permitted at the headquarters and south tower parking areas.

Sport fishing shall be in accordance with all applicable State regulations.

Areas open to sport fishing, comprising 7.5 miles of tidal shoreline and 1 mile of freshwater shoreline, are delineated on maps available at refuge headquarters, Oceanville, N.J., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally, as set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1973.

WILLARD M. SPAULDING, Jr.,
Acting Regional Director, Bureau of Sport Fisheries & Wildlife.

DECEMBER 29, 1972.

[FR Doc.73-244 Filed 1-4-73;8:45 am]

PART 33—SPORT FISHING

Iroquois National Wildlife Refuge, N.Y.

The following special regulation is issued and is effective on January 5, 1973.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NEW YORK

IROQUOIS NATIONAL WILDLIFE REFUGE

Sport fishing on the Iroquois National Wildlife Refuge, Basom, N.Y., is permitted on the areas designated by signs as open to fishing. These open areas comprising 26 acres during spring, summer, and fall, and 172 acres during the winter, are delineated on maps available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions.

(1) The use of boats with motors is not permitted.

(2) The use of boats after October 1 is not permitted.

(3) Fishing through the ice is permitted only on Ringneck Marsh from January 1 to March 1 and November 15 to December 31, ice conditions permitting.

(4) Leaving boats, structures, or other equipment overnight is not permitted.

The provisions of this special regulation supplement the regulations governing fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1973.

WILLARD M. SPAULDING, Jr.,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 29, 1972.

[FR Doc.73-249 Filed 1-4-73;8:45 am]

PART 33—SPORT FISHING

Montezuma National Wildlife Refuge, N.Y.

The following special regulation is issued and is effective on January 5, 1973.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NEW YORK

MONTEZUMA NATIONAL WILDLIFE REFUGE

Sport fishing in State waters in compliance with State regulations is permitted from refuge lands from January 1 to December 31, 1973. The three areas open to access to fishing are designated by signs and delineated on maps available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations governing fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1973.

WILLARD M. SPAULDING, Jr.,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 27, 1972.

[FR Doc.73-243 Filed 1-4-73;8:45 am]

PART 33—SPORT FISHING

Oyster Bay National Wildlife Refuge, N.Y.

The following special regulation is issued and is effective January 5, 1973.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NEW YORK

OYSTER BAY NATIONAL WILDLIFE REFUGE

Sport fishing from the shore of the Oyster Bay Mill Pond and access thereto by walking is permitted on the Oyster Bay National Wildlife Refuge, Oyster Bay, N.Y., during daylight hours through December 31, 1973. The refuge is delineated on a map available at the Target Rock National Wildlife Refuge headquarters, Target Rock Road, Lloyd Neck, Huntington, N.Y. 11743, and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Massfl 02109. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1973.

WILLARD M. SPAULDING, Jr.,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 27, 1972.

[FR Doc.73-241 Filed 1-4-73;8:45 am]

PART 33—SPORT FISHING

Erie National Wildlife Refuge, Pa.

The following special regulation is issued and is effective on January 5, 1973.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

PENNSYLVANIA

ERIE NATIONAL WILDLIFE REFUGE

Sport fishing on the Erie National Wildlife Refuge, Pa., is permitted on areas designated by signs as open to fishing. Boats are permitted in Lake Creek above Sugar Lake where designated by signs. These open areas are delineated on maps available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1973.

WILLARD M. SPAULDING, Jr.,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 27, 1972.

[FR Doc.73-242 Filed 1-4-73;8:45 am]

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

PART 240—GROUNDFISH FISHERIES

Miscellaneous Amendments

At its 22d annual meeting held in Washington, D.C., May 25 through June 2, 1972, the International Commission for the Northwest Atlantic Fisheries recommended that member governments adopt a system of national allocation of those species that are presently being harvested and several other technical changes to be implemented in 1973.

A complete revised regulation will be published in January 1973 as proposed rule making, which will set forth annual catch quotas allocated to the United States for haddock, cod, yellowtail flounder, silver hake, and red hake for 1973. Interested persons will be provided sufficient time to submit their comments and views.

However, since time is of the essence in regard to some ICNAF recommendations, it has been decided to amend certain portions of Part 240, as it appeared in the January 6, 1971 publication (36 FR 158), and amended on January 19, 1972 (37 FR 786).

Effective date: Date of publication, (1-5-73).

Accordingly, Part 240 is amended as follows:

1. In § 240.1 *Meaning of Terms*, subparagraph (5) of § 240.1(c) is amended by adding two new subdivisions (iv) and (v) to read as follows:

§ 240.1 Meaning of Terms.

* * * * *

(c) * * *

(5) * * *

(iv) Silver hake (*Merluccius bilinearis* (MITCH.))

(v) Red hake (*Urophycis chuss* (WALB.))

§ 240.8 [Amended]

2. Paragraph (c) of § 240.8 is changed by deleting the words "period January 1 to March 31, 1971, and 1972" in the fifth and sixth lines and inserting the words, "month of April, 1973."

Issued at Washington, D.C., and dated January 2, 1973.

PHILIP M. ROEDEL,
Director.

[FR Doc.73-276 Filed 1-2-73;2:35 pm]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Domestic International Sales Corporations

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by February 5, 1973. 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 requ set,inwriing,t to should submit his request, in writing, to the Commissioner by February 5, 1973. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their request for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 246(d) of the Internal Revenue Code of 1954 (as added by section 502(a) of the Revenue Act of 1971 (85 Stat. 549)), to section 901(d) of such Code (as amended by section 502(b)(1) of such Revenue Act), to section 922 of such Code (as amended by section 502(c) of such Revenue Act), to section 931(a) of such Code (as amended by section 502(d) of such Revenue Act), to section 1014(d) of such Code (as added by section 502(f) of such Revenue Act), and to certain provisions of section 501 of such Revenue Act, such regulations are amended, effective for taxable years ending after December 31, 1971, as follows:

PARAGRAPH 1. Section 1.246 is amended by revising section 246(b)(1), by adding a new section 246 (d) and (e), and by adding a historical note. The revised and added provisions read as follows:

§ 1.246 Statutory provisions; rules applying to deductions for dividends received.

SEC. 246. *Rules applying to deductions for dividends received.* * * *

(b) *Limitation on aggregate amount of deductions*—(1) *General rule.* Except as provided in paragraph (2), the aggregate amount of the deductions allowed by sections 243 (a)(1), 244(a), and 245 shall not exceed 85 percent of the taxable income computed without regard to the deductions allowed by sections 172, 243(a)(1), 244(a), 245, and 247, and without regard to any capital loss carryback to the taxable year under section 1212 (a)(1).

* * * * *

(d) *Dividends from a DISC or former DISC.* No deduction shall be allowed under section 243 in respect of a dividend from a corporation which is a DISC or former DISC (as defined in section 992(a)) to the extent such dividend is paid out of the corporations accumulated DISC income or previously taxed income, or is a deemed distribution pursuant to section 995(b)(1).

(e) *Cross reference.* For special rule relating to mutual savings banks, etc., to which section 593 applies, see section 596.

[Sec. 246 as amended by secs. 434(b) and 512 (f), Tax Reform Act 1969 (83 Stat. 625, 641) sec. 502(a), Rev. Act 1971 (85 Stat. 549)]

PAR. 2. Section 1.246–4, reading as follows, is added immediately after § 1.246–3:

§ 1.246–4 Dividends from a DISC or former DISC.

The deduction provided in section 243 (relating to dividends received by corporations) is not allowable with respect to any dividend (whether in the form of a deemed or actual distribution or an amount treated as a dividend pursuant to section 995(c)) from a corporation which is a DISC or former DISC (as defined in section 992(a) (1) or (3) as the case may be) to the extent such dividend is from the corporation's accumulated DISC income (as defined in section 996(f)(1)) or previously taxed income (as defined in section 996(f)(2)) or is a deemed distribution pursuant to section 995(b)(1) in a taxable year for which the corporation qualifies (or is treated) as a DISC. To the extent that a dividend is paid out of earnings and profits which are not made up of accumulated DISC income or previously taxed income, the corporate recipient is entitled to the deduction provided in section 243 in the same manner and to the same extent as a dividend from a domestic corporation which is not a DISC or former DISC.

PAR. 3. Section 1.301–1 is amended by redesignating paragraph (o) as paragraph (p) and by adding a new paragraph (o), reading as follows:

§ 1.301–1 Rules applicable with respect to distribution of money and other property.

* * * * *

(o) *Distributions of certain property by DISC's to corporate shareholders.* See § 1.997–1 for the rule that if a corporation which is a DISC or former DISC (as defined in section 992(a) (1) or (3) as the case may be) makes a distribution of property (other than money and other than the obligations of the DISC or former DISC) out of accumulated DISC income (as defined in section 996(f)(1)) or previously taxed income (as defined in section 996(f)(2)), such distribution of property shall be treated as if made to an individual and that the basis of the property distributed, in the hands of the recipient corporation, shall be determined as if such property were distributed to an individual.

* * * * *

PAR. 4. Section 1.901–1 is amended by adding a new paragraph (i), reading as follows:

§ 1.901–1 Allowance of credit for taxes.

* * * * *

(i) *Dividends from a DISC treated as foreign.* For purposes of Subpart A, Part III, Subchapter N, Chapter 1, Subtitle A of the Code (sections 991 through 997) and the regulations thereunder, any amount treated as a dividend from a corporation which is a DISC or former DISC (as defined in section 992(a) (1) or (3) as the case may be) will be treated as a dividend from a foreign corporation to the extent such dividend is treated as income from sources without the United States. See section 861(a)(2)(D).

PAR. 5. Section 1.902–3 is amended by adding a sentence at the end of paragraph (a)(1), reading as follows:

§ 1.902–3 Credit for domestic corporate shareholder of a foreign corporation (after amendment by Revenue Act of 1962).

(a) *Domestic shareholder owning stock in a first-tier corporation*—(1) *In general.* * * * For purposes of this section and § 1.902–5, a DISC or former DISC shall be treated as if it were a foreign corporation, but only with respect to dividends from the DISC or former DISC to the extent such dividends are treated as gross income from sources without the United States as determined under section 861(a)(2)(D).

* * * * *

PAR. 6. Section 1.902–4 is amended by adding a sentence at the end of paragraph (a), reading as follows:

§ 1.902–4 Definition of less developed country corporation for purposes of section 902.

(a) *In general.* * * * A DISC or former DISC is not a less developed

country corporation for purposes of section 902.

* * * * *

PAR. 7. Section 1.922 is amended by revising section 922 and by adding a historical note, as follows:

§ 1.922 Statutory provisions; special deduction.

SEC. 922. *Special deduction.* In the case of a Western Hemisphere trade corporation there shall be allowed as a deduction in computing taxable income an amount computed as follows—

(1) First determine the taxable income of such corporation computed without regard to this section.

(2) Then multiply the amount determined under paragraph (1) by the fraction—

(A) The numerator of which is 14 percent, and

(B) The denominator of which is that percentage which equals the sum of the normal tax rate and the surtax rate for the taxable year prescribed by section 11.

No deduction shall be allowed under this section to a corporation for a taxable year for which it is a DISC or in which it owns at any time stock in a DISC or former DISC (as defined in section 992(a)).

(Sec. 922 as amended by sec. 502(c), Rev. Act 1971 (85 Stat. 550))

PAR. 8. Section 1.922–1 is amended by adding a new paragraph (c), reading as follows:

§ 1.922–1 Special deduction of Western Hemisphere trade corporation.

* * * * *

(c) *Denial of deduction for a DISC or shareholder thereof.* The special deduction provided by section 922 is not allowed to a corporation for a taxable year (1) for which it qualifies (or is treated) as a DISC or (2) during which it owns directly or indirectly at any time stock in a corporation which, at such time, is (or is treated as) a DISC or former DISC. (See section 922(a) (1) and (3), respectively, for the definitions of the terms "DISC" and "former DISC".) For example, assume X and Y corporations have the same taxable years. On the first day of its taxable year X corporation owns and sells all of the stock in Y corporation, Y corporation on such day owns and sells all of the stock in Z corporation, and Z corporation qualifies as a DISC as of such day. Neither X nor Y corporations will be eligible for the special deduction provided by section 922 for their taxable years. Z corporation will likewise not be eligible for the special deduction for the taxable year for which it qualifies as a DISC.

PAR. 9. Section 1.931 is amended by revising so much of section 931(a)(2) as follows section 931(a)(2)(A), by revising section 931(d), and by adding a historical note. The revised and added provisions read as follows:

§ 1.931 Statutory provisions; income from sources within possessions of the United States.

SEC. 931. *Income from sources within possessions of the United States*—(a) *General rule.* * * *

(2) *Trade or business.* * * *

(B) In the case of such citizen, 50 percent or more of his gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States either on his own account or as an employee or agent of another.

This section shall not apply in the case of a corporation for a taxable year for which it is a DISC or in which it owns at any time stock in a DISC or former DISC (as defined in section 992(a)).

* * * * *

(d) *Deductions*—(1) *General rule.* Except as otherwise provided in this subsection and subsection (e), in the case of persons entitled to the benefits of this section the deductions shall be allowed only if and to the extent that they are connected with income from sources within the United States; and the proper apportionment and allocation of the deductions with respect to sources of income within and without the United States shall be determined as provided in part I, under regulations prescribed by the Secretary or his delegate.

(2) *Exceptions.* The following deductions shall be allowed whether or not they are connected with income from sources within the United States:

(A) The deduction, for losses not connected with the trade or business if incurred in transactions entered into for profit, allowed by section 165(c)(2), but only if the profit, if such transaction had resulted in a profit, would be taxable under this subtitle.

(B) The deduction, for losses of property not connected with the trade or business if arising from certain casualties or theft, allowed by section 165(c)(3), but only if the loss is of property within the United States.

(C) The deduction for charitable contributions and gifts allowed by section 170.

(3) *Deduction disallowed.* For disallowance of standard deduction, see section 142(b)(2).

* * * * *

[Sec. 931 as amended by sec. 107, Foreign Investors Tax Act 1966 (80 Stat. 1571); sec. 502(d), Rev. Act 1971 (85 Stat. 550)]

PAR. 10. Section 1.931–1 is amended by adding a new paragraph (j), reading as follows:

§ 1.931–1 Citizens of the United States and domestic corporations deriving income from sources within a certain possession of the United States.

* * * * *

(j) *Nonapplication to a DISC or shareholder thereof.* Section 931 does not apply to a corporation for a taxable year (1) for which it qualifies (or is treated) as a DISC or (2) during which it owns directly or indirectly at any time stock in a corporation which, at such time, is (or is treated as) a DISC or former DISC. (See section 992(a) (1) and (3), respectively, for the definitions of the terms "DISC" and "former DISC".) For example, assume X and Y corporations have the same taxable years. On the first day of its taxable year, X corporation owns and sells all of the stock in Y corporation, Y corporation on such day owns and sells all of the stock in Z corporation, and Z corporation qualifies as a DISC as of such day. Section 931 will not apply to X and Y corporations for their taxable years. Section 931 will likewise not apply to Z corporation for the taxable year for which it qualifies as a DISC.

PAR. 11. Section 1.1014 is amended by adding a new section 1014(d) and by revising the historical note, as follows:

§ 1.1014 Statutory provisions; basis of property acquired from a decedent.

SEC. 1014. *Basis of property acquired from a decedent.* * * *

(d) *Special rule with respect to DISC stock.* If stock owned by a decedent in a DISC or former DISC (as defined in section 992(a)) acquires a new basis under subsection (a), such basis (determined before the application of this subsection) shall be reduced by the amount (if any) which would have been included in gross income under section 995(c) as a dividend if the decedent had lived and sold the stock at its fair market value on the estate tax valuation date. In computing the gain the decedent would have had if he had lived and sold the stock, his basis shall be determined without regard to the last sentence of section 996(e)(2) (relating to reductions of basis of DISC stock). For purposes of this subsection, the estate tax valuation date is the date of the decedent's death or, in the case of an election under section 2032, the applicable valuation date prescribed by that section.

(Sec. 1014 as amended by sec. 2, Act of February 11, 1958 (Public Law 85–320, 72 Stat. 5); sec. 502(f), Rev. Act 1971 (85 Stat. 550))

PAR. 12. Section 1.1014–1 is amended by deleting the first sentence of paragraph (b) and replacing the deleted sentence with the two sentences reading as follows:

§ 1.1014–1 Basis of property acquired from a decedent.

* * * * *

(b) *Scope and application.* With certain limitations, the general rule described in paragraph (a) of this section is applicable to the classes of property described in paragraphs (a) and (b) of § 1.1014–2, including stock in a DISC or former DISC. In the case of stock in a DISC or former DISC, the provisions of this section and §§ 1.1014–2 through 1.1014–8 are applicable, except as provided in § 1.1014–9. * * *

* * * * *

PAR. 13. Section 1.1014–9, reading as follows, is added immediately after § 1.1014–8:

§ 1.1014–9 Special rule with respect to DISC stock.

(a) *In general.* If property consisting of stock of a DISC or former DISC (as defined in section 992(a) (1) or (3) as the case may be) is considered to have been acquired from a decedent (within the meaning of paragraph (a) or (b) of § 1.1014–2), the uniform basis of such stock under section 1014, as determined pursuant to §§ 1.1014–1 through 1.1014–8 shall be reduced as provided in this section. Such uniform basis shall be reduced by the amount (hereinafter referred to in this section as the amount of reduction), if any, which the decedent would have included in his gross income under section 995(c) as a dividend if the decedent had lived and sold such stock at

its fair market value on the estate tax valuation date. If the alternate valuation date for Federal estate tax purposes is elected under section 2032, in computing the gain which the decedent would have had if he had lived and sold the stock on the alternate valuation date, the decedent's basis shall be determined with reduction for any distributions with respect to the stock which may have been made, after the date of the decedent's death and on or before the alternate valuation date, from the DISC's previously taxed income (as defined in section 996(f)(2)). For purposes of this section, if the corporation is not a DISC or former DISC at the date of the decedent's death but is a DISC for a taxable year which begins after such date and on or before the alternate valuation date, the corporation will be considered to be a DISC or former DISC only if the alternate valuation date is elected. For purposes of section 1014(d) and this section, in computing the gain which the decedent would have had if he had lived and sold the stock, the decedent's basis shall be determined without regard to the last sentence of section 996(e)(2) (relating to reductions of basis of DISC stock). The provisions of this paragraph apply with respect to stock of a DISC or former DISC which is included in the gross estate of the decedent, including but not limited to property which—

(1) Is acquired from the decedent before his death, and the entire property is subsequently included in the decedent's gross estate for estate tax purposes, or

(2) Is acquired property described in paragraph (d) of § 1.1014–3.

(b) *Portion of property acquired from decedent before his death included in decedent's gross estate.* In cases where, due to the operation of the estate tax, only a portion of property which consists of stock of a DISC or former DISC and which is acquired from a decedent before his death is included in the decedent's gross estate, the uniform basis of such stock under section 1014, as determined pursuant to § 1.1014–1 through § 1.1014–8, shall be reduced by an amount which bears the same ratio to the amount of reduction which would have been determined under paragraph (a) of this section if the entire property consisting of such stock were included in the decedent's gross estate as the value of such property included in the decedent's gross estate bears to the value of the entire property. For example, assume that the decedent creates a trust to pay the income to A for life, remainder to B or his estate. The trust instrument further provides that if the decedent should survive A, the income shall be paid to the decedent for life. Assume that the decedent predeceases A, so that, due to the operation of the estate tax, only the present value of the remainder interest is included in the decedent's gross estate. The trust consists of 100 shares of the stock of X corporation (which is a DISC at the time the shares are transferred to the trust and at the time of the decedent's death) with an adjusted basis immediately prior to the decedent's death of $10,000 (as determined under section 1015). At the time of the decedent's death the value of the stock is $20,000, and the value of the remainder interest in the hands of B is $8,000. Applying the principles of paragraph (b)(3)(i) of § 1.1014–6, the uniform basis of the entire property following the decedent's death, prior to reduction pursuant to this paragraph, is $14,000. Assume further that the amount of reduction which would have been determined under paragraph (a) of this section if the entire property consisting of such stock of X corporation were included in the decedent's gross estate is $5,000 The uniform basis of the entire property following the decedent's death, as reduced pursuant to this paragraph, is $12,000, computed as follows:

Uniform basis under section 1014(a), prior to reduction pursuant to this paragraph	$14,000
Less decrease in uniform basis (determined by the following formula)	2,000

Reduction in uniform basis (to be determined) / $8,000 (value of property included in gross estate) = $5,000 (amount of reduction in paragraph (a) applied) / $20,000 (value of entire property)

Uniform basis under section 1014(a) reduced pursuant to this paragraph	12,000

(c) *Estate tax valuation date.* For purposes of section 1014(d) and this section, the estate tax valuation date is the date of the decedent's death or, in the case of an election under section 2032, the applicable valuation date prescribed by that section.

(d) *Examples.* The following examples illustrates the application of section 1014(d) and this section:

Example (1). If at the date of A's death his DISC stock has a fair market value of $100, the estate does not elect the alternate valuation allowed by section 2032, and A's basis in such stock is $60 at the date of his death, the person who acquires such stock from the decedent will take as a basis for such stock its fair market value at A's death ($100), reduced by the amount which would have been included in A's gross income under section 995(c) as a dividend if A had sold stock on the date he died. Thus, if the amount that would have been treated as a dividend under section 995(c) were $30, such person will take a basis of $70 for such stock ($100, reduced by $30). If such person were immediately to sell the DISC stock so received for $100, $30 of the proceeds from the sale would be treated as a dividend by such person under section 995(c).

Example (2). Assume the same facts as in example (1) except that the estate elects the alternate valuation allowed by section 2032, the DISC stock has a fair market value of $140 on the alternate valuation date, the amount that would have been treated as a dividend under section 995(c) in the event of a sale on such date is $50 and the DISC has $20 of previously taxed income which accrued after the date of the decedent's death and before the alternate valuation date. The basis of the person who acquires such stock will be $90 determined as follows:

(1) Fair market value of DISC stock at alternative valuation date	$140
(2) Less: Amount which would have been treated as a dividend under section 995(c)	50
(3) Basis of person who acquires DISC stock	90

If a distribution of $20 attributable to such previously taxed income had been made by the DISC on or before the alternate valuation date (with the DISC stock having a fair market value of $120 after such distribution), the person who acquires such stock will take a basis of $70 for such stock.

[FR Doc.72-22444 Filed 12-29-72;8:52 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 44]

PROCEDURES FOR DETERMINING NET WEIGHT OF FOOD PRODUCTS

Extension of Time for Filing Written Data, Views and Arguments

A proposal for Procedures for Determining Net Weight of Food Products was published in the FEDERAL REGISTER of December 18, 1971 (FR Doc. 71–18499; 36 FR 24069).

In consideration of comments and suggestions received indicating a need for further study by the industries affected, notice is hereby given that the time for receiving written data, views or arguments from interested parties in connection with the proposed Procedures for Determining Net Weight of Food Products has been extended to April 15, 1973.

All persons who wish to submit written data, views or arguments within the additional time for consideration in connection with the proposal should file the same—in duplicate—with the Hearing Clerk, Room 112–A, U.S. Department of Agriculture, Washington, DC 20250, on or before April 15, 1973. All written submittals made pursuant to this notice will be available for public review at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.73-311 Filed 1-4-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 130]

NEW PRESCRIPTION DRUGS

Proposed Bioavailability Requirements

It has long been recognized that the release of active drug from a drug product may be greatly influenced by physicochemical factors in the product and by

the method of formulation. Thus, a tablet may fail to release its specified content of active drug because the tablet dissolves slowly or because the active drug is bound tightly to other ingredients. Until recently, it was believed that in vitro testing of drug products for potency, content uniformity, disintegration time, and dissolution rate was sufficient to ensure a uniform quality for all formulations of the same drug. However, it has now been established that different formulations of the same drug may produce differing concentrations of drug in body tissues or fluids when tested under standardized conditions even though the formulations may meet current standards for in vitro testing.

The Food and Drug Administration (FDA) recognizes that exact equality among drug products cannot be expected and, indeed, differences in pharmaceutical composition are sometimes designed to achieve such desirable goals as improved shelf life or improved patient acceptability. There is no intent to limit innovation in this important area, but such innovation must not alter the fundamental effectiveness or safety of the drug. Good patient care requires that all formulations of the same drug meet identical standards.

It is not possible to specify at the present time the frequency with which lack of equivalence in bioavailability of chemically equivalent formulations may occur. However, the parameters associated with defining the bioavailability of a drug have been identified and the factors for assessing a drug's bioavailability in most instances are known or can be determined.

It is the responsibility of the manufacturer to assure by acceptable scientific evidence that each dosage form of each drug product is formulated so as to meet appropriate standards, is safe, and has the effectiveness claimed in its labeling. For some drugs a necessary part of this assurance is evidence that the active drug in a drug product is biologically available to a uniform and acceptable degree.

Suitable methodology for accurately measuring the bioavailability of a drug in humans is not currently available for many drug products. Practical limitations on the number of investigators and clinical research facilities available for such work also precludes the possibility of testing in the near future every formulation of every drug currently on the market. There is no reason to believe that a rigid across-the-board requirement for bioavailability testing of every marketed drug product would, on a benefit/risk ratio basis, improve the quality of drug products commensurate with the expenditure of human and technical resources. Thus, it is necessary to set priorities in the categories of drugs selected for bioavailability testing, with primary attention directed toward those in which a defect in bioavailability would be most detrimental to patient care.

In view of the above, the FDA will publish, from time to time, lists of drugs for which bioavailability data will be required on the basis of medical importance and/or indications that problems of bioavailability have been suggested or suspected. The proposed regulation set forth below regarding bioavailability will supersede all previous requests for bioavailability data published in the FEDERAL REGISTER prior to April 21, 1972, through the Drug Efficacy Study Implementation (DESI) announcements. Since April 21, 1972, the FDA conclusions published in DESI announcements have used the criteria and principles for requiring bioavailability as set forth in this proposed regulation.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 507, 701(a), 52 Stat. 1050–1053 as amended, 1055; 21 U.S.C. 352, 355, 357, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that Part 130 be amended as follows:

1. By adding the following new section:

§ 130.____ Bioavailability requirements for prescription drugs.

(a) *Definition.* The bioavailability of an active ingredient(s) from a drug product is defined as the rate and extent to which the ingredient(s) is absorbed from the drug product into the body or to the site of action.

(b) *Methods for establishing bioavailability of a drug.* (1) Bioavailability may be established by tests in which the blood levels and/or urinary excretion rates of the drug and/or of its metabolites are measured after administration of the product, according to the general standards outlined in paragraph (c) of this section.

(2) Where it is not technically possible to ascertain blood levels or urinary excretion rates, bioavailability may also be established by clinical trials which measure the therapeutic effect or an acute pharmacological effect; in such trials, the test formulation is compared for an appropriate indication with a reference product and/or a placebo if appropriate. Clinical trials conducted for the purpose of establishing bioavailability shall adhere rigorously to high standards of quality in design and technical execution; the results of such trials shall be subjected to proper statistical evaluation. Clinical trials which have established effectiveness of the drug may also serve to establish the bioavailability of the drug if such trials are conducted with the marketed formulation.

(c) *General requirements for establishing bioavailability.* (1) Requirements for the filing of a "Notice of Claimed Investigational Exemption for a New Drug" (IND).

(i) Where a drug is currently commercially available for an approved indication, an IND is not required for single dose studies in normal individuals where the dose does not exceed that specified in the labeling or single dose or steady state studies in patients.

(ii) An IND may be requnired when steady state studies are to be conducted in normal subjects or when single dose studies in normal individuals or patients call for doses which exceed that specified in the labeling. The Food and Drug Administration will determine on an individual basis whether an IND is required in these situations.

(iii) In all cases the physician-investigator shall abide by the same ethical standards that apply to all human research and testing, and written consent (21 CFR 130.37) and institutional review of the protocol (21 CFR 130.3) are required. Bioavailability testing shall not be performed on critically ill patients.

(2) It is advisable to review proposed bioavailability tests or clinical trials with the Food and Drug Administration to determine that the design of the study is appropriate, that an appropriate reference product is used, and that methods are adequate. Such tests or trials should be reviewed with the Food and Drug Administration prior to initiation to avoid an unacceptable design or other deficiency.

(3) Formulations of a given drug product shall in most instances be tested in comparison with an appropriate reference preparation. For bioavailability tests, the reference preparation shall ordinarily contain the same drug in the same amount and in the same dosage form as the test product and shall ordinarily be a product currently produced by a manufacturer holding an original NDA. In selected cases (*e.g.*, a new chemical entity) the reference preparation may be the drug substance in an appropriate standard system (e.g., solution). For some clinical trials a placebo may serve as an appropriate reference product. Both the test product and reference product shall be shown to meet compendial standards, including potency, content uniformity, and, where applicable, disintegration times and dissolution rates; however, if the drug is not recognized in an official compendium, it shall meet adequate specifications to assure its identity, strength, quality, purity, content uniformity, and, where applicable, disintegration times and dissolution rates. In the case of combination drug products, the bioavailability of each active ingredient shall be established. Attention shall be given to potential interaction from active ingredients which would provide a change in the bioavailability characteristics in the combination product.

(4) Bioavailability testing and clinical assays shall ordinarily be conducted in man, but if an appropriate animal model exists its use is acceptable. Bioavailability testing shall ordinarily be done in normal adults who are given single doses of the test product and/or the reference product under standardized conditions. In selected cases it may be necessary to conduct multiple-dose tests. The guiding principle is that no unnecessary human research should be done.

(5) The data from either bioavailability tests or clinical assays shall demonstrate a lack of substantial inequality between the test product and the reference product and need not demonstrate equality between the two. Criteria for a lack of substantial inequality vary from drug to drug and take into consideration both the statistical significance and the possible medical importance of differences in bioavailability found among the drugs.

(6) Any lot of a drug product encountered which fails to meet appropriate standards of bioavailability but does meet compendial standards for in vitro testing is valuable for further study. Samples of such lots are requested to be sent to the Food and Drug Administration to the attention of the Division of Clinical Research, BD–220, Office of Scientific Coordination, Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852. Such samples will be made available to qualified investigators as part of the Food and Drug Administration's intramural and extramural research effort to develop improved methods of in vitro testing.

(d) *Drugs for which evidence of bioavailability is required.* (1) Notices will be published periodically in the FEDERAL REGISTER listing specific drugs for which the Commissioner concludes bioavailability testing is required. Such notices will be published on a public health priority basis, taking into account the benefit/risk ratio, evidence of a lack of bioavailability, and other relevant factors. Drug Efficacy Study Implementation (DESI) announcements published since April 21, 1972, have used the criteria and principles for requiring bioavailability that are set forth in this regulation and therefore also constitute such notice. Bioavailability requirements set forth in DESI announcements published prior to April 21, 1972, are revoked and superseded by this proposed regulation.

(2) For all drugs subject to approved new drug applications (including abbreviated new drug applications), evidence of bioavailability shall be submitted to the Food and Drug Administration within 180 days after publication of a notice of such requirement unless a time extension is granted .

(3) Any new drug application for a given drug that is under consideration at the time of or after publication of a notice of such bioavailability requirement for that drug shall include evidence of bioavailability. In these cases, inclusion of such evidence is requisite for approval of the new drug application.

(4) Any original new drug application for a new chemical entity that either is pending or is submitted after (insert the effective date of this regulation) shall contain the results of a bioavailability study performed under standardized conditions defining the bioavailability parameters of the drug. In addition the product formulation intended for marketing shall be compared with an appropriate reference preparation (e.g., the pure drug in solution). Waiver or deferral of this requirement may be granted if adequate analytical methodology is unavailable and the applicant demonstrates the drug possesses a negligible potential for bioavailability problems. In original new drug applications studies shall be included which correlate blood or tissue levels with degree of efficacy.

(5) For marketed drugs that are subject to approved new drug applications and that are reformulated after a requirement of bioavailability has been satisfied pursuant to subparagraphs (2), (3), or (4) of this paragraph, bioavailability data shall accompany the required supplement unless waived or deferred. Advice as to the reference product and the need for such data in light of the significance of the formulation change may be obtained from the Food and Drug Administration.

(6) When the Food and Drug Administration finds that different batches (lots) of the same product are chemically equivalent with reference to the active ingredients but fail to produce uniform blood levels, batch to batch (lot to lot) testing of such drug products may be required in accordance with specified or approved procedures or protocols. Such specified or approved procedures or protocols may include physical tests to the extent they are reliable and accurate, such as dissolution and disintegration rates, as well as blood and urine analyses.

(7) Where questions of safety and/or effectiveness are raised for marketed drugs not subject to the new drug provisions of the act, a notice will be published advising interested persons that the Food and Drug Administration considers such products to be in violation of the act unless bioavailability has been established. Drug monographs under which drugs may be marketed as generally recognized as safe and effective and not misbranded and thus without an approved new drug application may include a bioavailability requirement. The failure to comply with such requirement will result in the drug being adulterated and/or misbranded.

(e) Drugs for which bioavailability is not required. Bioavailability evidence will not be required where the rate and amount of the drug going into systemic circulation is directly controlled (e.g., solution intended for intravenous administration) or where bioavailability is not germane to its intended purpose (e.g., urologic irrigating fluids) or where the Commissioner concludes on the basis of other adequate data or information that such evidence is unnecessary to assure reasonably uniform quality and therapeutic performance.

(f) Inquiries related to the bioavailability of drug products should be submitted to the Office of Scientific Coordination, BD–200, Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

2. In § 130.4 by adding a new subitem h. to item 12 in Form FD–356H in paragraph (c) (2), and by revising paragraph (f) (3), as follows:

§ 130.4 Applications.

* * * * *

(c) * * *

(2) * * *

FD–356H * * *

12. * * *

h. Biological availability data in accord with § 130.—— (*Bioavailability requirements for prescription drugs*), for a drug which is a new chemical entity or for which a notice of such requirement has been published pursuant to § 130.—— (*Bioavailability requirements for prescription drugs*).

* * * * *

(f) * * *

(3) Data showing biological availability of the drug in accord with § 130.—— *Bioavailability requirements for prescription drugs*, if a notice for such requirement for the drug has been published pursuant to § 130.—— *Bioavailability requirements for prescription drugs*. For preparations claiming sustained action, timed-release, or other delayed or prolonged effect, such data should show that the drug is available at a rate of release that will be safe and effective. Original versions of sustained action or timed release preparations must show evidence of efficacy on the basis of clinical trials as compared with short-acting preparations and placebo.

* * * * *

Interested persons may, by March 6, 1973, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: December 22, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73-93 Filed 1-4-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 175]

[CGD 72-120PH]

EQUIPMENT REQUIREMENTS

Personal Flotation Devices

In the Friday, October 6, 1972, issue of the FEDERAL REGISTER (37 FR 21262), the Coast Guard published a notice (CGD 72–120PH) proposing certain requirements for the carriage of lifesaving equipment.

This document is a supplement to the original notice and is being issued to clarify the carriage requirements and extend the proposed requirements for one throwable device to all boats.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the U.S. Coast Guard (GCMC/82), Room 8234, 400 Seventh Street SW., Washington, DC 20590. Each person submitting comments should include his name and address, identifying the notice (CGD 72–120PH), and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8234. The Commandant will evaluate all comments received before January 30, 1973, and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

The notice (CGD 72–120PH) stated that on boats 26 feet in length and longer man overboard protection should be provided. Based upon several comments received to date, the Coast Guard now feels that man overboard protection is also needed on boats less than 26 feet in length. Therefore, it is proposed to require at least one Type IV PFD, which is a throwable device, on all recreational boats with two exceptions. The first exception would be that of the boat being used by only one person. The second exception would be for the case where all occupants are wearing personal flotation devices.

In consideration of the foregoing, § 175.15 in the notice CGD 72–120PH is changed to read as follows:

§ 175.15 Personal flotation devices required.

* * * * *

(c) No person may use a recreational boat without at least one Type IV PFD or its equivalent listed in Table 175.23 on board unless that person is—

(1) The sole occupant of the boat; or

(2) Wearing a PFD that meets the requirements of this section for the boat.

Dated: December 27, 1972.

A. C. WAGNER,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Boating Safety.

[FR Doc.73–274 Filed 1–4–73;8:45 am]

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 72–WE–20–AD]

McDONNELL DOUGLAS MODEL DC–8 SERIES AIRPLANES

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to McDonnell Douglas Model DC–8 series airplanes. There has been a failure of the control column casting on a Model DC–8 and one other column has been found with several cracks. The failure resulted from a fatigue crack. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require an inspection of the affected area of all Model DC–8 control columns within 1,000 hours' time in service.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rules Docket, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received on or before February 1, 1973, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Airworthiness Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

McDONNELL DOUGLAS. Applies to all Model DC–8 series airplanes.

Compliance required within the next 1000 hours' time in service after the effective date of this AD, unless already accomplished.

To detect cracks and prevent failure of the control column, conduct a dye penetrant inspection of the control columns in accordance with the instructions in McDonnell Douglas All Operators Letter 8–632 issued October 11, 1972, or later FAA-approved revisions, or equivalent inspection technique approved by the Chief, Aircraft Engineering Division, FAA Western Region.

NOTE: The agency is examining the possibility of incorporating a repetitive inspection program into this AD. The manufacturer is now performing tests for this purpose. The AD may be amended based on data obtained.

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

ARVIN O. BASNIGHT,
Director, FAA Western Region.

[FR Doc.73–271 Filed 1–4–73; 8:45 am]

[14 CFR Part 39]

[Airworthiness Docket No. 72–WE–22–AD]

McDONNELL DOUGLAS MODEL DC–9–10 SERIES AIRPLANES

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive (AD) applicable to McDonnell Douglas Aircraft Co., Model DC–9–10 series airplanes.

There has been a report of a fatigue crack in a fuselage frame lower end fitting on a DC–9–10 series airplane. This condition, if undetected, may jeopardize safe operation of the airplane. Since this condition is likely to exist in other airplanes of the same design, the proposed airworthiness directive would require initial and repetitive inspections, and replacement or repair of the fuselage frame fittings in accordance with instructions specified in the AD.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments, as they may desire. Communications should identify the docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received on or before February 1, 1973, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in the notice may be changed in light of comments received. All comments will be available, both before and after the closing date for comments, in the rule docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive.

McDONNELL DOUGLAS. Applies to Model DC–9–10 series airplanes certificated in all categories.

Compliance required as indicated:

To detect fatigue cracks in the fuselage frame lower end fittings (P/N's 9958198, 9958200 and 9958202) at fuselage stations 503, 525, or 544 accomplish the following:

A. 1. For airplanes with 10,000 hours or more time in service on the effective date of this A.D., unless already accomplished within the last 500 hours time in service prior to the effective date of this A.D., within the next 1,000 hours time in service and thereafter at intervals not to exceed 1,500 hours time in service from the last inspection, inspect the fuselage frame left and right hand lower end fittings P/N 9958198, 9958200, and 9958202, in accordance with the instructions and procedures of paragraph B, below.

2. For airplanes with less than 10,000 hours time in service on the effective date of this A.D., comply with paragraph (B) before the accumulation of 11,000 hours time in service.

B. 1. Statically ground the aircraft. Observe all precautionary measures as outlined in Douglas DC–9 Maintenance Manual, Chapter 12–13–0.

2. Remove and retain passenger compartment lower side panels (below the windows) and attaching parts between stations 465 and 566 in accordance with the instructions outlined in Douglas Maintenance Manual, Chapter 25–21–0.

Optional: For additional access, remove and retain the air-conditioning exhaust grill and attaching parts in accordance with the instructions outlined in Douglas Maintenance Manual, Chapter 25–27–0.

3. Accomplishment of paragraph B.2, above, will expose the horizontal shear web which has "taped-over" cutouts for the fuselage frames. Remove the tape, and

4. Visually inspect for evidence of cracking, using positive inspection aids, the areas between and surrounding (including the frame fitting inboard flange) the two upper bolts which attach the rear face of the lower end of the fuselage frame fittings (P/N 9958198, 9949200 and 9958202) to the transverse floor beam members at fuselage stations 503, 525, and 544, both left and right hand sides.

5. If cracks are found replace with a new part of the same design, or repair in a manner approved by the Chief, Aircraft Engineering Division, FAA Western Region.

6. Upon accomplishment of paragraph B.5, the inspection periods outlined in paragraph A. may be discontinued, for that part only, until the new or repaired part has accumulated an additional 10,000 hours time in service, at which time the inspections and corrective actions prescribed in paragraph B will be repeated.

7. Report the findings of the inspections performed in compliance with this A.D. to the Chief, Aircraft Engineering Division, FAA Western Region, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. (Reporting approved by the Bureau of the Budget under BOB No. 04-R0174).

C. Equivalent inspections and replacements or repairs may be approved by the Chief, Aircraft Engineering Division, FAA Western Region.

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

ARVIN O. BASNIGHT,
Director, FAA Western Region.

[FR Doc.73-272 Filed 1-4-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-NE-25]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of the Federal Aviation Regulations so as to alter the Presque Isle, Maine, control zone (37 FR 2121) and transition area (37 FR 2269).

A new instrument landing system and associated standard instrument approach procedure will be established at the Presque Isle, Maine, airport. This will require alteration of the Presque Isle, Maine, control zone and 700-foot transition area to provide controlled airspace for aircraft executing the procedure for this new approach.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, New England Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, 154 Middlesex Street, Burlington, MA 01803. All communications received within thirty (30) days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Operations, Procedures and Airspace Branch, New England Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, 154 Middlesex Street, Burlington, MA.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Presque Isle, Maine, proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Presque Isle, Maine, control zone in its entirety and insert the following in lieu thereof:

Within a 5-mile radius of Presque Isle, Maine, Municipal Airport (lat. 46°41'30" N., long. 68°02'30" W.); within 3.5 miles each side of the Presque Isle localizer course extending from the 5-mile-radius zone to 10 miles south of the LOM; within 2 miles each side of the Presque Isle VORTAC 158° radial extending from the 5-mile-radius zone to the Presque Isle VORTAC. This control zone is effective from 0800 to 2000 hours, local time, Sunday through Friday; 0800 to 1730 hours, local time, Saturday or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airman's Information Manual.

2. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Presque Isle, Maine, 700-foot transition area in its entirety and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 13-mile radius of Presque Isle, Maine, Municipal Airport (lat. 46°41'30" N., long. 68°02'30" W.); within 3.5 miles east and 8 miles west of the Presque Isle localizer course extending from the 13-mile radius area to 11.5 miles south of the LOM; within 3.5 miles east and 8 miles west of the Presque Isle VORTAC 338° radial extending from the 13-mile radius area to 11.5 miles north of the VORTAC; within an 8.5 mile radius of Caribou, Maine, Municipal Airport (lat. 46°52'20" N., long. 68°01'10" W.); within a 10-mile radius of Loring AFB (lat. 46°57'05" N., long. 67°53'10" W.); Limestone, Maine; excluding that portion outside of the United States.

That airspace extending upward from 1200 feet above the surface within a 40-mile radius of Loring AFB (lat. 46°57'05" N., long. 67°53'10" W.) Limestone, Maine, excluding that portion outside of the United States.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Burlington, Mass., on December 18, 1972.

FERRIS J. HOWLAND,
Director, New England Region.

[FR Doc.73-168 Filed 1-4-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-NE-26]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Administration Regulations so as to designate a Biddeford, Maine, transition area.

The Standard Instrument Approach Procedure for Biddeford Airport, Biddeford, Maine, has been revised in accordance with the U.S. Standard for Terminal Instrument Procedures. This revised procedure will require the designation of a Biddeford, Maine, 700-foot transition area in order to provide controlled airspace protection for aircraft executing this procedure.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, New England Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, 154 Middlesex Street, Burlington, MA 01803. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Operations, Procedures and Airspace Branch, New England Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, 154 Middlesex Street, Burlington, MA.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Biddeford, Maine, proposes the airspace action hereinafter set forth:

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

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Biddeford, Maine, Airport (lat. 43°27'55" N., long. 70°28'25" W.) extending clockwise from the 270° bearing to the 180° bearing; within a 10-mile radius extending from the 180° bearing clockwise to the 270° bearing excluding that airspace previously

designated as the Sanford, Maine, 700-foot transition area.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Burlington, Mass., on December 20, 1972.

JACK ORMSBEE,
Acting Director,
New England Region.

[FR Doc.73-267 Filed 1-4-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-SO-132]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Muscle Shoals, Ala., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No 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 light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Muscle Shoals transition area described in § 71.181 (37 FR 2143) would be amended as follows:

"* * * longitude 87°36'39" W.) * * *" would be deleted and "* * * longitude 87°36'39" W.); within 3 miles each side of Muscle Shoals VOR 114° radial, extending from the 11-mile radius area to 8.5 miles east of the VOR * * *" would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for the new ILS RWY 29 Instrument Approach Procedure.

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

Issued in East Point, Ga., on December 20, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.73-266 Filed 1-4-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-WA-31]

CHICAGO, ILL., TERMINAL CONTROL AREA

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Chicago, Ill., terminal control area (TCA) by expanding the area from 20 to 25 miles; eliminating Area D in the vicinity of Meigs Airport; reducing the size of Area D in the vicinity of Northbrook VORTAC; and redefining certain TCA boundaries by the use of VORTAC radials and DME arcs.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments, as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, IL 60018. All communication received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

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

The Chicago TCA has been in effect more than 2 years and has been generally successful. However, experience in traffic handling capability gained during that period indicates that the area is not large enough to contain all turbojet arrivals executing parallel ILS approaches to O'Hare Airport. During busy periods, and depending on the landing runways in use, up to 23 percent of turbine-powered aircraft being vectored for parallel approaches exit the TCA at the 20-mile boundary then reenter the airspace as they approach the airport. Efforts to contain the aircraft within established boundaries have been unsuccessful due to operational requirements associated with parallel approach procedures and the heavy volume of traffic at O'Hare. It is expected that by expanding the TCA to a 25-mile radius of the airport, all routine vector operations will be kept within the confines of the airspace. Therefore, it is proposed herein to extend the outer boundary of the Chicago TCA to 25 miles with a floor of 4,000 feet MSL.

The current 4,000-foot MSL floor area in the vicinity of Meigs Airport has been unduly restrictive to O'Hare departures. Runway 22L/04R was added to the O'Hare configuration subsequent to the designation of Chicago TCA. Aircraft departing Runway 22L and proceeding eastbound must be restricted in their initial climbs due to arrivals, then vectored clear of the airspace overlying Meigs Airport until passing through 4,000 feet. The 4,000-foot floor area has the effect of extending the departure flight path southeastward towards Midway Airport, imposing restrictions on that airport's traffic. Additionally, the Meigs 4,000-foot exclusion area of questionable value to the VFR user. General aviation aircraft operating in that vicinity are either arriving/departing Meigs Airport at altitudes substantially below 4,000 feet or underflying the TCA along the lakeshore below 3,000 feet MSL. Therefore, the FAA proposes to lower the floor of TCA airspace in the Meigs vicinity from 4,000 feet MSL to 3,000 feet MSL.

There is a need to reduce the size of existing Area D north of O'Hare Airport to permit earlier descent of arrivals from the northwest and northeast. The proposed reduction would also provide additional airspace for slow-climbing turbojets and would allow such aircraft to reach or exceed 4,000 feet prior to crossing the southern boundary of Area D. It is therefore proposed herein to alter the boundaries of Area D by moving the south boundary northward 2 miles to coincide with the relocated position of Northbrook VORTAC and to redefine the east and west boundaries respectively as the 017° and 335° radials of Chicago VORTAC.

Finally, it is proposed herein to define certain other boundaries of the TCA and its subareas by use of radials and DME arcs based on the Chicago O'Hare VORTAC to provide pilots with an additional means of identifying the TCA airspace.

If these proposed actions are taken, the Chicago, Ill., TCA would be amended as follows:

CHICAGO, ILL., TERMINAL CONTROL AREA

A. PRIMARY AIRPORT

(1) Chicago-O'Hare International Airport (lat. 41°58'57"N., long. 87°54'25"W.).

(2) Chicago-O'Hare VORTAC (lat. 41°59'16"N., long. 87°54'17"W.).

B. BOUNDARIES

(1) *Area A.* That airspace extending upward from the surface to and including 7,000 feet MSL within the Chicago, Ill. (O'Hare International Airport), control zone and including that airspace within 2 statute miles northwest of the centerline extended of Runway 4L, and 2 statute miles southeast of the centerline extended of Runway 4R, extending from the 5-statute mile radius control zone to 2 statute miles southwest of the Pine Outer Marker.

(2) *Area B.* That airspace extending upward from 1,900 feet MSL to and including 7,000 feet MSL within a 10.5-mile radius of Chicago-O'Hare (ORD) VORTAC, excluding

Area A and that area bounded on the southeast by a line 2 miles northwest of and parallel to the centerline extended of Runway 22R, on the south and southwest by the southwest boundary of Glenview, Ill., control zone, on the north by a 10.5 north M. radius arc of the ORD VORTAC, and excluding Area E described hereinafter.

(3) *Area C.* That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within a 20-mile radius of ORD VORTAC, excluding Areas A and B, previously described, Area E described hereinafter, and excluding that airspace bounded on the west by the ORD VORTAC 336° T (335° M) radial, on the south by the Northbrook VORTAC 269° T (268° M) and 094° T (093° M) radials, on the east by the ORD VORTAC 018° T (017° M) radial and on the north by a 20-mile radius arc of ORD VORTAC.

(4) *Area D.* That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL between the 20- and 25-mile radii of the ORD VORTAC and that airspace bounded on the west by the ORD VORTAC 336° T (335° M) radial, on the south by the Northbrook VORTAC 269° T (268° M) and 094° T (093° M) radials, on the east by the ORD VORTAC 018° T (017° M) radial and on the north by a 20-mile radius arc of ORD VORTAC.

(5) *Area E.* That airspace northeast of Chicago extending upward from 2,500 feet MSL to and including 7,000 feet MSL bounded on the northeast by a 10.5-mile radius arc of ORD VORTAC, on the south by the extended centerline of Runway 9/27 at NAS Glenview and on the northwest by a line 2 miles northwest of and parallel to the extended centerline of Runway 22R.

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

Issued in Washington, D.C., on December 26, 1972.

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

[FR Doc.73-270 Filed 1-4-73;8:45 am]

[14 CFR Parts 71, 73]

[Airspace Docket No. 71-AL-25]

RESTRICTED AREA AND CONTINENTAL CONTROL AREA

Supplemental Proposed Designation and Alteration

On April 18, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 FR 7637) stating that the Federal Aviation Administration was considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would designate a new joint-use restricted area near Blair Lakes, Alaska, and include it in the continental control area.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Additionally, two informal airspace meetings were held in Fairbanks, Alaska, on May 17, 1972.

Considerable opposition was manifested by the public at the meetings and through formal comments. In general, those persons objecting from an aeronautical standpoint felt they were being deprived of their public right of transit through the navigable airspace. They also expressed concern that adequate safety and separation could not be assured.

In consideration of the formal comments received and the objections voiced at the informal airspace meetings, the description published in the April 18, 1972 notice is deleted and the following is substituted therefor:

1. BLAIR LAKES, ALASKA, RESTRICTED AREA

Boundaries.

Beginning at lat. 64°33'00" N., long. 147°-45'00" W.; to lat. 64°04'00" N., long. 146°49'-00" W.; thence along the east bank of the Little Delta River to lat. 63°50'50" N., long. 146°47'30" W.; to lat. 63°56'00" N., long. 147°02'00" W.; to lat. 64°25'00" N., long. 147°54'45" W.; to point of beginning.

Time of designation. Monday through Friday at the following local times:

a. April through September 0900–1100; 1400–1700.

b. October through March 0900–1200; 1400–1700.

Designated altitudes.

a. North of an east/west line at lat. 64°20' 00" N., surface to 18,000 feet MSL.

b. South of an east/west line at lat. 64°20' 00" N., 1,000 feet AGL to 7,500 feet MSL.

Controlling agency. Federal Aviation Administration, Eielson RAPCON.

Using agency. Alaskan Air Command.

2. The description of the continental control area would be altered to include the Blair Lakes, Alaska, Restricted Area.

This proposal would provide a local site which is needed for Alaskan-based military aircrews to practice tactical air-to-ground ordnance delivery techniques. However, in contrast to the April 18, 1972, notice it would reduce not only the amount of airspace but also the hours of operation proposed for the restricted area. When the area is active its reduced size would permit nonparticipating aircraft to bypass most of it without difficulty. Sufficient airspace would be designated to contain the military operations and to provide a buffer zone for safe separation from nonparticipating aircraft. Blue Airway 26 would be realigned a few degrees to the west, a DME fix would be established at Fairbanks International Airport, and radar control as well as Standard Instrument Departure Procedures would be routinely used at Fairbanks to further ensure that nonparticipating aircraft operated by instrument flight rules safely avoid the restricted area. Activation and deactivation of the restricted area would be precisely controlled and during inactive periods its joint-use designation would assure its release for other users at their request.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, AK 99501. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

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

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

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

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-269 Filed 1-4-73;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[No. 72-1555]

FEDERAL SAVINGS AND LOAN SYSTEM

Preapproval of Additional Activities for Service Corporations

The Federal Home Loan Bank Board considers it advisable to amend § 545.9-1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.9-1) for the purpose of preapproving certain new activities for service corporations. The proposed amendments would permit all service corporations to act as trustees under deeds of trust and as escrow agents, and to offer title insurance as agent for a title insurance company. All service corporations would also be permitted to invest in a savings account or accounts in FSLIC-insured institutions which own stock in such corporations. Service corporations meeting the requirements of paragraph (a) of § 545.9-1 would also be permitted to own title insurance companies. Accordingly, the Federal Home Loan Bank Board proposes to amend said § 545.9-1 by revising present subdivisions (iii) and (xi) of subparagraph (4) of paragraph (a) thereof, by redesignating subdivisions (xii) and (xiii) of said subparagraph as subdivisions (xiv) and (xv) of said subparagraph, and by adding two new subdivisions designated as subdivisions (xii) and (xiii) to said subparagraph, and by revising subparagraph (2) of paragraph (b) thereof, to read as set forth below.

Interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, DC 20552, by January 31, 1973, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

§ 545.9–1 Service corporations.

(a) *General service corporations.* Subject to the provisions of this section, a Federal association which has a charter in the form of Charter N or Charter K (rev.) may invest in the capital stock, obligations, or other securities of any service corporation organized under the laws of the State, District, Commonwealth, territory, or possession in which the home office of such association is located if:

* * * * *

(4) Substantially all of the activities of such service corporation, performed directly or through one or more wholly owned subsidiaries, consist of one or more of the following:

* * * * *

(iii) Making any of the following kinds of investments:

(*a*) An investment of the type specified in § 545.9 or § 545.9–3; or

(*b*) An investment in a savings account or accounts in any insured institution (as defined in § 561.1 of this chapter) which is a stockholder in such service corporation, if such service corporation does not receive any consideration, other than interest at the current market rate, in connection with opening or maintaining any savings account in such insured institution;

* * * * *

(xi) Serving as insurance broker or agent, primarily dealing in policies for savings and loan associations, their borrowers, and their accountholders, which provide protection such as homeowners', fire, theft, automobile, life, health, and accident, but excluding private mortgage insurance;

(xii) Serving in any of the capacities hereinafter listed, if any such business activity is either established as a de novo organization or acquired as a going business for no consideration:

(*a*) Trustee under deeds of trust;

(*b*) Escrow agent;

(*c*) Insurance broker or agent, primarily dealing in title insurance policies for savings and loan associations, their borrowers, and their accountholders, but only if a copy of the agreement under which the service corporation, or a wholly owned subsidiary thereof, purports to act as a title insurance broker or agent is first filed with the Supervisory Agent;

(xiii) Ownership of a title insurance company;

(xiv) Activities reasonably incidental to the activities described in the foregoing subdivisions of this subparagraph (4); and

(xv) Such other activities, including a joint venture in any other activity or in any activity specified in this subparagraph (4), as the Board may approve upon application therefor by any such service corporation or otherwise.

(b) *Other service corporations.* In addition to investment in a service corporation which meets the requirements of paragraph (a) of this section, a Federal association which has a charter in the form of Charter N or Charter K (rev.) may invest in the capital stock, obligations, or other securities of any service corporation organized under the laws of the State, District, Commonwealth, territory, or possession in which the home office of the association is located if:

* * * * *

(2) The activities of such corporation, performed directly or through one or more wholly owned subsidiaries, consist solely of (i) one or more of the activities specified in subdivisions (i) through (xiv) of paragraph (a)(4) of this section (but excluding the activity specified in subdivision (xiii) thereof) and (ii) such other activities, including joint ventures thereon or in any activity specified in subdivision (i) of this subparagraph, as the Board may approve upon application therefor by such corporation or otherwise; and

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER, *Secretary.*

[FR Doc.73-201 Filed 1-4-73;8:45 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 505]

[Docket No. 72–60]

COLLECTION AND COMPROMISE OF CIVIL PENALTIES

Enlargement of Time for Filing Comments

Various parties have requested enlargement of time within which to file comments in this proceeding, the requests ranging from February 27, 1973, to March 2, 1973, as due date.

A certain extension appears warranted although not on the order requested. Accordingly, comments herein may be filed on or before January 31, 1973.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.73-202 Filed 1-4-73;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 433]

PRESERVATION OF CONSUMERS' CLAIMS AND DEFENSES

Notice of Public Hearing and Opportunity To Submit Data, Views or Arguments

The Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., and the provisions of Part 1, Subpart B of the Commission's procedures and rules of practice, 16 CFR 1.11, et seq., issued on January 26, 1971, a proposed trade regulation rule concerning preservation of buyers' claims and defenses in consumer installment sales (36 FR 1211). Written comments thereon by interested parties were received and public hearings were held in New York, N.Y. (June 7 to 9, 1971), Chicago, Ill. (July 12 to 14, 1971) and Washington, D.C. (September 20 to 23, 1971). See 36 FR 6593; 36 FR 7865.

Notice is hereby given that the Federal Trade Commission, having considered the record produced thereby, issues the following revised proposed rule pursuant to the above-cited authority and under section 553 of Subchapter II, Chapter 5, title 5, United States Code, and invites interested parties to submit data, views, or arguments.

PART 433—PRESERVATION OF CONSUMERS' CLAIMS AND DEFENSES

Sec.

AUTHORITY: The provisions of this Part 433 issued under 38 Stat. 717, as amended; 15 U.S.C. 41–58.

§ 433.1 Definitions.

For purposes of this part, the following definitions shall apply:

(a) *Consumer goods or services.* Goods or services purchased or leased primarily for personal, family, or household purposes, including courses of instruction or training regardless of the purpose for which they are taken.

(b) *Seller.* Any person, partnership, corporation, or association, engaged in the retail sale or lease of consumer goods or services to a consumer.

(c) *Consumer.* Any buyer or lessee of consumer goods or services.

(d) *Consumer transaction.* Any sale or lease of consumer goods or services by a seller to a consumer.

(e) *Consumer note.* Any negotiable promissory note or other negotiable instrument of indebtedness, or any retail installment contract whether negotiable or nonnegotiable, executed by a consumer in connection with a consumer transaction. "Consumer note" shall not include a check given in current payment of a presently due consumer obligation, if the check is dated at or before the date of its issuance, or at the time of its issuance is postdated not more than 10 days, and collection thereof through banking channels is initiated by the payee within 7 days of the date of the check.

(f) *Credit card issuer.* Any person, partnership, corporation, or association, including a bank, which by agreement extends to a cardholder the right to use a credit card in connection with a consumer transaction.

(g) *Cardholder.* Any consumer who enters into an agreement with a credit card issuer extending to such consumer the right to use a credit card in connection with a consumer transaction.

(h) *Related creditor.* Any person, partnership, corporation, or association, which is engaged in making loans to consumers to enable payment to be made for consumer goods or services and which either participates in or is directly connected with the consumer transaction. Without limiting the scope of the immediately preceding language, there shall be a rebuttable presumption that a creditor is a related creditor under any one of the following circumstances:

(1) The creditor is a person related by blood or marriage to the seller or to the seller's spouse.

(2) The creditor prepared, supplied or furnished the seller with the forms or documents used to evidence or secure the consumer loan.

(3) The seller prepared, supplied or furnished the creditor with the forms or documents used to evidence or secure the consumer loan.

(4) The creditor is directly or indirectly controlled by, under common control of, or is otherwise affiliated with the seller.

(5) The creditor and the seller are engaged in a joint venture to produce consumer obligations payable either directly or by transfer to the creditor.

(6) The creditor directly or indirectly pays the seller any consideration for the referral of consumer borrowers.

(7) The seller guaranteed the consumer loan or otherwise assumed the risk of loss by the creditor upon the loan.

(8) The creditor made five or more loans within a 1-year period the proceeds of which are used in transactions with the same seller following referral of the consumer to the creditor by the seller.

(9) (i) The creditor knew or had reason to know that the loan proceeds would be used in whole or in substantial part to pay the seller for an obligation of the consumer, and (ii) the creditor had notice that the seller failed or refused to perform contracts with the consumers, or failed to remedy complaints within a reasonable time.

§ 433.2 Prohibited acts and practices: Sellers.

In any consumer transaction it constitutes an unfair and deceptive act or practice for a seller to:

(a) Obtain a consumer note and fail to have inscribed upon the face of such note, in 10 point bold face type the following statement:

NOTICE

CONSUMER NOTE

It is agreed that any holder of this instrument takes this instrument subject to all claims and defenses which would be available to the maker in an action arising out of the contract which gave rise to the execution of this instrument, notwithstanding any agreement to the contrary. Recovery by the maker under this provision shall not exceed the full amount of this instrument.

(b) Take or receive from a consumer any agreement, contract or other obligation which contains:

(1) Any waiver of rights or remedies with respect to any assignee of such agreement, contract, or other obligation, which would accord to such assignee rights and remedies superior to those possessed by the seller with whom the consumer dealt.

(2) Any provision by which the consumer agrees not to assert against any assignee of the seller a claim or defense arising out of the consumer transaction, which claim or defense could be asserted against the seller.

(c) Engage in such a transaction financed by a related creditor unless the financing arrangements between the consumer and the related creditor conform to § 433.2(e) and permit the consumer to maintain against the related creditor any claim or defense arising out of the consumer transaction up to the full amount financed.

(d) Enter into any agreement, contract, or other obligation, for participation in a credit card plan with any credit card issuer who:

(1) Takes or receives from a cardholder any agreement, contract, or other obligation, except one conforming to paragraph (b) of this section, which contains any provision whereby the cardholder agrees not to assert against the issuer claims or defenses arising out of consumer transactions arranged with the issuer's credit card, up to the full amount financed with the credit card in that transaction.

(2) Places any time limitation on the rights of a credit card holder to assert claims or defenses arising out of a consumer transaction which is shorter than the period in which payments are to be made for the sale or lease or the date of final delivery of the goods or the completion of the furnishing of the services, whichever is longest.

(e) Place any time limitation on the rights of a consumer to assert claims or defenses arising out of a consumer transaction which is shorter than the period in which payments are to be made for the sale or lease or the date of final delivery of the goods or the completion of the furnishing of the services, whichever is longest; or to engage in a consumer transaction financed by a related creditor where the financing arrangements specify a shorter period of time within which the consumer may raise a claim or defense.

§ 433.3 Consumer notice required: Consumer notes.

If any consumer transaction requires or involves the execution of a consumer note it constitutes an unfair and deceptive act or practice for a seller to fail to attach to the consumer's receipt or copy of the contract a note in the same language (e.g., Spanish) as that principally used in the consumer transaction containing the following information and statements:

KEEP THIS NOTICE OF YOUR RIGHTS

You have just signed a Consumer Note. It may be sold to a bank or finance company. If so, you will make payments to that bank or finance company, not to the seller. Keep your copy of the Consumer Note with this Notice.

You have the right to expect:

To receive the goods or services promised.

That the seller will fix any defects he promised to fix.

Service on the product if promised by the seller.

That the seller will come through on his part of the bargain.

If you can prove your rights were violated, you have the right:

To refuse payment.

To sue for money already paid.

To tell your side of the story in court if you are sued for nonpayment.

It will be easier to prove your rights were violated if:

You complain to the seller as soon as possible after you find fault with the goods or services. Keep a copy of your letter, or take a friend if you complain in person.

You ask the seller to make good on his promise and he does not. Keep a copy of your letter, or take a friend if you complain in person.

You can show the seller has gone out of business or cannot be located.

You keep all receipts, repair bills, and other papers.

If you have any questions about your rights, get in touch with:

A lawyer.

Your local legal aid society.

Your local or State Consumer Protection Office.

Your neighborhood legal services office.

Your small claims court.

The law stands behind you. Nothing you sign will cause you to lose these rights.

The Federal Trade Commission requires that this notice be given to you. This notice applies only to the goods or services you bought when you got this notice.

§ 433.4 Consumer notice required: Related creditors.

If any consumer transaction is financed by a related creditor it constitutes an unfair and deceptive act or practice for a seller to fail to attach to the consumer's receipt or copy of the contract a notice in the same language (e.g., Spanish) as that principally used in the

consumer transaction containing the following information and statements:

KEEP THIS NOTICE OF YOUR RIGHTS

You have just borrowed money to make this purchase from a bank or finance company. You will make payments to the bank or finance company, not to the seller.

You Have the Right to Expect:

To receive the goods or services promised.

That the seller will fix any defects he promised to fix.

Service on the product if promised by the seller.

That the seller will come through on his part of the bargain.

If You Can Prove Your Rights Were Violated, You Have the Right:

To refuse payment.

To sue for money already paid.

To tell your side of the story in court if you are sued for nonpayment.

It Will Be Easier To Prove Your Rights Were Violated If:

You complain to the seller as soon as possible after you find fault with the goods or services. Keep a copy of your letter, or take a friend if you complain in person.

You ask the seller to make good on his promise and he does not. Keep a copy of your letter, or take a friend if you complain in person.

You can show the seller has gone out of business or cannot be located.

You keep all receipts, repair bills, and other papers.

If You Have Any Questions About Your Rights, Get In Touch With:

A lawyer.

Your local legal aid society.

Your local or State Consumer Protection Office.

Your neighborhood legal services office.

Your small claims court.

The Law Stands Behind You. Nothing You Sign Will Cause You To Lose These Rights.

The Federal Trade Commission requires that this notice be given to you. This notice applies only to the goods or services you bought when you got this notice.

NOTE: Commission Interpretation:

(a) "Seller": The Commission deems the definition of "Seller" in § 433.1(b) to include any person engaged in consumer sales in commerce, whether at a permanent place of business, door-to-door, or otherwise.

(b) "Inscribed": The Commission deems the requirement in § 433.2(a) that the seller have the notice "inscribed" on the face of consumer notes, to include legible conspicuous stamping, overprinting or overstamping of forms on hand, where necessary to comply with the provisions of this part.

(c) "Full Amount": The Commission interprets the words "full amount" to include all finance charges, interest, prepaid interest, charges for life insurance, and any other fees, charges or costs imposed upon the consumer in connection with the financing of the consumer transaction.

Interested persons are hereby invited to file written data, views, and arguments concerning the revised proposed rule, addressed to: Assistant Director, Division of Rules and Guides, Bureau of Consumer Protection, Federal Trade Commission, Pennsylvania Avenue and Sixth Street NW., Washington, D.C. 20580, on or before March 5, 1973. Such persons are urged to express approval or disapproval of the revised proposed rule or to recommend further modification, and to make statements as full as they wish. To the extent possible, persons wishing to file written presentations in excess of two pages should submit 20 copies.

All interested persons are also given notice of opportunity to orally present data, views or arguments with respect to the revised proposed rule at a public hearing to be held commencing at 10 a.m., e.s.t., each day, March 12 through March 16, 1973, in Room 532 of the Federal Trade Commission Building, Pennsylvania Avenue at Sixth Street NW., Washington, D.C.

Any person desiring to orally present his views at the hearing should so inform the Assistant Director for Rules and Guides not later than March 5, 1973, and state the estimated time required for his oral presentation. Reasonable limitations upon the length of time allotted to any person may be imposed. Additionally, any party planning to deliver a prepared statement at the hearing should file such statement with the Assistant Director for Rules and Guides on or before March 5, 1973.

The data, views, arguments, and comments received concerning the revised proposed rule, together with the transcript of hearings, will be available for examination during regular business hours in the Division of Legal and Public Records, Room 130, Federal Trade Commission, Washington, D.C. All such statements will be considered by the Commission before final action is taken in this matter.

Comments are invited with respect to any aspect of this revised proposed rule, but the Commission invites comment particularly with respect to the following:

1. Waivers of claims and defenses in credit card contracts (§ 433.2(d)).

2. Interlocking sales-loans transactions, or "related creditors" (§§ 433.1(h) and 433.2(c)).

3. Scope of the term "full amount."

Issued: January 5, 1973.

By the Commission.

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

[FR Doc.72-22448 Filed 12-29-72;11:33 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-9920; File No. S7-468]

SOLICITATION PRACTICES BY TENDER AND EXCHANGE OFFERORS

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to amend Rule 10b-13 (17 CFR 240.10b-13) under the Securities Exchange Act of 1934 ("the Act"), governing solicitation practices by tender and exchange offerors. The purpose of the proposed amendment is to insure that certain tendering shareholders, by virtue of their economic position, special relationship or otherwise, are not induced to tender their shares on the basis of offers of more favorable treatment than other persons who tender their shares pursuant to the tender or exchange offer.

In pertinent part, Rule 10b-13 currently requires that a person who makes a cash tender offer or exchange offer for any equity security may not purchase or make an arrangement to purchase any such security "otherwise than pursuant to such tender offer or exchange offer" until the expiration of the period during which securities tendered pursuant to such tender offer or exchange offer may be accepted or rejected.[1] The Commission proposes to amend Rule 10b-13 to indicate clearly that it is considered "otherwise than pursuant to such tender offer or exchange offer," and thus in violation of Rule 10b-13, for a tender or exchange offeror to offer to pay or to pay, directly or indirectly, in whole or in part, any consideration beyond the specific tender or exchange price to any tendering shareholder or to extend or offer to extend special treatment to any such tendering shareholder. The Commission views the payment by a tender offeror of a soliciting dealer's fee,[2] directly or indirectly, in part or in whole, to a tendering shareholder, as compensation "otherwise than pursuant to such tender or exchange offer." As amended, the rule would require that all persons making tender or exchange offers must receive reasonable assurance from soliciting dealers that the soliciting dealer fees paid to such dealers will not directly or indirectly be paid back to any tendering shareholder or its affiliate. The Commission further proposes to provide by amendment to Rule 10b-13 that payment of consideration or the extension of special treatment, directly or indirectly, in whole or in part, to an affiliate of a tendering shareholder will be deemed payment to

[1] Rule 10b-13 provides, in pertinent part: "No person who makes a cash tender offer or exchange offer for any equity security shall, directly or indirectly, purchase, or make any arrangement to purchase, any such security (or any other security which is immediately convertible into or exchangeable for such security), otherwise than pursuant to such tender offer or exchange offer, from the time such tender offer or exchange offer is publicly announced or otherwise made known by such person to holders of the security to be acquired until the expiration of the period, including any extensions thereof, during which securities tendered pursuant to such tender offer or exchange offer may by the terms of such offer be accepted or rejected * * *."

[2] The soliciting dealer's fee is compensation paid by the tender offeror to the soliciting dealer to encourage the solicitation of shareholders to tender pursuant to the terms of the tender offer or exchange offer. Traditionally, this fee has been paid to qualified brokers or dealers (and occasionally, banks) who have been designated by the tendering shareholder and whose names appear on letters of transmittal accompanying tendered securities indicating that the tender was "solicited" by them.

or special treatment to the tendering shareholder. For purposes of this proposed rule, "affiliated person" of a tendering shareholder shall include: (A) Any person directly or indirectly owning, controlling or holding with power to vote, 5 percent or more of the outstanding voting securities of such tendering shareholder; (B) any person 5 percent or more of whose outstanding securities are, directly or indirectly owned, controlled or held with power to vote, by such tendering shareholder; (C) any person directly or indirectly controlling, controlled by or under common control with, such tendering shareholder; (D) any officer, director, partner, co-partner or employee of such tendering shareholder; and (E) any investment adviser to any investment company. For these purposes, a person shall be presumed to control another person if such person has the power to influence the management or policies of such other person or any person who has a right to participate to the extent of more than 25 percent in the profits of such other person.

The Commission is aware that soliciting dealer fees have been treated in varying ways in the past. Thus, for example, some mutual funds have designated a broker-dealer subsidiary as the soliciting dealer and the fee received was credited against the management fee charged the fund. Some mutual fund management may have designated as soliciting dealer persons who sell fund shares in order to provide them with extra sales compensation.[3] In many instances these practices are undertaken with the consent or acquiescence of the tender offeror or exchange offeror, and the existence of the soliciting dealer's fee is used by the offeror to induce larger investors to tender their shares. In view of the uncertainty and existing diversity in the treatment of soliciting dealer fees and the fact that Rule 10b–13 does not expressly address itself to the treatment of such fees,[4] the Commission believes it is appropriate, in the public interest and for the protection of investors, to amend Rule 10b–13.

The Commission believes that certain inequities and hardships result to tendering public shareholders if some shareholders, by virtue of special position or economic power, are able to receive, directly or indirectly, compensation beyond the tendering price generally offered to shareholders. In making any determination as to whether to tender their shares, every effort must be made to insure that the investing public is not deceived as to the terms of the tender offer or exchange offer, the fair market value of the securities and the prospects for a successful exchange offer or tender offer. It is inconsistent with these goals to permit tender offerors or exchange offerors to compensate certain shareholders with consideration greater than or different from that generally being offered other shareholders.[5]

TEXT OF PROPOSED RULE

The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, and particular sections 10(b), 13(e), 14(e), and 23(a) thereof, hereby proposes to amend Part 240 of Title 17 of the Code of Federal Regulations by amending § 240.10b–13 as follows:

Paragraph (d) of § 240.10b–13 would be designated paragraph (e) and a new paragraph (d) would be adopted as follows:

§ 240.10b–13 Prohibiting other purchases during tender offer or exchange offer.

* * * * *

(d) For purposes of this section, it shall be considered otherwise than pursuant to such tender offer or exchange offer for any person who makes such cash tender offer or exchange offer to pay or offer to pay, directly or indirectly, in whole or in part, any consideration beyond the specific tender price or exchange consideration to any tendering shareholder or to extend special treatment to such tendering shareholder. Payment of consideration or the extension of special treatment, directly or indirectly, in whole or in part, to an affiliate of a tendering shareholder will be deemed payment to or special treatment to the tendering shareholder.

(1) For purposes of this section, all persons making a cash tender offer or exchange offer must receive reasonable assurance from soliciting dealers that fees or consideration paid to such dealers will not directly or indirectly be paid to any tendering shareholder.

(2) For purposes of this section, an "affiliated person" of a tendering shareholder means (i) any person directly or indirectly owning, controlling or holding with power to vote, 5 percent or more of the outstanding voting securities of such tendering shareholder; (ii) any person 5 percent or more of whose outstanding securities are directly or indirectly owned, controlled, or held with power to vote, by such tendering shareholder; (iii) any person directly or indirectly controlling, controlled by, or under common control with such tendering shareholder; (iv) any officer, director, partner, co-partner or employee of such tendering shareholder; and (v) any investment adviser to an investment company. For purposes of this section, "control" means the power to influence the management or policies of such other person, or any person who has a right to participate to the extent of more than 25 percent in the profits of such other person.

* * * * *

All interested persons are invited to submit their views and comments on this proposal in writing to the Securities and Exchange Commission, Washington, D.C. 20549, on or before February 28, 1973. All such communications should refer to File No. S7–468 and will be available for public inspection.

(Secs. 10(b), 13(e), 14(e), 23(a), 48 Stat. 891, 894, 895, 901; as amended, 82 Stat. 454, 84 Stat. 1497, sec. 2, 49 Stat. 1379, sec. 2; 15 U.S.C. 78j(b), 78m(e), 78n(e), 78w(a))

By the Commission.

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

DECEMBER 27, 1972.

[FR Doc.73–252 Filed 1–4–73;8:45 am]

[3] Some funds have acted on the assumption that the solicitation fees should not be given to anyone, including their own subsidiaries, and, as a result, have not designated anyone as the soliciting agent.

[4] Neither the releases proposing Rule 10b–13 (Securities Exchange Act Release No. 8391, Aug. 30, 1968, and in the FEDERAL REGISTER for Sept. 14, 1968, at 33 FR 13036 and No. 8595, May 5, 1969, and in the FEDERAL REGISTER for May 9, 1969, at 34 FR 7547) or adopting that Rule (Securities Exchange Act Release No. 8712, Oct. 8, 1969, and in the FEDERAL REGISTER for Oct. 15, 1969, at 34 FR 15838) comment upon the treatment of solicitation fees.

[5] The Commission has recognized an exception to this general principle. In responding to a question whether an arbitrageur, who purchases securities which are the subject of a tender offer in the open market and subsequently tenders such shares, may sign a soliciting dealer's agreement and receive a soliciting dealer's fee, the Commission stated that an arbitrageur may receive such a fee for the tender of its shares, emphasizing the beneficial market function performed by the arbitrageur (Securities Exchange Act Release No. 9395, Nov. 24, 1971 and in the FEDERAL REGISTER for Dec. 9, 1971 at 36 FR 23359). Implicit in the release is a recognition of the fact that a broker-dealer, when not performing a market function, such as that of an arbitrageur, should not receive a soliciting dealer's fee for shares tendered for its own account.

Notices

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY, SCIENTIFIC ADVISORY COMMITTEE

Notice of Meeting; Correction

In FR Doc. 72-21907 appearing at page 28200 of the issue for Thursday, December 21, 1972 (37 FR 28200), the following change should be made in the date of the meeting: Change "January 18 and 19, 1973" to "February 5 and 6, 1973."

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Comptroller).

[FR Doc.73-200 Filed 1-4-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

NATIONAL ADVISORY BOARD ON WILD FREE-ROAMING HORSES AND BURROS

Notice of Meeting

JANUARY 3, 1973.

Notice is hereby given that the National Advisory Board for Wild Free-Roaming Horses and Burros will hold its first meeting January 12-13, 1973, at the Royal Inn, 206 South West Temple, Salt Lake City, UT. The agenda for the meeting will include consideration of Advisory Board administrative procedures, proposed regulations and draft environmental impact statements for the management of wild free-roaming horses and burros, and planning for the work of the Board.

The meeting will be open to the public. Seating will be available for about 20 observers. Time will be available for a limited number of brief statements by members of the public. Those wishing to make an oral statement must inform the Advisory Board Chairman in writing prior to the meeting of the Board. Any interested person may file a written statement with the Board for its consideration. The Advisory Board Chairman is Dr. C. Wayne Cook, 4800 Venturi Lane, Fort Collins, CO 80521. Written statements should be submitted to Dr. Cook, % the Director (330), Bureau of Land Management, Washington, D.C. 20240.

BURTON W. SILCOCK,
Director.

[FR Doc.73-314 Filed 1-4-73;8:45 am]

[Montana 23776]

MONTANA

Notice of Proposed Withdrawal and Reservation of Lands

DECEMBER 21, 1972.

The Department of Transportation, on behalf of the Montana Highway Commission, has filed application M 23776, for the withdrawal of the lands described below, from location and entry under the mining laws, subject to existing valid claims.

The applicant desires the land for proposed highway construction.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 316 North 26th Street, Billings, MT 59101.

The Department's regulations (43 CFR 2351.4(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

PRINCIPAL MERIDIAN, MONTANA

DEER LODGE NATIONAL FOREST

T. 6 N., R. 6 W.,
Sec. 13, lots 5, 6, 7, 13, 14, and 15.

The area contains 54.34 acres in Jefferson County, Mont.

ROLAND F. LEE,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.73-134 Filed 1-4-73;8:45 am]

[OR 9144]

OREGON

Notice of Classification of Public Lands for Disposal by Exchange

1. Pursuant to the regulations under 43 CFR 2462, the public lands described below are hereby classified for disposal through exchange, under the Act of June 28, 1934, as amended (48 Stat. 1269; 43 U.S.C. 315g; 43 CFR 2220) for the lands within the Burns District.

WILLAMETTE MERIDIAN

HARNEY COUNTY

T. 31 S., R. 34 E.,
Sec. 4, W½SE¼;
Sec. 7, E½SE¼;
Sec. 8, NE¼SE¼;
Sec. 9, SW¼NW¼, W½SW¼, and SE¼SW¼;
Sec. 10, W½NE¼ and W½;
Sec. 11, W½SE¼ and SE¼SE¼;
Sec. 13, lot 4 and SW¼SE¼;
Sec. 15, W½, W½SE¼, and SE¼SE¼;
Sec. 20, E½, S½NW¼, and SW¼;
Sec. 21, N½, SW¼, and W½SE¼;
Sec. 22, N½NE¼, NW¼NW¼, and NE¼SE¼;
Sec. 24, lot 1, NW¼NE¼, SE¼NW¼, and W½SW¼;
Sec. 25, W½W½;
Sec. 26, E½E½;
Sec. 27, W½SW¼;
Sec. 28, NE¼, NE¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 32, lots 3 and 4 and NW¼SW¼;
Sec. 33, E½NE¼;
Sec. 34, lots 1, 2, 3, and 4, W½NW¼, and N½SW¼;
Sec. 35, lots 3 and 4, E½NW¼, and NE¼SW¼.

T. 32 S., R. 34 E.,
Sec. 2, lots 3 and 4 and SW¼NW¼;
Sec. 3;
Sec. 4, SE¼NE¼ and SE¼;
Sec. 5, lot 4, SW¼NW¼, and W½SW¼;
Sec. 6, E½SW¼;
Sec. 7, NE¼NW¼;
Sec. 8, N½SE¼ and SE¼SE¼;
Sec. 9, N½, N½S½, SW¼SW¼, and SE¼SE¼;
Sec. 10, N½N½, SW¼NW¼, NW¼SW¼, and S½SE¼;
Sec. 11;
Sec. 14, N½ and N½S½;
Sec. 15, E½, SE¼NW¼, NE¼SW¼, and S½SW¼;
Sec. 17, E½NE¼, E½SW¼, and SE¼;

Sec. 20, NE¼ and NE¼NW¼;
Sec. 21, W½NE¼ and NW¼;
Sec. 23, W½NW¼ and E½SW¼.
The area described aggregates 9,056.81 acres.

2. The notice of proposed classification of these lands was published October 13, 1972 (37 FR 21656). No comments or protests were received.

3. In accordance with 43 CFR 2201.2, no application for an exchange will be accepted unless it is accompanied by a statement from the Burns District Manager, Bureau of Land Management, that the proposal is feasible.

4. For a period of 30 days from the date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2462.3. During this 30-day period, interested parties may submit comments to the Secretary of the Interior, LLM, 320, Washington, D.C. 20240.

ROBERT D. HOSTETTER,
Acting State Director.

[FR Doc.73-273 Filed 1-4-73;8:45 am]

[Bureau Order 701, Amdt. 16]

LANDS AND RESOURCES

Redelegation of Authority

Bureau Order No. 701, dated July 23, 1964, is further amended as follows:

1. Subparagraph 2 of paragraph (d), subparagraph 1 of paragraph (h), and paragraph (1) of section 1.2 are amended to read as follows:

SECTION 1.2 *General and miscellaneous matters.*

* * * * *

(d) *Gifts.*

* * * * *

(2) Accept on behalf of the United States any lands or interest in lands where such action will promote the purpose of the Wild and Scenic Rivers Act (82 Stat. 906), the National Trails System Act (82 Stat. 919), and the King Range National Conservation Area Act (84 Stat. 1067).

* * * * *

(h) *Cooperative agreements.* (1) Enter into cooperative agreements involving the improvement, management, use, and protection of the public lands and their resources under his jurisdiction as provided in the Public Land Administration Act (43 U.S.C. 1363). Enter into cooperative agreements under sections 2, 9, and 12 of the Act of June 28, 1934 (43 U.S.C. 315 et seq.) and under the Act of March 29, 1928 (45 Stat. 380). Enter into cooperative agreements for the acquisition of lands or interest in lands under section 10(e) of the Wild and Scenic Rivers Act (82 Stat. 906), under section 7(d) of the National Trails System Act (82 Stat. 919) and the King Range National Conservation Area Act (84 Stat. 1067).

* * * * *

(1) *Acquisition of lands or interest in lands.* Act on matters involving the acquisition of lands or interest in lands under the Federal Highway Act of 1962 (76 Stat. 1145), the Act of July 26, 1955 (69 Stat. 374), the Wild and Scenic Rivers Act (82 Stat. 906), the National Trails System Act (82 Stat. 919), the King Range National Conservation Area Act (84 Stat. 1067), and the Uniform Relocation Assistance and Land Acquisition Policies Act (84 Stat. 1894), including purchases, but not including recommendations to the Attorney General for condemnation proceedings; also the approval of projects for the construction of roads to provide access to public lands subject to above acts.

2. Subparagraph 3 of paragraph (b) of section 1.3 is amended to read:

SEC. 1.3 *Fiscal affairs.*

* * * * *

(b) *Contributions, donations and refunds.*

* * * * *

(3) Accept contributions for use in connection with the administration of the national wild and scenic rivers system pursuant to section 6(f) of the Act of October 2, 1968 (82 Stat. 906), for the purchase of lands or interest in lands pursuant to section 7(d) of the National Trails System Act of October 2, 1968 (82 Stat. 919), and for the purchase of lands or interest in lands pursuant to section 5(2) of the King Range National Conservation Area Act (84 Stat. 1067).

3. The existing Part IV is revoked and a new Part IV is added as follows:

PART IV—REDELEGATION TO DIRECTOR, EASTERN STATES OFFICE

SECTION 4.0 The Director, Eastern States Office may take all actions on matters listed in Part I of this order together with those specific matters listed below:

(a) *Drainage entries.* Take all actions on Arkansas drainage entries in accordance with 43 CFR Subpart 2784.

(b) *Cash and credit system.* Take all actions on cash and credit system and preemption entries when full payment has been made.

(c) *Private land claims.* Take all actions on confirmed private land claims.

(d) *Railroad grants.* Approve the validity of the grant rights in regard to railroad grants and claims within such grants pursuant to 43 CFR Subpart 2631.

(e) *Certificates, scrip, and lieu selections.* Approve the validity of scrip or other rights pursuant to 43 CFR Part 2610.

4. A new Part IV-A is added as follows:

PART IV-A—REDELEGATION TO CHIEF, DIVISION OF LANDS AND MINERALS OPERATIONS, EASTERN STATES OFFICE

SECTION 4.0-1 The Chief, Division of Lands and Minerals Operations is authorized to take action on the matters listed in section 2.6 of this order.

5. A new Part IV-B is added as follows:

PART IV-B—REDELEGATION TO MANAGER, OUTER CONTINENTAL SHELF OFFICE

SECTION 4.1 The Manager, Outer Continental Shelf Office, New Orleans, La., is authorized to take all actions on the following matters as listed in Part 1 of this order:

SEC. 4.2 *General and miscellaneous matters.*
(a) Oaths.
(b) Cancellations or surrenders of contracts, leases, and permits.
(c) Copies of records.

SEC. 4.3 *Fiscal affairs.*
(a) (1) Bonds and forfeitures.
(b) Repayments.
(c) Trespass.

SEC. 4.6 *Outer Continental Shelf Leasing.* The Manager, Outer Continental Shelf Office, New Orleans, La., is authorized to take all actions in connection with the following:[†]

(a) The making of determinations respecting the compliance or noncompliance of mineral leases issued by a State with the requirement of section 6 of the Outer Continental Shelf Lands Act (67 Stat. 462; 43 U.S.C. 1331 et seq.), provided that such determination shall be submitted to the Solicitor for concurrence.

(b) Mineral leases pursuant to the Act of August 7, 1953 (67 Stat. 462; 43 U.S.C. 1331 et seq.), and the regulations under 43 CFR Part 3300 except the issuance of calls for the submission of requests for oil and gas or other mineral lease offerings pursuant to 43 CFR 3301.3 and the publication of notices of the offer of lands for lease pursuant to 43 CFR 3301.5.

SEC. 4.10 *Designation of Acting Officials.* (a) The Manager, Outer Continental Shelf Office, New Orleans, La., may by written order, designate any qualified employee of the office to perform the functions of the manager in his absence.

(b) Each employee who serves in such capacity shall prepare a memorandum to be kept in the office showing the date and hour of the commencement and termination of each period of his service in that capacity.

GEORGE L. TURCOTT,
Associate Director.

DECEMBER 26, 1972.

[FR Doc.73-135 Filed 1-4-73;8:45 am]

National Park Service

INDIANA DUNES NATIONAL LAKESHORE ADVISORY COMMISSION

Notice of Meeting

Notice is hereby given in accordance with "Public Law 92-463" that a meeting of the Indiana Dunes National Lakeshore Advisory Commission will be held at 10 a.m. e.s.t., on Friday, January 19, 1973, at the State Office Building, Room 602, Indianapolis, Ind.

[†] The New Orleans Outer Continental Shelf Office has responsibility for the Gulf of Mexico and the Atlantic and Pacific coasts.

The purpose of the Indiana Dunes National Lakeshore Advisory Commission, which was established by Public Law 89–761, is to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Indiana Dunes National Lakeshore.

The members of the advisory board are as follows:

Mr. William L. Lieber (Chairman), Indianapolis, Ind.
Mr. Harry W. Frey, Michigan City, Ind.
Mrs. Ione F. Harrington, Chesterton, Ind.
Mr. John A. Hillenbrand II, Batesville, Ind.
Mr. Ed Mastulis, Beverly Shores, Ind.
Mr. Harold G. Rudd, Portage (Ogden Dunes), Ind.
Mr. John R. Schnurlein, Kouts, Ind.

The matters to be discussed at this meeting include:

1. Discussion of Public Law 92–436 concerning Advisory Committee meetings.
2. Superintendent's report on matters relevant to Indiana Dunes National Lakeshore since the last meeting.
3. Land Acquisition Officer's report on matters relevant to Indiana Dunes National Lakeshore since the last meeting.
4. Discussion of the Leviton and Associates Beach Erosion Study report.
5. Review of the West Beach Comprehensive Development plans.

Facilities and space for accommodating members of the public are limited to approximately 25 persons.

Further information concerning this meeting may be obtained from James R. Whitehouse, Superintendent of the Indiana Dunes National Lakeshore at 219–926–7561.

Minutes of the meeting will be available for public inspection 3 weeks after the meeting at the Superintendent's Office of the Indiana Dunes National Lakeshore located at the intersection of State Park Road and U.S. Highway 12, Chesterton, Ind.

Dated: December 27, 1972.

STANLEY W. HULETT,
Acting Director,
National Park Service.

[FR Doc.73–278 Filed 1–4–73;8:45 am]

Office of the Secretary

[DES 72–119]

FORT MOHAVE AREA, NEVADA

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management, Department of the Interior, has prepared a draft environmental statement for a proposed transfer of 9,000 acres from the public domain to the Colorado River Commission of Nevada, representing the State of Nevada. The lands are located in Clark County, Nev.

The environmental statement considers the impact of transfer of these Federal lands to the State of Nevada and their subsequent development.

Copies are available for inspection at the following locations:

Nevada State Office, Bureau of Land Management, 300 Booth Street, Reno, NV; Las Vegas District Office, 301 East Stewart, Las Vegas, NV; Director, Bureau of Land Management, Interior Building, Washington, D.C. Comments concerning the environmental impact of the proposed transfer should be addressed to State Director, Bureau of Land Management, 300 Booth Street, Reno, NV. These comments must be within 45 days of the date of publication of this notice to be considered in the preparation of the final environmental statement.

Dated: December 27, 1972.

WILLIAM W. LYONS,
Deputy Assistant
Secretary of the Interior.

[FR Doc.73–236 Filed 1–4–73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

RICE

Notice of Marketing Quota Referendum for 1973 Crop

Marketing quotas for the crop of rice to be produced in 1973 have been duly proclaimed pursuant to provisions of the Agricultural Adjustment Act of 1938, as amended. Said act requires a referendum to be conducted within 30 days after the date of the issuance of said proclamation of farmers who were engaged in the production of rice in 1972 to determine whether such farmers are in favor of or opposed to such quotas. Prior to establishing the date for the referendum on the 1973 crop rice, public notice (37 FR 21173) was given in accordance with 5 U.S.C. 553. Data, views, and recommendations were submitted pursuant to such notice. They have been considered to the extent permitted by law. It is hereby determined that the rice marketing quota referendum under said act for the 1973 crop of rice shall be held during the period January 22 to 26, 1973, each inclusive by mail ballot in accordance with Part 717 of this chapter (33 FR 18345, 34 FR 12940, 36 FR 12730).

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

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

[FR Doc.72–22446 Filed 12–29–72;10:25 am]

Office of the Secretary

MEAT IMPORT LIMITATIONS

First Quarterly Estimates

Public Law 88–482, approved August 22, 1964 (hereinafter referred to as the Act), provides for limiting the quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep, except lamb (TSUS 106.20), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of such articles, in the absence of limitations during such calendar year, would equal or exceed 110 percent of the estimated quantity of such articles, prescribed by section 2(a) of the Act.

In accordance with the requirements of the Act, the following first quarterly estimates for 1973 are published:

1. The estimated aggregate quantity of such articles which would, in the absence of limitations under the Act, be imported during calendar year 1973 is 1,450 million pounds.

2. The estimated quantity of such articles prescribed by section 2(a) of the Act during the calendar year is 1,046.8 million pounds.

Since the estimated quantity of imports exceeds 110 percent of the estimated quantity prescribed by section 2(a) of the Act, under the Act limitations for the calendar year 1973 on the importation of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep (TSUS 106.20), are required to be imposed unless suspended by the President pursuant to section 2(d) of Public Law 88–482.

Done at Washington, D.C., this 29th day of December 1972.

EARL L. BUTZ,
Secretary of Agriculture.

[FR Doc.73–213 Filed 1–2–73;9:41 am]

Soil Conservation Service

CHIPPEWA CREEK WATERSHED PROJECT, OHIO

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental statement for the Chippewa Creek Watershed Project, Wayne, Medina, Stark, and Summit Counties, Ohio, USDA–SCS–ES–WS–(ADM)–73–38(D).

The environmental statement concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment, supplemented by 33.2 miles of channel alteration, and three floodwater retarding reservoirs.

This draft environmental statement was transmitted to CEQ on December 22, 1972.

Copies are available during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and

Independence Avenue SW., Washington, D.C. 20250
Soil Conservation Service, USDA, 311 Old Federal Building, Columbus, Ohio 43215

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please use name and number of statement above when ordering. The estimated cost is $3.90.

Copies of the draft environmental statement have been sent for comment to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to Robert E. Quilliam, State Conservationist, Soil Conservation Service, 311 Old Federal Building, Columbus, Ohio 43215.

Comments must be received within 60 days of the date the statement was transmitted to CEQ in order to be considered in the preparation of the final environmental statement.

W. B. DAVEY,
Deputy Administrator for Watersheds, Soil Conservation Service.

DECEMBER 27, 1972.

[FR Doc.73-219 Filed 1-4-73;8:45 am]

SIMON RUN WATERSHED PROJECT, IOWA

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental statement for the Simon Run Watershed Project, Pottawattamie County, Iowa, USDA-SCS-ES-WS-(ADM)-73-12(F).

The environmental statement concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment measures, supplemented by eight grade stabilization structures for flood damage reduction and the prevention of gully erosion.

The final environmental statement was transmitted to CEQ on December 7, 1972.

Copies are available for inspection during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue SW., Washington, D.C. 20250.
Soil Conservation Service, USDA, 823 Federal Building, 210 Walnut Street, Des Moines, IA 50309.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please order by name and number of statement. The estimated cost is $3.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

W. B. DAVEY,
Deputy Administrator for Watersheds, Soil Conservation Service.

DECEMBER 20, 1972.

[FR Doc.73-221 Filed 1-4-73;8:45 am]

SOUTH FORK WATERSHED PROJECT, NEBRASKA

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental statement for the South Fork Watershed Project, Pawnee and Richardson Counties, Nebr., USDA-SCS-ES-WS-(ADM)-73-18(D).

The environmental statement concerns a plan for watershed protection, flood prevention and public recreational development. The planned works of improvement include conservation land treatment supplemented by 14 grade stabilization structures, two floodwater retarding and one multiple-purpose reservoir with storage capacity for floodwater and recreation. It also includes basic recreation facilities in association with the multiple-purpose reservoir.

This draft environmental statement was transmitted to CEQ on December 21, 1972.

Copies are available during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue SW., Washington, D.C. 20250.
Soil Conservation Service, USDA, Room 604, 134 South 12th Street, Lincoln, NE 68508.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please use name and number of statement above when ordering. The estimated cost is $3.

Copies of the draft environmental statement have been sent for comment to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to Keith F. Myers, State Conservationist, Soil Conservation Service, Room 604, 134 South 12th Street, Lincoln, NE 68508.

Comments must be received within 60 days of the date the statement was transmitted to CEQ in order to be considered in the preparation of the final environmental statement.

W. B. DAVEY,
Deputy Administrator for Watersheds, Soil Conservation Service.

DECEMBER 27, 1972.

[FR Doc.73-220 Filed 1-4-73;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-320]

AMERICAN EAGLE TANKER CORP. ET AL.

Applications for Operating-Differential Subsidy Contracts

Notice is hereby given that the following corporations have filed application for an operating-differential subsidy contract to carry bulk cargoes to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). The bulk cargo carrying vessels proposed to be subsidized and the trades in which each proposes to engage are presented also.

Applicant's name and address	Type of ship	Name of ship
American Eagle Tanker Corp., 80 Broad St., New York, N 10004.	Tanker	SS American Eagle.
Cities Service Tankers Corp., 60 Wall St., New York, NY 10005.	do	SS Cantigny.
Do	do	SS Cities Service Baltimore.
Do	do	SS Bradford Island.
Do	do	SS Fort Hoskins.
Do	do	SS Cities Service Norfolk.
Sea Tankers, Inc., 511 5th Ave., New York, NY 10017.	do	SS Alpha Reserve (to be renamed Overseas Rose).
Do	do	SS Gamma Reserve (to be renamed Overseas Evelyn).

The foregoing applications may be inspected in the Office of the Secretary, Maritime Subsidy Board, Maritime Administration, U.S. Department of Commerce, Washington, D.C. during regular working hours.

These vessels are to engage in the carriage of export bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the United States to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Liquid and dry bulk cargoes may be carried from U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in the reg-

ulations published in the FEDERAL REGISTER on November 16, 1972 (37 FR 24349).

For purposes of section 605(c), Merchant Marine Act, 1936, as amended (Act), it should be assumed that each vessel named will engage in the trades described on a full-time basis through June 30, 1973 (with extension to termination of approved subsidized voyages in progress on that date). Each voyage must be approved for subsidy before commencement of the voyage. The Maritime Subsidy Board (Board) will act on each request for a subsidized voyage as an administrative matter under the terms of the individual operating-differential subsidy contract for which there is no requirement for further notices under section 605(c) of the Act.

Any person having an interest in the granting of one or any of such applications and who would contest a finding of the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes as previously specified is inadequate, must, on or before January 11, 1973, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing. Further, each such statement shall identify the applicant or applicants against which the intervention is lodged.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to any application(s), the purpose of such hearing will be to receive evidence relevant to (1) whether the application(s) hereinabove described is one with respect to vessels to be operated in an essential service, served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

Dated: January 3, 1973.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-355 Filed 1-4-73;8:45 am]

National Oceanic and Atmospheric Administration

[Docket No. G-542]

BUSTER HARRIS

Notice of Loan Application

DECEMBER 29, 1972.

Buster Harris, Route 1, Box 635, Brownsville, TX 78520, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 73 feet in length, to engage in the fishery for shrimp and oysters.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above-entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publcation of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

ROBERT W. SCHONING,
Acting Director.

[FR Doc.73-229 Filed 1-4-73;8:45 am]

Office of Import Programs

NORTH CAROLINA STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00383-01-28200. Applicant: North Carolina State University, Purchasing Department, Post Office Box 5935, Raleigh, NC 27607. Article: Electron resonance spectrometer, Model JES-ME-IX. Manufacturer: JEOL, Japan. Intended use of article: The article is intended to be used for research centered around the free radicals produced by the high energy and ultraviolet irradiation of high polymers and monomer-polymer systems. Specific systems to be studied are as follows:

1. The radiation initiated polymerization of vinyl chloride in bulk and in precipitating media;

2. The identity, role, and fate of trapped radicals in radiation initiated graft polymerization systems;

3. The yield of free radicals from ultraviolet irradiated lignin and lignocellulose (wood pulp) fibers; and

4. The identity and yield of the active intermediate formed by the high energy irradiation of polyvinyl chloride under super-dry conditions.

In addition the article will be used by M.S. and Ph. D. candidates in chemistry, forestry, and textiles for research programs. Simple studies with E.S.R. measurements will be incorporated with the course Ch.E. 671.

Comments: No comments have been received with respect to this application. A letter dated June 2, 1972, from Varian Associates (Varian) is treated as an offer to provide additional information according to section 701.10(a).

Decision: Application denied. An instrument of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: In reply to Question 8 the applicant alleges that the following are the pertinent specifications of the foreign article:

(1) Magnetic field sweep rates of 1, 2.5, 5, 10, and 25 seconds (sec.).

(2) 100 percent effective ultraviolet irradiation of samples in the standard cavity by means of [a] window that permits direct focusing on to the sample.

(3) All sweep widths, sweep times, field modulation and filter modulation and filter adjustments which are utilized for recording on the chart are synchronized with the oscilloscope presentation.

(4) Copper standard cavity with a gold-plated interior (permits use at high temperatures, and ready cleaning when contaminated).

(5) The sample marker, which allows a reference sample Mn^{++} in MgO, for calibration of both g and hyperfine splitting to be inserted simultaneously with the sample to be measured in the standard cavity (avoids contamination of the sample).

(6) Standard low frequency modulation unit (allows second derivative presentation).

The National Bureau of Standards (NBS) advises in its memorandum dated June 27, 1972, that the Varian E-Line E.S.R. spectrometers, comparable to the foreign article for the purposes of evaluation, satisfy all the specifications listed by the applicant in the reply to Question 8. NBS advises as follows with

respect to each of the above-alleged pertinent specifications: (1) Varian provides a rapid scan accessory capable of sweep rates from 0.025 to 100 seconds. (2) Varian provides optical transmission cavity accessories. (3) Varian provides for oscilloscope presentation. (4) Varian cavities may be used in excess of 700° C. and are easily cleaned. The gold plating is a design feature. (5) Varian offers a dual cavity accessory as well as their standard cavity permitting simultaneous insertion of a reference sample and the sample to be measured. Contamination can be prevented by appropriate choice of a capsule material such as quartz. Varian permits second derivation presentation with their low frequency modulation unit. Thus NBS advises that the Varian E-Line spectrometers are scientifically equivalent to the foreign article for the applicant's intended uses.

For the foregoing reasons, we find that an instrument of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.73-226 Filed 1-4-73;8:45 am]

PURDUE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 73-00016-65-46070. Applicant: Purdue University, West Lafayette, Ind. 47907. Article: Scanning electron microscope, Model JSM-U3. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in experiments to determine how the structure of various materials (minerals, cements, woods, oxides, metals, and alloys, semiconductors, meteorites, and polymers) can be modified by various treatments to improve properties. Typical experiments include:

(I) Measuring charge distribution on thin film semiconducting devices.

(II) Aging of alloys to produce strengthening due to fine particles.

(iii) Determination of how micromorphology of cement pastes affects final properties.

(IV) Characterization of number, size, and shape of bubbles of inert gas which are generated and lead to failure in nuclear reactor materials.

(V) Identification, analysis, and determination of the distribution of phases on polished and lapped surfaces of alloys and minerals.

The article will be used for graduate thesis studies in science and engineering and undergraduate laboratory studies in the School of Materials Science and Metallurgical Engineering to teach and develop the concept that properties of materials depend upon structure.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States at the time the article was ordered, January 26, 1971.

Reasons: The foreign article has a guaranteed resolving power of 100 Angstroms (Å). The National Bureau of Standards (NBS) in its memorandum dated November 22, 1972, advised that the best resolution available is pertinent to the purposes for which the article is intended to be used. NBS further advised that it knew of no domestic instrument which matched the resolving power of the foreign article at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.73-227 Filed 1-4-73;8:45 am]

Office of Textiles

IMPORTERS' TEXTILE ADVISORY COMMITTEE

Notice of Public Meeting

JANUARY 3, 1973.

A. Importers' Textile Advisory Committee (the Committee).

B. The meeting is scheduled for January 11, 1973, at 2 p.m.

The purpose of the meeting is to advise Government officials of the effects on import markets of wool and manmade fiber textile agreements negotiated under the Agricultural Act of 1956, as amended, and of the cotton textile agreements negotiated under the Long-Term Arrangement Regarding International Trade in Cotton Textiles and the Agricultural Act of 1956, as amended.

The agenda for the meeting is:

1. Review of import trends.

2. Report on conditions in the domestic market.

3. Implementation of textile agreements.

4. Report on Study of the GATT All-Fiber Textile Working Party.

5. Other business.

C. The meeting will be open to public observation. Public participation will be in accordance with established committee procedures.

D. The meeting will be held in Room 4833, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230.

E. Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230.

ARTHUR GAREL,
Director, Office of Textiles, Bureau of Resources and Trade Assistance.

[FR Doc.73-370 Filed 1-4-73;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Notice of Meeting

JANUARY 2, 1973.

The Advisory Committee on Reactor Safeguards will hold a closed meeting on January 11-13, 1973, at 1717 H Street NW., Washington, DC.

The agenda items tentatively scheduled for consideration are as follows:

Shearon Harris Nuclear Power Plant Units 1, 2, 3 and 4—Construction.
North Anna Power Station Units 3 and 4—Construction.
Waterford Steam Electric Station Unit 3—Construction.
Oconee Nuclear Station Unit 1—Plant repairs and modification of reactor internals.
General Electric Co. Mark III Containment—Preapplication review.

JOHN C. RYAN,
Acting Assistant General Manager for Administration.

[FR Doc.73-345 Filed 1-4-73;8:45 am]

[Docket Nos. 50-373A and 50-374A]

COMMONWEALTH EDISON CO.

Antitrust Matters; Receipt of Attorney General's Advice and Time for Filing of Petitions to Intervene

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, a letter of advice from the Attorney General of the United States, dated December 20, 1972, a copy of which is set forth as Appendix A below.

Any person whose interest may be affected by this proceeding may, pursuant to section 2.714 of the Commission's rules of practice, 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed within thirty (30) days after publication of this notice in the FEDERAL REGISTER, either (1) by delivery to the AEC Public Document Room at 1717 H Street NW., Washington, DC, or (2) by mail or telegram addressed to the Secretary, U.S. Atomic Energy Commission, Washing-

ton, D.C., 20545, Attn: Chief, Public Proceedings Branch.

For the Atomic Energy Commission.

JEROME D. SALTZMAN,
Acting Chief, Office of Antitrust and Indemnity, Directorate of Licensing.

APPENDIX "A"

[AEC Docket Nos. 50-373A, 50-374A; Department of Justice File No. 60-415-41]

COMMONWEALTH EDISON CO.

La Salle County Units 1 and 2

DECEMBER 20, 1972.

You have requested our advice pursuant to the provisions of section 105 of the Atomic Energy Act of 1954, 68 Stat. 919, 42 U.S.C. 2011-2296 as recently amended by Public Law 91-560, 84 Stat. 1472 (December 19, 1970), in regard to the above-cited application. This supplements our letter of December 27, 1971.

Introduction. This is an application to construct two nuclear electric generating units with capacity in excess of 1 million kilowatts each, at a proposed La Salle County nuclear generating station near Seneca, Ill. The units are to be integrated with applicant's electric bulk power supply system which is described below and the power marketed as a portion of its system output.

Applicant. Applicant is one of the largest electric utilities in the United States. Its 1970 peak load was 10,027 mw; its generating capacity at that time was 11,321 mw, consisting of 10,580 mw of installed capacity and 741 mw of purchases. It serves nearly two-thirds of the entire Illinois market. It is more than five times as large as the Illinois Power Co., its largest competitor in Illinois whose load is less than 2,000 mw. Union Electric Co., which is somewhat larger than Illinois Power Co., serves principally in Missouri although it has substantial Illinois loads in East St. Louis and adjacent areas. In 1965 applicant acquired Central Illinois Electric & Gas Co., which served Rockford, Ill.'s, second largest city and a few other small areas. There are seven small municipal systems serving in northern Illinois; two of these, Rochelle and Winnetka generate as well as distribute power.

Applicant's load is expected to double in the next 10 years, and it has planned or under construction additional generating capacity (largely nuclear) to increase its dependable system capacity to 20,348 mw by 1980. La Salle County Units 1 and 2 are a part of this increase in system capacity, estimated to come on line in 1975 and 1976, respectively.

In 1970 applicant's total assets, including a net plant of $3,045 million, were $3,374,996,000. Its 13 major generating stations are integrated into a single bulk power supply system by 3,407 circuit miles of high voltage and extra high voltage (EHV) transmission lines including 2,149 circuit miles of 138 kv. and 1,039 circuit miles of 345 kv. It is vertically integrated, marketing its bulk power supply at retail through 35,786 pole miles of overhead lines and 9,540 cable miles of underground.

It has high voltage or EHV interconnections to a number of major systems adjacent to it. These include EHV interconnections to the American Electric Power System (AEP), through the latter's operating subsidiary, Indiana & Michigan Electric Co., to Illinois Power Co., Wisconsin Electric Power Co., and Iowa-Illinois Gas & Electric. It is also interconnected with Central Illinois Light Co., Central Illinois Public Service Co., Northern Indiana Public Service Co., Interstate Power Co. and it participates in the Mid-America Interpool Network (MAIN). Through AEP, it interconnects with the Consumers Power Co. of Michigan and it is participating with the latter in a coordinated hydroelectric development at Ludington, Mich.

Applicant's load is estimated to grow 1,000 to 1,400 mw per year through 1980 and from 1,400 to 2,500 mw per year through 1990. These large annual increments of load growth over a large load area, the risk-spreading effect of its integrated transmission system, and the support which it can receive from interconnections and emergency power exchange agreements with other adjacent systems, permit it to use some of the largest sized generating units now being installed by electric utilities. Applicant is among the leaders in the installation of nuclear generating units.

Our investigation indicated a number of practices which may raise questions under the antitrust laws.

(1) Several of the municipal systems which purchase all their bulk power supply at wholesale from applicant have complained to the Federal Power Commission of a "price squeeze" in competing with applicant to attract large industrial customers to locate in their service area. The wholesale customers contend that the wholesale rate has not permitted them to match applicant's retail large industrial rate (Rate 6) and thus has made it difficult or impossible to attract industry to their cities. Price squeezes similar to that alleged here have been found in some cases to represent the unlawful exercise of monopoly power; e.g., Aluminum Co. of America v. United States, 148 F. 2d 416 (2nd Cir. 1945). The complaint in this regard is presently being tried before the FPC.[1] We note that although applicant is claiming in that proceeding that "discriminations" between wholesale rates (regulated by the FPC) and retail rates (regulated by State Commission) are not within the jurisdiction of the FPC to remedy, it has also submitted evidence going to the merits of the price squeeze contention. The FPC has made no final ruling on the issue as of this time, but an Administrative Law Judge has found that there are remedies for "price squeeze" under section 205 of the Federal Power Act.

(2) Applicant has included in its tariff a provision which limits sales at wholesale (a) to customers presently being served by it, and (b) at their present premises. Applicant refers to this as a "wholesale freeze" and states that it does not hold itself out generally to offer wholesale service. State law permits a municipality to issue limited-term franchises and to oust a private utility at the termination of its franchise and thereupon to establish a municipal distribution system.[2] Without access to wholesale power purchased from applicant, however, any municipality desiring to enter the electric distribution business in applicant's general area could find it impossible or very difficult to obtain the necessary bulk power supply. See United States v. Otter Tail Power Co., 330 F. Supp. 54 (D. Minn.) prob. juris. noted 406 U.S. 944. We have discovered little evidence to suggest, however, that applicant's "wholesale freeze" policy has in fact served to impede or prevent the establishment of any municipal distribution system. In the present circumstances the "wholesale freeze" policy seems to amount to little more than applicant's assertion of the legal position that it is not required to render wholesale service to any new customer. Applicant appears to recognize that the District Court's Otter Tail decision is inconsistent with that position, and it has argued that Otter Tail was wrongly decided. It thus seems likely that applicant's future position with regard to its obligation to serve at wholesale will largely be governed by the Supreme Court's decision on appeal in Otter Tail.[3]

The provision in Applicant's wholesale tariffs and contracts limiting the purchasers to resale of the power "at their present premises" has been used by Applicant to restrict the wholesale customers' competition with Applicant for retail loads located outside the boundaries of the municipality. Illinois law does not prohibit a municipal system from marketing power at retail outside the municipal boundaries. It requires only that the majority of the municipal system's total service be provided within the corporate limits.[4]

The "at their present premises" provision thus amounts to an end-use restriction imposed by Applicant; as such, it is inconsistent with antitrust principles. See United States v. Arnold, Schwinn & Co., 388 U.S. 365. Applicant has indicated to us, however, that it is willing to eliminate this provision and to substitute only a requirement that municipal wholesale customers annually report to Applicant regarding the amount of power sold outside of the municipal boundaries. This would enable Applicant to determine whether the applicable provision of Illinois law is being observed.

(3) Some question has been raised regarding the terms of interconnection agreements which Applicant has entered into with two municipal systems (Rochelle and Winnetka) which generate some of their own power. When these systems initially sought interconnection agreements with Applicant, they were offered reserve-sharing arrangement for the interchange of emergency power, some other limited coordination, and the sale of deficiency power—all on the condition that they not install any new generating capacity after completing any expansions in progress. The two cities objected to the total ban and in each case a compromise was reached under which the cities' credit for generating capacity (used in computing de-

[1] Commonwealth Edison Co., FPC Docket No. 3-7578; City of Geneva v. Commonwealth Edison Co., FPC Docket No. IN-989; City of Batavia v. Commonwealth Edison Co., FPC Docket No. IN-991; Initial Decision, Nov. 29, 1972.

[2] City of Geneseo v. Illinois Northern Utilities Co., 378 Ill. 506, 39 N.E. 2nd 26 (1941), cert. denied 316 U.S. 670; Springfield Gas & Electric Co. v. City of Springfield, 292 Ill. 236, 126 N.E. 739 (1920), aff'd 257 U.S. 66; Central Illinois Public Service Co. v. City of Bushnell, 109 F. 2d 26 (CA 7, 1940).

[3] It may also be that the Federal Power Commission would have some authority to remedy problems raised by the "wholesale freeze" policy. We note that the Commission under Part II of the Federal Power Act appears to have no general authority to require the provision of bulk power supply service at wholesale for resale. Its authority under section 202(b) to require interconnection and the sale or exchange of power is limited to cases which would not require the "public utility" described in section 201(a) to increase its generating capacity. Extension of service to any full requirements customers would ultimately require an increase in capacity for the "public utility." Moreover, section 202(b) relief may not be available to municipalities desiring to enter the electric power business who are not yet engaged in such business. Under section 205, however, the Commission has jurisdiction to remedy discrimination in rates or service. If a utility provides wholesale service to one or more wholesale customers, the Federal Power Commission may be able to require extension of such service to all who apply.

[4] Ill. Rev. Stat. Ch. 24 § 11-117-1; Illinois Power Co. v. City of Jacksonville, 18 Ill. 2nd 618, 165 N.E. 2d 330 (1960).

mand charges) is limited to capacity in service at the time when the interconnection contracts became effective. This has the practical consequence of requiring Applicant's consent before new generation can be installed. One of the cities, Rochelle, must now plan its expansion program and is seriously concerned about whether credit for additional generating facilities will be available. Applicant has now informed us, however, that it is willing to modify these interconnection agreements in order to recognize the principle that the cities are entitled to appropriate credit for new generating capacity added. The provision of such a credit would be subject only to the condition that the cities give sufficient notice to the Company of their expansion plans to allow for coordination between them with resepct to the time and type of capacity additions.

(4) The form of Applicant's contracts with its five full-requirements municipal customers prohibits them from operating their own power-production equipment in parallel with the Company's without its consent. The effect of this is to preclude them from installing their own generating facilities to supplement their purchases from Applicant without Applicant's consent. The contracts also place an upper limit on the amount of power which Applicant commits itself to supply. Although the evidence available to us indicates that Applicant has willingly supplied the increased power requirements occasioned by its wholesale customers' growing demand, the uncertainty created by the contract limitation could in some circumstances be an inhibiting factor in their competition with Applicant for large retail loads. When these matters were raised with Applicant, it agreed to modify these two provisions in order to eliminate any risk that they would have the effect of precluding bulk power supply alternatives or inhibiting retail competition. First, Applicant would commit itself to consent to the parallel operation of its customers' generating facilities with its own if the customers provide adequate protection against damage to the Company facilities or interference with Company operations. Secondly, the Company would modify the provision requiring a specification of maximum demand to state that "upon reasonable advance notice in writing to the Company of proposed increases in such maximum demand, the Company will arrange to supply the increased demand."

(5) In November 1971, six of the municipal systems in Applicant's area indicated to it a possible interest in acquiring bulk power supply from the proposed LaSalle units. The Company, in response, indicated that it was willing to explore the possibility of bulk power supply to the cities from the proposed LaSalle units, and a meeting was held shortly thereafter. The municipal systems requested Applicant to submit a proposal for sales to them of unit power from LaSalle comparable to the arrangements worked out to allow municipal systems participation in the Vermont Yankee and Maine Yankee nuclear units. Applicant restated its doubts that such arrangements would provide any financial advantage to the Illinois municipal systems over wholesale purchases. It indicated, however, that it would pursue the matter further if the municipals were seriously interested in unit power from capacity costing in the range of $300 per kilowatt and if they were legally free to make the long term commitments which would be required. The municipal systems have restated their interest, and further discussions with Applicant are planned.

Conclusion. As we have noted above, Applicant has made commitments to modify a number of contract and rate schedule provisions which could impede its wholesale customers' development of alternative bulk power supplies or which could restrain their retail competition with Applicant. The commitments offered by Applicant do not extend to two of the areas where our investigation revealed possible questions of competitive importance—the allegations of "price squeeze" and Applicant's announced "wholesale freeze." We do not believe that either of these questions would warrant an antitrust hearing at this time. The facts relevant to the "price squeeze" allegation have been put before the Federal Power Commission, and it is at least arguable that the Commission has sufficient authority to remedy any demonstrated injury resulting from a price squeeze. The Applicant's announced policy of not taking on additional wholesale customers does not appear to have had any practical impact, and its continuation will likely be governed by the forthcoming Supreme Court decision in the Otter Tail case.

We also do not believe that it is necessary to have an antitrust hearing with respect to the municipal systems' expression of interest in participation in the LaSalle units. The municipal systems, whose interest in purchasing capacity in the LaSalle units developed only a fairly short time ago, are still attempting to determine whether such unit power purchases would provide any significant advantage over continued wholesale purchases from Applicant. We are reasonably satisfied from the evidence to date that Applicant will cooperate with the municipal systems by providing the cost data necessary to make that determination. While Applicant has not made any commitment to sell unit power to the municipal systems, it has represented to us that it will negotiate in good faith with the municipal systems with respect to LaSalle unit power. As the Commission is aware, Applicant is very heavily committed to nuclear generation and will be frequently before this Commission seeking licenses for further nuclear generation units. In the event that the discussions and negotiations between Applicant and the municipal systems should take a different course from the one which Applicant's responses to date have led us to expect, we will be able to consider the possible antitrust significance in subsequent antitrust review proceedings.

In light of the foregoing, we conclude that if the commitments set forth in the attached letter from Applicant of October 6, 1972, were to be imposed as license conditions by the Commission, the question of accommodating antitrust policies with the power needs in this case would be satisfactorily resolved. Accordingly, we recommend that these commitments be imposed by the Commission as license conditions, as agreed to by the Applicant. If this were done, there would be no need for an antitrust hearing in this matter.

COMMONWEALTH EDISON COMPANY

JOSEPH J. SAUNDERS, ESQ.,
Chief, Public Counsel and Legislative Section,
Antitrust Division,
U.S. Department of Justice,
Washington, D.C. 20530.

OCTOBER 6, 1972.

DEAR MR. SAUNDERS: This is to confirm our previous conversations, and to restate in one letter proposed commitments and interpretations heretofore made, in the form finally agreed upon.

We believe that the administration of our rate and service policies which we have discussed with you has been entirely in accordance with law and should raise no question under the antitrust laws. Nevertheless, to avoid the delay which might occur were the Department of Justice to take the position that a hearing on antitrust issues was necessary in the LaSalle County case, we are prepared to confirm the commitments made heretofore, and, in addition, to file the changes in our FPC electric tariff marked on the attached pages of that tariff and described below. We further agree not to reinstate any of the contractual restrictions eliminated by this agreement, during the term of the LaSalle County license.

(1) The deletion of the words "at their present premises" from 3d Revised Sheet No. 1, as shown on Exhibit A,[1] would eliminate any rate restriction on the territory in which customers served under the rate might provide electricity to others. In addition, each of the cities of Batavia, Geneva, Naperville, Rock Falls, and St. Charles, have entered into a letter agreement in the form of Original Sheets Nos. 41 and 42, attached as Exhibit B.[1] We would propose, by agreement with each of the cities, to substitute for that letter a letter in the form attached as Exhibit C.[1]

(2) For Rochelle and Winnetka, a provision corresponding to the letter referred to above appears on Original Sheet No. 105 in the Rochelle Service Contract (Exhibit D attached [1]) and is duplicated in Original Sheets Nos. 115 and 116 of the Winnetka contract. Subject to the necessary agreements by the customers, we would substitute for this provision the following:

The customer and the company agree that the customer will report to the company within 15 days of the close of each calendar year, its total kilowatt-hour sales within the city limits during such calendar year and the revenue therefrom, and its total kilowatt-hour sales outside the city limits in such calendar year and the revenues therefrom.

(3) The proposed change in Original Sheet No. 1B (the underlined language in Exhibit E [1]) adopts the substance of the language proposed to us by your office by telephone, modified only to make it fit into the structure of our rate filings. Language essentially identical with Original Sheet 1B is contained in our electric service contracts with Rochelle and Winnetka and, subject to their agreement, the same change would be made in those service contracts.

(4) The language proposed to be added to Original Sheet No. 5, as shown by Exhibit F,[1] is designed to make clear that the purpose of the "parallel operation" clause is physical protection, and that the consent of the company to parallel operation will not be withheld for economic reasons.

(5) The first page of the form of electric service contract (1st Revised Sheet No. 51, Exhibit G attached [1]) will be revised as shown to make clear that the company will impose only such limits on the customer's maximum demand as are required to give the company an opportunity to arrange its service facilities to meet increases in the customer's requirements.

In addition, we restate our views concerning certain of our outstanding contracts:

(A) Edison does not maintain that it has a right to serve customers within the Rock Falls territory with connected loads of 75 kilowatts or more or to control the prices at which Rock Falls sells electricity. We regard any such rights as having been extinguished in 1955 and interpret our agreement with Rock Falls as permitting us to serve only those customers the city does not want to serve and Russell, Burdsell and Ward Co. (the latter not to the exclusion of the city). International Harvester, also referred to in this connection, is no longer served by the company in Rock Falls.

(B) With regard to the 1968 ordinances agreed upon in connection with the company's reduction of its Rate 78, the company construes these ordinances strictly in accordance with their terms and regards them as giving the company no rights it did not have prior to their enactment, except the

[1] Exhibits A–G filed as part of the original document.

right to maintain its facilities to serve customers in newly annexed territories that the cities have not yet determined to serve and also to maintain lines passing through the cities' territory to serve other customers.

We will proceed promptly to secure agreement from the wholesale customers involved and to make the filings outlined above upon notice from you that you will advise the Atomic Energy Commission that no hearing need be held on antitrust issues in the LaSalle County application, and that the construction permit for LaSalle County station need not have antitrust conditions in it or, alternatively, need be conditioned only on our performance of the undertakings in this letter.

Very truly yours,

HUBERT H. NEXON,
Vice-President.

[FR Doc.73-141 Filed 1-4-73;8:45 am]

[Docket No. 50-346]

TOLEDO EDISON CO. AND CLEVELAND ELECTRIC ILLUMINATING CO.

Notice of Hearing

The Toledo Edison Co., and The Cleveland Electric Illuminating Co. (the licensees), are the holders of Construction Permit No. CPPR-80 (the Construction Permit), issued by the Atomic Energy Commission on March 24, 1971. The Construction Permit authorizes the licensees to construct a pressurized-water nuclear reactor, designated as the Davis-Besse Nuclear Power Station, at the licensees' site on the southwestern shore of Lake Erie in Ottawa County, Ohio. The reactor is designed for initial operation at approximately 2,633 megawatts (thermal).

The facility is subject to the provisions of section B of Appendix D to 10 CFR Part 50, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits or operating licenses were issued in the period January 1, 1970–September 9, 1971. Notice is hereby given, pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in 10 CFR Part 2, rules of practice, and Appendix D to 10 CFR Part 50, "Implementation of the National Environmental Policy Act of 1969," that a hearing will be held in the captioned proceeding by an Atomic Safety and Licensing Board (Board) at a time and place to be fixed by subsequent order of the Board to consider and make determinations on the matters set forth below:

1. In the event that this proceeding is not a contested proceeding as defined by 10 CFR 2.4(n) of the Commission's rules of practice, the Board will without conducting a de novo evaluation of the application determine whether the environmental review conducted by the Commission's regulatory staff pursuant to Appendix D of 10 CFR Part 50 has been adequate.

2. In the event that this proceeding is a contested proceeding, the Board will decide any matters in controversy among the parties within the scope of Appendix D to 10 CFR Part 50, with regard to whether, in accordance with the requirements of Appendix D to 10 CFR Part 50, the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

3. Regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50: (a) Determine whether the requirements of section 102(2) (C) and (D) of NEPA and Appendix D to 10 CFR Part 50 of the Commission's regulations have been complied with in this proceeding; (b) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view toward determining the appropriate action to be taken; and (c) determine, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, whether the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

The Board will be designated by the Atomic Energy Commission. Notice as to its membership will be published in the FEDERAL REGISTER. Within thirty (30) days from the date of publication of this present notice in the FEDERAL REGISTER, any person whose interest may be affected by this proceeding may file a petition for leave to intervene with respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR 2.714(a).

Any person who does not wish to, or is not qualified to become a party to this proceeding concerning continuation, modification, termination, or conditioning the construction permit may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may only make an oral or written statement on the record, and may not participate in the proceeding in any other way. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705, must be filed by the licensees not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

In the event that this proceeding is not contested, the Board will convene a prehearing conference of the parties within sixty (60) days after this notice of hearing or such other time as may be appropriate, at a time and place to be set by the Board. It will also set the schedule for the evidentiary hearing. Notice of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

In the event that this proceeding becomes a contested proceeding, the Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within sixty (60) days from the date of publication of this notice in the FEDERAL REGISTER, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any special prehearing conference and within sixty (60) days after discovery has been completed, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.752.

Notices of the dates and places of the special prehearing conference, the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

For further details pertinent to the matters under consideration, see the licensees' environmental report dated August 3, 1970, as supplemented July 6, 1972, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, between the hours of 8:30 a.m. and 5 p.m. Monday through Friday and at the Ida Rupp Public Library, Port Clinton, Ohio, between the hours of 10 a.m. to 8 p.m. Monday through Saturday. As they become available, the following documents also will be available at the above locations:

(1) The Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; and (2) the Commission's final detailed statement on environmental considerations. Copies of item (2), when available, may be obtained by request to Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington D.C. 20545.

With respect to this proceeding, pursuant to 10 CFR 2.785 an Atomic Safety and Licensing Appeal Board will exercise the authority and the review function which would otherwise be exercised and performed by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER.

Dated at Germantown, Md., this 19th day of December 1972.

UNITED STATES ATOMIC ENERGY COMMISSION,
PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.73-2 Filed 1-4-73;8:45 am]

[Docket No. 50-366A]

GEORGIA POWER CO.

Order Amending Notice and Order for Prehearing Conference

In the matter of Georgia Power Co. (Edwin I. Hatch Nuclear Plant 2); Docket No. 50-366A.

On application of all the parties speaking through the staff attorney for the Atomic Energy Commission: *It is ordered*, That the order of this Board dated December 6, 1972 is amended so that the prehearing conference to be held January 9, 1973, will consider only oral argument on the petitions to intervene and the motion of the Department of Justice to consolidate this proceeding with the Alabama Power Co. matter—Docket 50-348A.

It is further ordered that all papers required by said order will be exchanged on or before January 19, 1973, and that a second prehearing conference be held January 30, 1973, at 9:30 a.m. in room 111, Veterans Administration Building, 811 Vermont Avenue NW., Washington DC 20420.

Issued at Washington, D.C., this 29th day of December 1972.

By order of the Atomic Safety and Licensing Board.

CARL W. SCHWARZ,
Acting Chairman.

[FR Doc.73-223 Filed 1-4-73;8:45 am]

[Docket No. 50-366]

GEORGIA POWER CO.

Notice of Issuance of Construction Permit

Notice is hereby given that, pursuant to the initial decision of the Atomic Safety and Licensing Board, dated December 22, 1972, the Deputy Director for Reactor Projects has issued Construction Permit No. CPPR-90 to the Georgia Power Co., for construction of a boiling water nuclear reactor at the Georgia Power Co.'s site near the south bank of the Altamaha River in Appling County, Ga., approximately 11 miles north of the town of Baxley, Ga. The proposed reactor, known as the Edwin I. Hatch Nuclear Plant, Unit 2, is designed for a rated power of approximately 2,436 megawatts thermal with a net electrical output of approximately 795 megawatts.

A copy of the initial decision and of the construction permit are on file in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545, and at the Appling County Public Library, Parker Street, Baxley, Ga. 31513.

Dated at Bethesda, Md., this 27th day of December, 1972.

For the Atomic Energy Commission.

ROBERT A. CLARK,
Acting Assistant Director for Boiling Water Reactors Directorate of Licensing.

[FR Doc.73-224 Filed 1-4-73;8:45 am]

[Dockets Nos. 50-390, 50-391]

TENNESSEE VALLEY AUTHORITY

Determination To Grant Exemption From Licensing for Certain Construction Activities

Pursuant to the provisions of 10 CFR 50.12 of the Atomic Energy Commission's (Commission) regulations, the Commission has granted an exemption from the requirements of 10 CFR 50.10 (b) to the Tennessee Valley Authority (the applicant) for certain construction activities involving the Watts Bar Nuclear Plant Units 1 and 2 prior to a decision regarding the issuance of a construction permit.

In an application dated May 18, 1971, the applicant requested permits to construct two pressurized water nuclear power reactors, designated as the Watts Bar Nuclear Plant, Units 1 and 2, at the applicant's site on the Tennessee River in Rhea County, Tenn. In accordance with the Atomic Energy Act and the Commission's regulations in 10 CFR Chapter 1, public hearings have been held in the captioned matter concerning radiological health and safety and environmental aspects of the proposed facilities. These hearings have been completed and the presiding Atomic Safety and Licensing Board has issued its initial decision dated December 19, 1972, which, on the basis of its consideration of such aspects, authorizes the issuance of construction permits for these facilities. However, the time periods associated with certain procedural aspects of the Commission's antitrust review have not yet elapsed, although notice of receipt of Attorney General's advise has been published in the FEDERAL REGISTER on December 19, 1972 (37 FR 27676), reflecting that the Attorney General found no antitrust problems which would require an antitrust hearing.

By letter dated September 18, 1972, the applicant requested an exemption from the provisions of 10 CFR 50.10(b) for certain construction activities at the proposed site prior to a decision regarding the issuance of a construction permit and provided the Commission with supporting information, including information on the environmental impact of the activities to be conducted under the exemption, if granted.

After consideration and balancing of the factors specified in 10 CFR 50.12 of the Commission's regulations, it has been determined that the work requested in the exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and should be authorized. The granted exemption limits the work to be performed to general site clearing and grading, excavation of the powerhouse building foundation, the intake channel and the pumping station, erection of temporary construction facilities, construction of a railroad spur, construction of holding pond dikes, upgrading of the existing dock facility, and certain cooling tower foundation tests.

The basis for granting this exemption is set forth in a document entitled "Discussion and Findings by the Directorate of Licensing, U.S. Atomic Energy Commission, Relating to a Request for an Exemption From Licensing for Certain Construction Activities at the Watts Bar Nuclear Plant, Units 1 and 2, AEC Docket Nos. 50-390/391," dated December 22, 1972. The applicant's letter of September 18, 1972, and referenced supporting in-

formation, relating to this request for an exemption, a letter from the Deputy Director for Reactor Projects, Directorate of Licensing, to the applicant dated December 22, 1972, granting the exemption, and the discussion and findings referred to above are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and the Dayton Public Library, First Avenue, Dayton, Tenn. 37321. Copies of the discussion and findings document 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.

Dated at Bethesda, Md., this 22d day of December, 1972.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.73-225 Filed 1-4-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24739]

SCHENKER & CO. G.m.b.H. (GERMANY) AND SCHENKERS INTERNATIONAL FORWARDERS, INC.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on January 16, 1973, at 10 a.m. (local time), in Room 726, Universal Building, 1825 Connecticut Avenue NW., before the undersigned administrative law judge.

Dated at Washington, D.C., December 29, 1972.

[SEAL] RICHARD M. HARTSOCK,
Administrative Law Judge.

[FR Doc.73-228 Filed 1-4-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

NOR-AM AGRICULTURAL PRODUCTS, INC.

Notice of Establishment of Temporary Tolerance

NOR-AM Agricultural Products, Inc., 11710 Lake Avenue, Woodstock, IL 60098, submitted a petition (PP 2G1262) requesting establishment of a temporary tolerance for negligible residues of the herbicide ethyl *m*-hydroxycarbanilate carbanilate in or on the raw agricultural commodities sugar beet roots and tops at 0.2 part per million.

It has been determined that a temporary tolerance for negligible residues in or on sugar beet roots and tops at 0.2 part per million is safe and will protect the public health.

It is therefore established as requested on condition that the herbicide be used in accordance with the temporary permits being issued concurrently and which provide for distribution under the NOR-AM Agricultural Products, Inc., name.

This temporary tolerance expires December 22, 1973.

This action is being taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for pesticides programs (36 FR 9038).

Dated: December 22, 1972.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.73-230 Filed 1-4-73;8:45 am]

FEDERAL MARITIME COMMISSION

[Docket No. 72-64]

AMERICAN EXPORT LINE, INC. ET AL.

Order of Investigation and Hearing

American Export Line, Inc. (AEL), Sea-Land Service, Inc. (Sea-Land), and United States Lines, Inc. (USL) are all common carriers by water operating inter alia between the east coast of the United States and the United Kingdom and Europe. These carriers submit bids for the carriage of military cargo pursuant to the negotiated competitive procurement system administered by the Military Sealift Command (MSC).

In response to the latest Request for Proposal (RFP)—700, Second Cycle, issued by the MSC, AEL, Sea-Land, and USL submitted bids in the amounts of $12.75M, $13.00M, and $13.15M respectively for Cargo N.O.S.; $25.25M, $28.30M, and $29.27M respectively for carriage of vehicles; and $29.50M, $28.75M, and $24.53M respectively for carriage of refrigerated cargo from U.S. east coast ports to the United Kingdom and Europe on MSC Route Index 4 and 5, to be effective during the period January 1, 1973–June 30, 1973. In most instances these bids are below the rate levels in effect in connection with the previous RFP 700, First Cycle. (See Attachments A and B).[1]

The Commission has for some time been seriously concerned with the apparent precariously low level of rates on military cargo bid pursuant to the MSC procurement system. Section 18(b)(5) of the Shipping Act, 1916 (46 U.S.C. 817(b)) authorizes the Commission to disapprove any rate or charge which it finds to be so unreasonably high or low as to be detrimental to the commerce of the United States. Because of our concern and responsibility in this regard the Commission has, among other things, instituted an investigation into the lawfulness of certain rates previously submitted in the subject trade area,[2] issued a number of section 21 orders against American-flag carriers participating in the MSC procurement system, and established by rule making a minimum standard in order to determine whether military rates meet the requirements of section 18(b)(5) of the Act (F.M.C. General Order 29).

As the Commission recently had occasion to state in connection with the promulgation of General Order 29, rates on military cargo may fall to such a low level that either the continuation of adequate service is jeopardized or upward pressure is exerted on rates paid by commercial shippers. Both of these contingencies, we believe, result in a situation which is detrimental to the commerce of the United States.

Comparing the bids presently submitted with those submitted under the previous RFP Cycle, which were themselves suspect, and considering the rising costs of operation in the industry, the Commission is of the opinion that the reasonableness of the present level of bids submitted by the subject carriers pursuant to RFP 700, Second Cycle, is in serious doubt. Therefore, the Commission is of the opinion that an investigation should be undertaken in order to determine whether such bid rates are in fact so unreasonably low as to be detrimental to the commerce of the United States, hence warranting disapproval by the Commission. Since the subject rates are effective for only a 6-month period, and because the Commission wants the issue seasonably resolved, we are directing expedition of the proceeding as ordered below.

Now therefore, it is ordered, That, pursuant to section 22 of the Shipping Act, 1916, as amended, an investigation and hearing is hereby instituted to determine the lawfulness of AEL's, Sea-Land's, and USL's RFP–700 Second Cycle bid rates for carriage of Cargo N.O.S., vehicles, and refrigerated cargo under section 18(b)(5) of the Act; and

It is further ordered, That AEL, Sea-Land and USL be made respondents in this proceeding; and

It is further ordered, That this proceeding be referred for public hearing before an administrative law judge of the Commission's Office of Administrative Law Judges with directions that the proceeding be expedited to the fullest extent possible, and that upon completion of the hearing the record developed therein be certified to the Commission; and that the hearing be held at a date and place to be determined and announced by the presiding administrative law judge; and

It is further ordered, That notice of this order be published in the FEDERAL

[1] Attachments A and B filed as part of the original document.

[2] Sea-Land Service, Inc.—Possible Violations of section 18(b)(5), Shipping Act, 1916, F.M.C. Docket No. 71-98. In view of the institution of this proceeding and for other reasons, we are by separate order discontinuing that proceeding.

REGISTER and a copy thereof and notice of hearing be served upon respondents; and

It is further ordered, That any person other than respondents who desires to become a party to this proceeding and to participate therein shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, promptly with copies to parties; and

Finally, it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.73-205 Filed 1-4-73;8:45 am]

[Docket No. 72-65]

AMERICAN MAIL LINE, INC., ET AL.

Order of Investigation and Hearing

American Mail Line, Inc. (AML), American President Lines, Inc. (APL) and Sea-Land Service, Inc. (Sea-Land) are all common carriers by water operating inter alia between the west coast of the United States and Japan. These carriers submit bids for the carriage of military cargo pursuant to the negotiated competitive procurement system administered by the Military Sealift Command (MSC).

In response to the latest Request for Proposal (RFP)—700, Second Cycle, issued by the MSC, Sea-Land, APL, and AML submitted bids in the amount of $11.00M, $14.83M, and $14.95M respectively for carriage of Cargo N.O.S.; $23.00M, $55.20M, and $29.90M respectively for carriage of vehicles; and $39.65M, $38.00M, and $40.00M respectively for carriage of refrigerated cargo from U.S. west coast ports to Japan, to be effective during the period January 1, 1973–June 30, 1973. In some instances these bids are below the rate levels in effect in connection with the previous RFP 700 First Cycle. (See Attachment A.) [1]

The Commission has for some time been seriously concerned with the apparent precariously low level of rates on military cargo bid pursuant to the MSC procurement system. Section 18(b)(5) of the Shipping Act, 1916 (46 U.S.C. 817(b)) authorizes the Commission to disapprove any rate or charge which it finds to be so unreasonably high or low as to be detrimental to the commerce of the United States. Because of our concern and responsibility in this regard the Commission has, among other things, initiated an investigation into the lawfulness of the rates previously submitted in the subject trade area,[2] issued a number of section 21 orders against American-flag carriers participating in the MSC procurement system, and established by rule making a minimum standard in order to determine whether military rates meet the requirements of section 18(b)(5) of the Act (F.M.C. General Order 29).

As the Commission recently had occasion to state in connection with the promulgation of General Order 29, rates on military cargo may fall to such a low level that either the continuation of adequate service is jeopardized or upward pressure is exerted on rates paid by commercial shippers. Both of these contingencies, we believe, result in a situation which is detrimental to the commerce of the United States.

Comparing the bids presently submitted with those submitted under the previous RFP Cycle, which were themselves suspect, and considering the rising costs of operation in the industry, the Commission is of the opinion that the reasonableness of the present level of bids submitted by the subject carriers pursuant to RFP 700, Second Cycle, is in serious doubt. Therefore, the Commission is of the opinion that an investigation should be undertaken in order to determine whether such bid rates are in fact so unreasonably low as to be detrimental to the commerce of the United States, hence warranting disapproval by the Commission. Since the subject rates are effective for only a 6-month period, and because the Commission wants the issue seasonably resolved, we are directing expedition of the proceeding as ordered below.

Now, therefore, it is ordered, That, pursuant to section 22 of the Shipping Act, 1916, as amended, an investigation and hearing is hereby instituted to determine the lawfulness of Sea-Land's, APL's, and AML's RFP–700 Second Cycle bid rates for carriage of Cargo N.O.S., vehicles, and refrigerated cargo under section 18(b)(5) of the Act; and

It is further ordered, That AML, APL, and Sea-Land be made respondents in this proceeding; and

It is further ordered, That this proceeding be referred for public hearing before an administrative law judge of the Commission's Office of Administrative Law Judges with directions that the proceeding be expedited to the fullest extent possible, and that upon completion of the hearing the record developed therein be certified to the Commission; and that the hearing be held at a date and place to be determined and announced by the presiding administrative law judge; and

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and a copy thereof and notice of hearing be served upon respondents; and

It is further ordered, That any person, other than respondents who desires to become a party to this proceeding and to participate therein shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C., 20573, promptly with copies to parties; and

Finally, it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.73-206 Filed 1-4-73;8:45 am]

[Docket No. 72-23]

AMERICAN PRESIDENT LINES, INC., ET AL.

Order of Discontinuance

By order of investigation and hearing served June 13, 1972, the Commission instituted the above proceeding to determine the lawfulness of American President Lines' (APL), American Mail Lines' (AML), Sea-Land Service, Inc. (Sea-Land) and United States Lines' (USL) RFP–700 Military Cargo N.O.S. bid rate of $10.66M, $11.90M, $11.51M, and $12.94M respectively for the carriage of military cargo on Military Sealift Command (MSC) Route Index 1–E under section 18(b)(5) of the Shipping Act, 1916 (Act); and also the lawfulness of the above-mentioned carriers' rates for transportation of privately owned vehicles (P.O.V.) under RFP–700.

Simultaneously with the issuance of the Order of Investigation and Hearing in this proceeding, section 21 orders were issued to the respondents in this proceeding as well as to other carriers in the relevant trade asking for detailed information relating to the cost of carrying military cargo on this MSC Route Index 1–E. The information furnished was then analyzed by the Commission's Office of Transportation Economics in an effort to determine the cost of carrying military cargo on MSC Route Index 1–E, with a view toward using the analysis in Docket No. 72–23.

Since the issuance of the order of investigation and hearing, the Commission has issued General Order 29, which sets forth the standards for determining the lawfulness of a bid submitted by a common carrier by water for carriage of military cargo under the RFP system of competitive bidding. In addition, the rates which are the subject of Docket No. 72–23 will pass out of effect on December 31, 1972.

By order of investigation and hearing, issued this day, thee Commission is undertaking an investigation of certain bid rates submitted pursuant to RFP–700, Second Cycle, for carriage of military cargo on MSC Route Index 1–E. The Commission believes that this new investigation undertaken after the issuance of General Order 29 will result in a much more productive examination of the entire issue of military rates on MSC Route

[1] Filed as part of the original document.

[2] American President Lines, Inc., American Mail Line, Inc., Sea-Land Service, Inc., and United States Lines, Inc.; Possible Violations of Section 18(b)(5) of the Shipping Act, 1916, F.M.C. Docket No. 72–23. In view of the institution of this proceeding and for other reasons, we are by separate order discontinuing that proceeding.

Index 1–E than would a continuation of Docket No. 72–23.

Now, therefore it is ordered, That the proceedings in Docket No. 72–23 are hereby discontinued.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and a copy thereof served upon respondents.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.73–203 Filed 1–4–73;8:45 am]

CITY OF LOS ANGELES AND OVERSEAS SHIPPING CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Roger Arnebergh, City Attorney, City of Los Angeles, Post Office Box 151, San Pedro, CA 90733.

Agreement No. T–2588–1, between the City of Los Angeles (City) and Overseas Shipping Co. (Overseas), modifies the basic agreement which provides for the 5-year nonexclusive preferential assignment to Overseas of Berths 228D, 228E, 229, and 230 plus 24 acres of adjacent land area for operation as a marine terminal. The purpose of the modification is to incorporate into the assigned premises offices, a gear corral, shops, and locker. Compensation for the use of the improvements is pursuant to the Port of Los Angeles Tariff No. 3.

Dated: December 29, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73–285 Filed 1–4–73;8:45 am]

CONTINENTAL/U.S. GULF FREIGHT ASSOCIATION

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Modification of agreement. Notice of agreement filed by:

Y. V. Wulffen, Current Chairman, Continental/U.S. Gulf Freight Association, c/o Hapag-Lloyd AG, Ballindamm 25, 2 Hamburg 1, Germany.

Agreement No. 9988–1, among the member lines of the captioned rate agreement, adds the U.S. South Atlantic from Key West to Cape Canaveral, including ports, places or points on inland waterways tributary thereto, to the scope of the basic agreement.

Dated: December 29, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73–286 Filed 1–4–73;8:45 am]

NEW YORK FREIGHT BUREAU (HONG KONG)

Notice of 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 current contract form and of the petition, reflecting the changes proposed to be made in the language of said contract, 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 changes 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 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed modification of the contract form and/or the approved 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 petition (as indicated hereinafter), and the statement should indicate that this has been done.

Application to modify an approved form of exclusive patronage contract filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue NW., Washington, DC 20036.

Agreement No. 5700 DR–3 modifies Article 1(a) of the New York Freight Bureau's basic dual rate agreement by relinquishing jurisdiction over traffic originating in China, south of Foochow and Viet Nam destined to U.S. Atlantic and Gulf ports.

Dated: December 27, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73–208 Filed 1–4–73;8:45 am]

NEW YORK TERMINAL 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 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:

Elkan Turk, Jr., Esq., Burlingham, Underwood & Lord, 25 Broadway, New York, NY 10004.

Agreement No. 8005-6, between the members of the New York Terminal Conference (Conference), amends the basic agreement which provides for the establishment and maintenance of rates, rules, and regulations applicable to truck loading and unloading at piers in New York Harbor. The purpose of the amendment is to add to the authority of the Conference the right to establish for its members and to alter the rates that they may charge for the loading and unloading of railroad cars in the New York port area.

Dated: December 29, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-287 Filed 1-4-73;8:45 am]

PACIFIC MARITIME ASSOCIATION

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, DC 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:

Edward D. Ransom, Esq., Lillick, McHose, Wheat, Adams & Charles, 311 California Street, San Francisco, CA 94104.

Agreement No. T-2635-2, between the members of the Pacific Maritime Association (PMA), represents the final agreement between members of the PMA for funding the PMA-International Longshoremen's and Warehousemen's Union (ILWU) Longshore Pay Guarantee Plan (Plan). The purpose of Agreement No. T-2635 is to fund PMA members' contingent liability created by the Plan. Contributions to the Plan will be determined by: (a) The number of revenue tons of cargo handled by each member employing longshoremen; and (b) the number of manhours of marine clerks employed by each member. The formula for the contributions is, in essence, the same as that used by the PMA membership in meeting their obligations under the PMA-ILWU Modernization and Mechanization Fund as provided for in FMC Agreement No. T-2210. Contributions per revenue ton and contributions per manhours are to be uniform between all participants with the following exceptions: (a) Bulk cargo shall contribute one-seventh of the contributions per revenue ton applicable to general cargo; (b) automobiles and trucks, exclusive of truck trailers, shall be one-fifth of the amount of assessment per revenue ton applicable to general cargo; (c) cargo in containers shall contribute seven-tenths of the amount per revenue ton applicable to general cargo. Agreement No. T-2635 (as amended by T-2635-1) represents PMA's interim arrangement for meeting members' obligations to the Plan; Agreement No. T-2635-2 amends T-2635 (as amended) by eliminating reference to and provisions relating to the "interim" period. Thus, the final Plan funding formula for the PMA will be identical to that used over the interim period.

Dated: December 27, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-209 Filed 1-4-73;8:45 am]

[Docket No. 71-54]

PACIFIC WESTBOUND CONFERENCE

Application To Extend Exclusive Patronage (Dual Rate) Contract System; Order of Remand

The Commission instituted this proceeding on May 12, 1971, to determine whether the application of the Pacific Westbound Conference (PWC) to expand the scope of its approved form of exclusive patronage contract to include the Conference's Overland Common Point (OCP) territory should be approved, disapproved, or modified pursuant to section 14b of the Shipping Act, 1916. Minnesota Mining and Manufacturing (3M), Orient Overseas Container Lines (OOCL) and the American Cotton Shippers Association (ACSA) intervened and remain as parties in the proceeding.[1]

The proceeding is now before us on appeals from the administrative law judge's rulings on legal issues wherein he held that the PWC proposal to extend its dual rate contract to include the overland territory was per se unlawful, concluded that the need for any further hearing was obviated, and accordingly ordered the proceeding discontinued.

PWC and hearing counsel maintain on appeal[2] that the administrative law judge erred in deciding that there are fundamental legal impediments to PWC's proposed Overland/OCP dual rate system and that the proper resolution of the issues set forth in the Commission's order of investigation in this proceeding requires an evidentiary hearing. In their replies to the appeals from the administrative law judge's rulings, 3M, ACSA and OOCL support the Judge's rulings and his legal basis therefor and conclude that the PWC proposal was properly disapproved.

Also before the Commission at this time are motions to strike filed by PWC and hearing counsel. These parties have moved the Commission to strike those portions of 3M's reply to their appeals which discuss the Commission's authority to approve a dual rate system which, inter alia, encompasses movements from Canada to foreign ports. PWC and hearing counsel argue that since the Canadian issue was ignored by the administrative law judge in his rulings, although argued before him as a legal issue, and thus ignored by them in their appeals from those rulings, the discussion of that issue is improper and should be stricken.

The Commission believes that the issues raised in the order of investigation initiating this proceeding can only be resolved on the basis of a full evidentiary

[1] There were several other interveners and Commission designated petitioners who withdrew following clarification by PWC of the scope of its proposed amendment.

[2] In granting PWC an enlargement of time to file exceptions, the Secretary of the Commission rightly construed the administrative law judge's rulings as a dismissal of the proceeding, appeal from which is governed by § 502.153 of the Commission's rules of practice and procedure.

hearing. We are not convinced by the arguments presented that there are fundamental legal impediments to the approval of the PWC proposal. Accordingly, we are remanding the proceeding for a full evidentiary hearing in accordance with the Commission's own order of investigation, said hearing to encompass, inter alia, the issues of the inclusion of Canadian ports within PWC's organic agreement and the applicability of section 5 of the Federal Trade Commission Act to the proposed amendment of the Conference's dual rate system.

In light of our disposition of the appeals from the rulings on legal issues in the manner set forth above, we believe that the motions to strike now before us have been mooted and accordingly, we see no necessity to pass upon them.

Therefore it is ordered, That this proceeding be remanded to the Office of Administrative Law Judges for a full evidentiary hearing in accordance with the present order and our order of investigation and hearing served May 12, 1971.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-204 Filed 1-4-73;8:45 am]

PHILIPPINES-NORTH AMERICA 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 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:

Elkan Turk, Jr., Esq., Burlingham Underwood & Lord, 25 Broadway, New York, NY 10004.

Agreement No. 5600-30 is a modification of the Philippines-North America Conference's basic agreement which has been filed in an effort to comply with the Federal Maritime Commission's requirements concerning Self-Policing Systems, General Order 7 (revised) as published in the FEDERAL REGISTER of October 28, 1970 (35 FR 16679).

Dated: December 27, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-210 Filed 1-4-73;8:45 am]

PORT OF HOUSTON AUTHORITY AND LOUIS DREYFUS CORP.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Milton K. Eckert, Esq., Port of Houston Authority, Box 2562, Houston, TX 77001.

Agreement No. T-2719, between the Port of Houston Authority (Port) and Louis Dreyfus Corporation (Dreyfus), provides for the 10-year lease to Dreyfus of the Houston Public Elevator which is to be used as an agricultural bulk commodity elevator in connection with the movement of such commodities through the Port of Houston. To the extent, in Dreyfus' sole discretion, capacity in the facility is not needed to serve Dreyfus and Dreyfus' affiliates, Dreyfus may operate the facility to serve others desiring to use it. Dreyfus has the prior right to use the berths adjacent to the facility (wharves 14 and 15). The Port may use the berths at any time when not needed by Dreyfus, provided, however, that should Dreyfus in its sole discretion need all or any part of the berthing facilities the Port, at its expense, shall cause the berths to be vacated within 8 hours of telephonic or other notice by Dreyfus. Dreyfus will have the right to establish tariffs, rules, and regulations governing the facility. Dockage fees are to be paid to the Port and are not to be increased above the dockage fees assessed at other Port facilities. As compensation, the Port is to receive $1,006,000 annually as rental.

Dated: December 29, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-288 Filed 1-4-73;8:45 am]

PORT OF OAKLAND AND HARRY H. BLANCO CO.

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 10 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-2722, between the Port of Oakland (Port) and Harry H. Blanco Company, doing business as Mid-Pacific Freight Forwarders (Blanco), is a license and concession agreement provid-

ing for the occupancy by Blanco of certain office space, U.S. Customs area, covered dock space, maintenance shop area, and paved open area at the Port of Oakland, Calif., for use as a container freight station and other uses incidental thereto. As compensation, the Port is to receive $3,845.75 per month. The agreement provides that Blanco shall not act as a terminal operator nor conduct or operate a public utility wharfinger business upon the premises. The agreement also stipulates that 90 percent of Blanco's operations are to be concerned with the movement of goods through the Port's marine terminals.

Dated: December 27, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-211 Filed 1-4-73;8:45 am]

SCANDINAVIA BALTIC/U.S. NORTH ATLANTIC WESTBOUND 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 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:

Howard A. Levy, Esq., Suite 631, 17 Battery Place, New York, NY 10004.

Agreement No. 9982-2 among the members of the above named conference modifies the basic agreement to provide that the word "Secretary" is to be deleted from the Agreement and the word "Chairman" is to be substituted in lieu thereof in each instance. It defines the word "Chairman" as used in this agreement to include the Chairman and any duly authorized member of his staff.

Dated: December 29, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-212 Filed 1-4-73;8:45 am]

[Docket No. 71-98]

SEA-LAND SERVICE, INC.

Order of Discontinuance

On December 28, 1971, the Commission issued an order requiring Sea-Land Service, Inc. (Sea-Land) to show cause why its bid of $11.69M on Cargo, N.O.S., submitted to the Military Sealift Command (MSC) pursuant to RFP-600, Second Cycle, should not be found unreasonably preferential to shippers of military cargo and unreasonably prejudicial or disadvantageous to commercial shippers in violation of section 16, First of the Shipping Act, 1916 (Act); unjustly discriminatory between shippers and ports in violation of section 17 of the Act; and so unreasonably low as to be detrimental to the commerce of the United States in contravention of section 18(b)(5) of the Act.

Because the memorandum of law and affidavits of facts filed in response to the Commission's order raised certain factual disputes, the Commission on March 16 1972, issued an order of investigation and hearing referring the proceeding to an examiner for a full evidentiary investigation and hearing within the confines of the specific issues set forth in its original order to show cause.

In response to MSC's RFP-700, First Cycle (July 1, 1972 to Dec. 31, 1972), Sea-Land rebid the $11.69M military cargo rate and was again first on the MSC "pecking order" for the carriage of military cargo on the North Atlantic. The Commission, therefore, on June 13, 1972, issued an "Order Dismissing Proceeding in Part and Expanding Investigation" in this proceeding which provided that:

(1) The proceeding would be continued and expanded to include the issue of the lawfulness of Sea-Land's RFP-700, First Cycle, bid of $11.69M for military cargo N.O.S. in the North Atlantic under section 18(b)(5) of the Shipping Act, 1916;

(2) Those portions of the two previous orders dealing with sections 16, First, and 17 of the Act would be discontinued.

(3) Various motions of Sea-Land and of intervenor American Export Lines (AEL) would be denied.

On the same day the Commission issued section 21 orders to Sea-Land, AEL, United States Lines (USL) and Seatrain Lines, directing those carriers to furnish to the Commission detailed information regarding the cost of carrying military cargo from U.S. east coast ports to Europe. Sea-Land however remained the only respondent in Docket No. 71-98.

During the time that the responses of the above-mentioned carriers to the section 21 orders were being analyzed by the Commission staff, the Commission issued General Order 29, which sets forth the standards for determining the lawfulness of bids submitted by common carriers by water for the carriage of military cargo under the RFP system of competitive bidding. In addition the rates which are the subject of Docket No. 71-98 will pass out of effect on December 31, 1972.

By order of investigation and hearing issued this day the Commission is undertaking an investigation of bid rates submitted by Sea-Land, AEL and USL pursuant to RFP 700, Second Cycle for carriage of military cargo between ports on the U.S. east coast and ports in Europe. The Commission believes that this new investigation undertaken after the issuance of General Order 29, and with all the U.S. flag containership operators on the North Atlantic as respondents, will result in a much more productive examination of the entire issue of military rates on the North Atlantic than would a continuation of Docket No. 71-98.

Now, therefore it is ordered, That the proceedings in Docket No. 71-98 are hereby discontinued.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and a copy thereof served upon respondent.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-207 Filed 1-4-73;8:45 am]

STATES STEAMSHIP CO. AND EVERETT ORIENT LINE, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the

agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement filed by:

J. J. McGowan, Manager, Rates and Conferences Department, States Steamship Co., 320 California Street, San Francisco, CA 94104.

Agreement No. 9274–3, between States Steamship Co., and Everett Orient Line, Inc., amends Article 1 of their approved Transshipment Agreement by substituting the name "Bangladesh" for "East Pakistan" in the description of the trading area of said agreement.

Dated: December 29, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-289 Filed 1-4-73;8:45 am]

UNITED STATES GREAT LAKES AND ST. LAWRENCE RIVER PORTS/WEST AFRICA AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

John K. Cunningham, Secretary, United States Great Lakes and St. Lawrence River Ports/West Africa Agreement, 67 Broad Street, New York, NY 10004.

Agreement No. 9420–6, among the member lines of the United States Great Lakes and St. Lawrence River Ports/West Africa Agreement, amends their approved Conference agreement by (1) adding a new provision designated as Article 1(a) to set forth the understanding that the rates, charges and practices established thereunder shall apply to the transportation of cargo, either direct or by transshipment, and (2) changing the designation of present Article 1 to Article 1(b).

Dated: December 29, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-290 Filed 1-4-73;8:45 am]

FEDERAL POWER COMMISSION

NATIONAL GAS SURVEY SUPPLY-TECHNICAL ADVISORY TASK FORCE-NATURAL GAS TECHNOLOGY

Notice of Meeting and Agenda

Agenda, meeting, Supply-Technical Advisory Task Force-Natural Gas Technology, to be held in Conference Room 4454–A of the Federal Power Commission, 441 G Street NW., Washington, DC, January 9 and 10, 1973—9 a.m.

Presiding: Dr. Paul J. Root, TF FPC Survey Coordinating Representative and Secretary.

1. Call to order and introductory remarks—Dr. Root.

2. Objectives and purpose of meeting—

A. Review of Developments Since the Last Meeting—Mr. Lloyd E. Elkins, Director, Supply-Technical Advisory Task Force-Natural Gas Technology.

B. Review of Individual Assignments for Drafting Sections of the Final Report—Mr. Elkins.

C. Discussion of Coverage of Environmental Aspects of Task Force Work Programs—Mr. Elkins.

D. Status of Assigned Work Programs and Estimated Date for Completion—Mr. Elkins.

E. Other Business.

3. Adjournment—Dr. Root.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Task Force, which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the Task Force.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-354 Filed 1-4-73;8:45 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON POWER SUPPLY; TASK FORCE ON FORECAST REVIEW

Notice of Meeting and Agenda

Agenda for a meeting of the Technical Advisory Committee on Power Supply, Task Force on Forecast Review, to be held at the Federal Power Commission Offices, 441 G Street NW., Washington, DC, 9:30 a.m., January 12, 1973, Room 2043.

1. Meeting opened by FPC Coordinating Representative.

2. Objectives and purposes of meeting—

A. Discussion of total energy requirement forecasts and relationship between requirements for total energy, and the electric energy portion.

B. Discussion of population and labor force projections.

C. Discussion of projected fuel sources and availability as related to need for electric energy.

D. Develop plan for task force activities.

E. Other business.

F. Set date for next meeting.

3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee, which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-353 Filed 1-4-73;8:45 am]

[Docket No. CI73-429]

AMOCO PRODUCTION CO.

Notice of Application

DECEMBER 29, 1972.

Take notice that on December 20, 1972, Amoco Production Co. (Applicant), Post Office Box 3092, Houston, TX 77001, filed in Docket No. CI73-429 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transcontinental Gas and Pipe Line Corp. from the La Sal Vieja Field Area, Willacy County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell approximately 3,000 Mcf of gas per day at 35 cents per Mcf at 14.65 p.s.i.a. for 3 years or until 7,500,000 Mcf of gas have been delivered, whichever occurs first within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before January 15, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commis-

sion 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-282 Filed 1-4-73;8:45 am]

[Docket Nos., RI73-152, etc.]

AMOCO PRODUCTION 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]

DECEMBER 22, 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 section 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] MARY B. KIDD,
Acting 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 subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
RI73-152	Amoco Production Co	463	6	Transwestern Pipeline Co. (Halley Field, Winkler County, Tex.) (Permian Basin).	860,133	11-30-72		6-1-73	[2] 21.7562	[2] 23.8788	RI71-167.
RI73-153	Skelly Oil Co	159	7	West Texas Gathering Co. (Emperor (Deep) Field, Winkler County, Tex.) (Permian Basin).	55,521	12-1-72		2-1-73	18.0675	19.0713	RI70-1567.
		248	4	El Paso Natural Gas Co. (acreage in Terrell County, Tex.) (Permian Basin).	59	12-1-72		6-1-73	26.85	27.20	RI72-267.
RI73-154	Gulf Oil Corp	438	1	Northern Natural Gas Co. (Flying "W" Ellenburger Field, Winkler County, Tex.) (Permian Basin).	9,752	11-30-72		5-31-73	[3] 27.0	[3] 30.0	
RI73-155	Humble Oil & Refining Co.	132	[3] 11	West Texas Gathering Co. (Emperor Field, Winkler County, Tex.) (Permian Basin).	323,225	[4] 12-4-72		2-4-73	19.0713	21.0	RI73-81.
RI73-156	Mobil Oil Corp	241	21	El Paso Natural Gas Co. (Brown Bassett Field, Terrell County, Tex.) (Permian Basin).	352,944	12-1-72		6-2-73	[3] 18.462	25.462	RI73-115.
RI73-157	Humble Oil & Refining Co.	447	[3] 8	West Texas Gathering Co. (Emperor Field, Winkler County, Tex.) (Permian Basin).	28,591	[4] 12-4-72		2-4-73	19.0713	21.0	RI73-81.
RI73-158	Perry R. Bass	6	[3] 22	Transwestern Pipeline Co. (Keystone Plant, Winkler County, Tex.) (Permian Basin).	4,400	12-6-72		6-6-73	35.0	36.0	RI72-272.
RI73-159	Perry R. Bass (Operator), Agent.	16	4	El Paso Natural Gas Co. (Toro Field, Reeves County, Tex.) (Permian Basin).	10,068	12-6-72		2-6-73	17.5656	18.5694	RI70-775.
RI73-160	Perry R. Bass	17	8	Transwestern Pipeline Co. (Harmon and Halley Fields, Reeves and Winkler Counties, Tex.) (Permian Basin).	2,109	12-6-72		2-6-73	[3] 17.5766	[3] 18.5809	RI69-802.
		18	4	El Paso Natural Gas Co. (Gomez Field, Pecos County, Tex.) (Permian Basin).	153,792 1,104	12-6-72 12-6-72		6-6-73 2-6-73	[5] 20.6025 17.5656	[5] 22.6125 18.5694	RI69-802. RI70-775.
RI73-161	Sun Oil Co	300	13	Northern Natural Gas Co. (Drinkard Field, Lea County, N. Mex., Permian Basin).	12,864	12-4-72		2-5-73	14.6226	[6] [7] 16.7131	
		314	7	Northern Natural Gas Co. (Blinebry and Tubbs Fields, Lea County, N. Mex.) (Permian Basin).	14,365	12-4-72		2-5-73	14.53	[8] [10] 16.5369	

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 dockets Nos.
RI73-162..	Union Oil Company of California.	118	[11] 7	West Texas Gathering Co. (Emperor and South Kermit Fields, Winkler County, Tex.) (Permian Basin).		12- 4-72	1- 4-73	[20] Accepted			
			8		600,787	12- 4-72		6- 4-73	18.0675	[12] 20.5103	RI69-149.
RI73-163..	Texaco Inc.	409	2	Mountain Fuel Supply Co. (South Baggs Field, Carbon County, Wyo.).	656	12- 4-72		2-14-73	[13] [21] 15.15	[14] [21] 16.16	RI70-1113.
RI73-164..	Oil Resources, Inc.	[15] 2	[16] 3	Grand Valley Transmission Co. (Moon Ridge and Segundo Canyon Fields, Grand County, Utah).		11-24-72	12-25-72	[20] Accepted			
			4		4,966	11-24-72		1-25-73	[21] 12.467	[14] [21] 16.145	
RI73-165..	Union Texas Petroleum, a division of Allied Chemical Corp.	[17] 65	10	El Paso Natural Gas Co. (Basin Dakota Field, San Juan County, N. Mex.) (San Juan Basin).	(18)	12- 4-72		6- 4-73	[21] 22.0	[14] [21] 28.0	RI72-232.
RI73-166..	Champlin Petroleum Co.	130	1	El Paso Natural Gas Co. (Jones Ranch Unit, Eddy County, N. Mex.) (Permian Basin).	10,800	12- 5-72		6- 5-73	27.0	30.0	

* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
[1] Includes quality adjustments.
[2] Subject to Btu adjustment.
[3] Includes letter from buyer agreeing to increase.
[4] Corrected filing submitted Dec. 13, 1972.
[5] Applicable only to "new gas" as defined by and sold under Supp. No. 18.
[6] Hamon Field.
[7] Halley Field.
[8] Commodity Index adjustment as provided by contract.
[9] Converted from filed rate of 17.1400 cents at 15.025 p.s.i.a.
[10] Converted from filed rate of 16.954 cents at 15.025 p.s.i.a.
[11] Amends pricing provisions.
[12] Includes quality adjustment.
[13] Succession by Oil Resources, Inc. to FPC Gas Rate Schedule No. 2 of Pacific Lighting Exploration Co. et al. was filed Nov. 22, 1972, and is being reported separately.
[14] Renegotiated contract dated Nov. 7, 1972. Providing for a 19.0 cents base rate with 1.0 cents escalation every 5 years.
[15] Contract base rate of 19.0 cents less a 2.0 cents compression charge and 0.535 cent/Mcf downward Btu adjustment.
[16] Applicable to gas from wells completed on or after June 1, 1970.
[17] Filing also covers the interest of Texas Pacific Oil Co. Inc.
[18] No production at present.
[19] Includes a double amount of contractually due tax reimbursement to recover taxes on past sales.
[20] Accepted, for filing to be effective on the date shown in the "Effective Date" column.
[21] The pressure base is 15.025 p.s.i.a.

The proposed increases of Amoco Production Co., Skelly Oil Co. under its FPC Gas Rate Schedule No. 159, Gulf Oil Corp., Mobil Oil Corp., Perry R. Bass under his FPC Gas Rate Schedule No. 6, and under Supplement No. 8 to its FPC Gas Rate Schedule No. 17 only insofar as it pertains to the 22.6125-cents proposed rate, Union Oil Company of California under Supplement No. 8 to its FPC Gas Rate Schedule No. 118, Union Texas Petroleum and Champlin Petroleum Co., exceed the rate limit for a 1-day suspension, and, therefore, are suspended for 5 months from the expiration of the statutory notice period or the contractual effective date, whichever is later.

The proposed increase of Texaco Inc. under its FPC Gas Rate Schedule No. 409 includes a double amount of the contractually due tax reimbursement for taxes applicable to future production as well as reimbursement for taxes applicable to past production. After tax reimbursement applicable to past production has been recovered, Texaco Inc. shall file a rate decrease reducing the proposed rate so as to provide for tax reimbursement for future production only. Texaco's proposed increase is suspended for 1 day from the proposed effective date consistent with prior Commission action in similar cases.

The other proposed increases involved here do not exceed the corresponding rate filing limitation imposed in Southern Louisiana and therefore are suspended for 1 day from the expiration of the 60-day notice period or the contractual effective date, whichever is later.

Perry R. Bass requests waiver of the 30-day notice requirement. Good cause has not been shown and his request is denied.

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 2.56).

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(i)(3) of the Price Commission rules and regulations, 6 CFR Part 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 are 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 FR 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 Opinions 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.73-44 Filed 1-4-73;8:45 am]

INDIANA AND MICHIGAN ELECTRIC CO.

Extension of Time

DECEMBER 22, 1972.

On December 13, 1972, Commission Staff Counsel filed a motion for an extension of time from December 14, 1972, to January 22, 1973, to serve its prepared testimony and exhibits in accordance with the notice issued November 28, 1972, in the above-designated matter. The motion also requests that the other procedural dates be modified accordingly. On December 20, 1972, Staff Counsel filed an addendum to the motion filed on December 13, 1972, advising that Indiana and Michigan Electric Co., City of Anderson, Ind., Indiana Statewide Rural Electric Cooperatives, Inc., Richmond Power & Light, Indiana and Michigan Municipal Distributors Association, City of Fort Wayne, Ind., have no objection to the requested extension.

Upon consideration, notice is hereby given that the procedural dates fixed by the notice issued November 28, 1972 (37 FR 25789), in the above matter are further amended as follows:

Staff serve testimony, January 22, 1973.
Prehearing conference, February 12, 1973.
Intervenor Service date, February 26, 1973.
I&M Rebuttal Service date, March 27, 1973.
Hearing date, April 17, 1973.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-63 Filed 1-4-73;8:45 am]

[Docket No. ID-1679]

R. DOUGLAS ZIEGLER

Notice of Application

DECEMBER 29, 1972.

Take notice that on October 18, 1972, R. Douglas Ziegler (Applicant), filed an application pursuant to section 305(b) of the Federal Power Act seeking authority to hold interlocking directorate positions.

Applicant is director of the Wisconsin Electric Power Co., a public utility principally engaged in the generation, transmission, and distribution of electricity in southeastern Wisconsin. Applicant has held this position since his initial election on May 5, 1971.

On October 2, 1972, Applicant was elected director of B. C. Ziegler & Co. Applicant expects to be elected president of B. C. Ziegler & Co. during 1973. B. C. Ziegler & Co., with its principal business office at West Bend, Wis., is the Nation's largest broker-dealer specializing in underwriting and distributing debt securities of hospitals, schools, and other nonprofit organizations. It is also a distributor of short term paper and material funds and operates a general insurance agency.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 10, 1973, 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-281 Filed 1-4-73;8:45 am]

FEDERAL RESERVE SYSTEM

ALABAMA FINANCIAL GROUP, INC.

Acquisition of Bank

The Alabama Financial Group, Inc., Birmingham, Ala., 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 Marion County Banking Co., Guin, Ala. 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 January 18, 1973.

Board of Governors of the Federal Reserve System, December 22, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.73-147 Filed 1-4-73;8:45 am]

CITIBANC GROUP, INC.

Order Approving Formation of Bank Holding Company

Citibanc Group, Inc., Alexander City, Ala., 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)) of formation of a bank holding company through acquisition of five banks in Alabama as follows:

(1) 64 percent or more of the voting shares of Covington County Bank, Andalusia ("Covington Bank");

(2) 90 percent or more of the voting shares of City Bank of Goodwater, Goodwater ("Goodwater Bank");

(3) 74 percent or more of the voting shares of City Bank of Tuskegee, Tuskegee ("Tuskegee Bank");

(4) 80 percent or more of the voting shares of City Bank of Lineville, Lineville ("Lineville Bank"); and

(5) 90 percent or more of the voting shares of City Bank of Roanoke, Roanoke ("Roanoke Bank"), all in Alabama.

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, a newly formed corporation with no operating history, was organized by principals of a partnership for the purpose of acquiring the five banks which are the subjects of this application. The partnership acquired control of these five banks from 1955 to 1969 and became a registered bank holding company as a result of the 1970 Amendments to the Bank Holding Company Act. The proposed transaction represents a restructuring of an existing bank holding company from a partnership into a corporate form. Upon consummation of the proposal herein, Applicant would control five banks with aggregate deposits of $40.5 million, representing 0.70 percent of total deposits of commercial banks in the State. (All banking data are as of Dec. 31, 1971.)

The banks proposed to be acquired from the existing partnership are located in separate, predominantly rural, counties situated in the eastern half of Alabama and operate in separate markets. Covington Bank ($15.2 million of deposits) operates one office in Andalusia, Covington County; Goodwater Bank ($6.1 million of deposits) operates three offices located in the cities of Goodwater, Rockford, and Kellyton, in Coosa County; Tuskegee Bank ($7.3 million of deposits) operates two offices in Tuskegee, Macon County; Lineville Bank ($5.8 million of deposits) operates one office in Lineville, Clay County; and Roanoke Bank ($6.1 million of deposits) operates two banking offices located in Roanoke and Rock Mills, Randolph County. It appears that no meaningful competition exists among these banks at the present time. Since Alabama banking law permits branching within the county in which a bank's main office is located and three of the banks proposed to be acquired are located in adjacent counties, some potential for competition developing in the future among these banks does exist. However, in view of the present small size of the banks, the limited market areas served by them and the probability of the continuation of their present common owner relationship, the prospect for meaningful competition developing in the future among these banks appears remote. It is the Board's judgment that approval of the proposed formation would have no adverse effects on competition in any area of the State.

The financial condition and managerial resources of the proposed subsidiary banks are generally satisfactory and consistent with approval of the application. The financial condition of the partnership which presently controls these banks is adversely affected by a high degree of debt which was incurred in the purchase of the shares of these banks. Although the proposed transaction would result in the assumption of this debt individually by the principal partner of the present holding company rather than Applicant, the Board views the proposal herein as if the debt would in fact be assumed directly by Applicant since the funds required to service this debt would be derived primarily from Applicant. Principals of Applicant have assured the Board that upon approval of this application, specific steps will be initiated to generate additional funds which would be used to reduce significantly the present excessive debt position. The Board's action herein is taken in the light of these assurances. Moreover, the partners who will be assuming this debt individually have committed themselves to a debt retirement schedule which would eliminate the remaining debt within 10 years. The future prospects for profitable operation of Applicant and its subsidiary banks appear satisfactory and should provide adequate income for Applicant's principal shareholders to service and retire the remaining debt according to the proposed schedule.

No immediate benefits to convenience and needs of the communities to be served by Applicant will result from consummation of Applicant's proposal. However, the improved financial condition of Applicant which is projected after completion of steps to reduce the present holding company's debt position should improve the potential of the subsidiary

banks to serve better the banking needs of their banking customers. Considerations relating to convenience and needs are regarded as consistent with approval of the application. It is the Board's judgment 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 December 22, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-148 Filed 1-4-73;8:45 am]

DOMINION BANKSHARES CORP.

Proposed Acquisition of The Fitton Co. and Fitton Insurance Agency

Dominion Bankshares Corp., Roanoke, Va., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of The Fitton Co. and of Fitton Insurance Agency, both of Alexandria, Va. The Fitton Co. holds shares of Metropolitan Mortgage Fund, Inc., Metropolitan Data Services, Inc., both of Alexandria, Va. Notice of the application was published on November 24, 1972, in the Washington Post, a newspaper circulated in Washington, D.C., and vicinity.

Applicant states that the proposed subsidiaries would engage in the activities of originating residential, commercial, and industrial mortgage loans for its own account but principally for sale to others, and servicing such loans for others; providing accounting and bookkeeping services principally for Metroloplitan Mortgage Fund, Inc.; providing such accounting and bookkeeping services for other mortgage banking companies, and preparation of mailings and billings for other businesses; and acting as insurance agents for The Fitton Co. and its subsidiary companies upon approval of the pending application for it to become an affiliate of Dominion Bankshares Corp. and act de novo as insurance agent for Dominion Bankshares Corp. and any of its other subsidiaries with respect to (a) their purchase of fire, automobile, and any other insurance they may require for their protection as the named insured; (b) policies of fire insurance, with extended coverage, credit life and mortgage redemption insurance, and surety bonds in connection with extending, protection and further securing the repayment of mortgage loan credit; and (c) policies of health and accident, life, fire with extended coverage, and casualty insurance and miscellaneous bonds, in limited amounts and principally as a convenience to customers of Metropolitan Mortgage Fund, Inc. Activities of this nature have been specified by the Board in § 225.4(a) of Regulation Y as generally 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 Richmond.

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 January 22, 1973.

Board of Governors of the Federal Reserve System, December 26, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.73-153 Filed 1-4-73;8:45 am]

FIRST ARKANSAS BANKSTOCK CORP.

Order Approving Acquisition of L. E. Lay & Co., Inc.

First Arkansas Bankstock Corp., Little Rock, Ark., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and section 225.4(b)(2) of the Board's Regulation Y, to acquire voting shares of L. E. Lay & Co., Inc., Little Rock, Ark. (Company), a company that engages in the activities of: (1) making or acquiring for its own account or for the account of others, real estate mortgage loans and servicing such loans; and (2) acting as an insurance agent or broker with respect to insurance that is directly related to an extension of credit or provision of other financial services by Company. Such activities have been determined by the Board to be closely related to the business of banking (12 CFR 225.4(a)(1), (3), and (9)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors was published (37 FR 18496). Subsequently, Applicant amended its application so that the Board could consider the mortgage banking and insurance agency activities of Company separately. Notice of the amended application was published (37 FR 2439). The time for filing comments and views on both the original and amended application has expired, and the Board has considered all comments received with respect to the mortgage banking activities of Company in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)) and finds that:

Applicant, the largest banking organization in Arkansas, controls three nonbanking subsidiaries which engage in equipment leasing, owning and operating Applicant's business offices, and travel agency services.[1] Applicant controls three banks with aggregate deposits of $305 million, representing 8.1 percent of the total deposits in commercial banks in the State.[2] Applicant's lead bank, Worthen Bank & Trust Co., Little Rock, Ark. (Bank), with deposits of $239.8 million, is the largest bank in the Little Rock banking market[3] and in Arkansas, controlling 30.1 percent of commercial bank deposits in the Little Rock banking market. Bank is engaged in extending credit secured by real property through (1) permanent mortgage loans on one-four family residential properties, (2) permanent mortgage loans on income producing properties, and (3) construction loans.

Company engages in extending credit secured by real property through (1) permanent mortgage loans on one-four family residential properties, (2) permanent mortgage loans on income producing properties, and (3) construction loans. Company also engages in mortgage servicing. Company is the 238th largest mortgage company in the Nation and has six offices, three in Illinois, one in Texas, one in Louisiana, and one in Arkansas. Bank and Company compete for mortgage loan business only in Pulaski County. Bank is the largest mortgage lender in Pulaski County, with a mortgage loan volume of $25.6 million, accounting for 8.7 percent of mortgages recorded in that county in 1971. Of Company's total mortgage servicing portfolio of $82.1 million, only $11.1 million is derived from Pulaski County, where it is the third largest mortgage banking company accounting for 3.8 percent of the mortgages recorded in the county in 1971. Consummation of the proposal will eliminate some existing competition between Bank and Company in the mortgage banking business in Pulaski County; however, neither Bank nor Company have a dominant position in

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Governor Bucher.

[1] Applicant acquired its travel agency business prior to June 30, 1971 (see § 225.4(e) of Regulation Y).

[2] Banking deposit and market data are as of June 30, 1972.

[3] The Little Rock banking market is approximated by the Little Rock SMSA, which includes Saline and Pulaski Counties. Pulaski County has approximately 90 percent of the population in the Little Rock SMSA.

that county. There are 60 mortgage lending and servicing competitors in the county including the second, third, and fourth largest banks in Arkansas. Also present in the county are offices of the country's largest mortgage company, and offices of three other mortgage companies ranking in the Nation's top 100, which companies have aggregate annual mortgage servicing volumes in excess of $4.2 billion.

While some competition would be eliminated between Bank and Company in all areas of mortgage banking, the only significant amount of competition that would be eliminated is in the market for permanent one-four family residential mortgages. In this market Bank presently holds 2 percent of mortgages originated in Pulaski County and Company originates 4.5 percent of such mortgages. Twenty-eight of the 60 mortgage banking competitors in the market also originate permanent one-four family residential mortgages. Due to the large number of competitors in Pulaski County and the regional nature of Company's business, it is concluded that no significant existing competition would be eliminated upon consummation of the proposed transaction.[4] Further no significant potential competition would be foreclosed upon approval of the proposed transaction since it appears Company would have difficulty competing with other mortgage banking companies in the County without the infusion of additional capital and greater access to financial markets.

Moreover, whatever slight anticompetitive effects might result from approval of this proposal are outweighed in the public interest by other considerations. Upon approval of this application. Applicant states that it will purchase $250 thousand of Company's securities prior to December 31, 1972, thereby significantly improving Company's capital structure. Acquisition of Company by Applicant will also likely provide greater access to financial markets for Company and thereby increase its amount of available funds to meet the growing credit demands for housing and other construction in the Little Rock area. Accordingly, consummation of this proposal should enable Company to offer increased and improved services to its customers and increase its competitive effectiveness.

Company has been selling title insurance through Mortgage Title Agency, Inc., and has engaged in land development through World Wide Land Co. The Board has determined that land development is not a permissible activity for bank holding companies.[5] The Board has not yet determined whether the operation of a title insurance agency is a permissible activity for bank holding companies. Applicant has, however, agreed to immediately divest both Mortgage Title Agency, Inc., and World Wide Land Company, upon consummation of this transaction.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application to engage solely in Company's mortgage banking business is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[6] effective December 26, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-150 Filed 1-4-73;8:45 am]

[4] In the matter of the applications of First Tulsa Bancorporation, Inc., Tulsa, Oklahoma, to acquire Hall Investment Co., Tulsa, Okla. (37 FR 3210); and First Railroad & Banking Company of Georgia, Augusta, Ga. to acquire Southern Finance Corp., Augusta, Ga. (37 FR 26472), neither mortgage company had significant operations outside the area of competitive overlap, more existing mortgage competition would have been foreclosed, and there were significantly fewer mortgage servicing and lending competitors in the relevant areas.

[5] See application of UB Financial Corp., Phoenix, Ariz., to retain H. S. Pickrell Co., Phoenix, Ariz. (37 FR 6794).

[6] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, and Bucher. Voting against this action: Governor Robertson. Absent and not voting: Governors Daane and Brimmer. Dissenting statement of Governor Robertson filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System or to the Federal Reserve Bank of St. Louis.

FIRST PENNSYLVANIA CORP.

Order Approving Acquisition of Great Acceptance Corp. and Pearce Colvin Finance Co.

First Pennsylvania Corp., Philadelphia, Pa., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire the assets of Great Acceptance Corp. ("Great Acceptance"), Houma, La., and Pearce Colvin Finance Co. "Pearce Colvin"), Ruston, La., companies which engage in the activities of making, acquiring, and servicing loans or other extensions of credit for personal, family, or household purposes and acting as agent in the sale of credit life, accident, and health and disability insurance in connection with such loans. Such activities have been determined by the Board to be closely related to the business of banking (12 C.F.R. 225.4(a)(1), (3) and (9)(ii)(a).

Notice of the applications, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (37 FR 16997-16998). The time for filing comments and views has expired, and none has been timely received.

Applicant's banking subsidiary, First Pennsylvania Banking and Trust Co. ("Bank"), is the second largest bank in Pennsylvania and the largest in the Philadelphia market area, with total deposits of $2.6 billion as of June 30, 1972. Applicant also has nonbanking subsidiaries engaged principally in mortgage banking, consumer financing, data processing, personal property, and equipment leasing and in providing investment advisory services.

Great Acceptance is engaged in the consumer finance business with three offices in the Houma, La., market, which includes Terrebonne Parish and parts of Lafourche Parish. It competes for personal loans in the Houma market with eight commercial banks and approximately 25 other consumer finance companies, including a wholly owned indirect subsidiary of Applicant, Termplan of Houma, Inc. ("Termplan"). Estimates of the market shares held by Great Acceptance and Termplan reflect control of less than 6 percent and 4 percent respectively of personal loans outstanding—the combined figure amounting to less than 9 percent of the market share held by all consumer finance companies. Consummation of this proposed transaction would therefore eliminate some existing competition. However, neither Great Acceptance nor Termplan controls a significant share of the consumer finance business in the relevant geographic market. Moreover, because of the large number of remaining competitors, the many potential entrants and the relative ease of entry into the consumer finance business, the adverse effect upon competition is considered slight. Since Applicant is already operating in the Houma market, it is not a potential entrant. The prospects of Great Acceptance establishing additional offices in other markets served by Applicant is considered remote. Therefore, consummation of the proposed transaction would have no adverse effect on potential competition.

Pearce Colvin, also engaged in the consumer finance business, began operations during August 1970, and had total loans outstanding of approximately $440,000 as of March 31, 1972. It operates one office in the Ruston, La., market, in which there are eight other finance companies and three commercial banks. Applicant does not operate a consumer finance subsidiary in the Ruston market, its closest consumer finance subsidiary being located 30 miles east at Monroe, La. Applicant does have the financial and managerial resources to enter this market de novo.

However, the effect upon potential competition is considered slight because of the many potential entrants and the ease of entry into the relevant product market. Pearce Colvin is not considered a likely entrant into other markets served by Applicant because of its limited resources and experience. It is the Board's conclusion that approval of this proposed transaction would have no adverse effect on existing competition and only a slightly adverse effect on potential competition.

There is no evidence in the record indicating that consummation of either of the proposed transactions would result in any undue concentration of resources, unfair competition, unsound banking practices, or other adverse effects in the public interest. Approval of the acquisitions will make available to Great Acceptance and Pearce Colvin the financial and managerial resources of Applicant and enable them to better compete in their respective markets and to provide improved lending services.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the applications are hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[1] effective December 22, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-151 Filed 1-4-73;8:45 am]

FIRST STATE BANCSHARES CORP.

Order Approving Formation of Bank Holding Company

First State Bancshares Corp., Wellston, 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)) of formation of a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of First State Bank & Trust Co., Wellston, Mo. ("First State"), First North County Bank and Trust Co., Jennings, Mo. ("First North County"), and First Northwest Bank, St. Ann, Mo. ("First Northwest").

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 was organized in 1970 for the purpose of becoming a multibank bank holding company with respect to the three proposed subsidiary banks. Consummation of the proposal herein would result in Applicant controlling approximately $193.7 million in deposits, representing 1.5 percent of total commercial bank deposits in the State, and Applicant would thereby become the 10th largest banking organization in Missouri.[1]

All three proposed subsidiary banks are located in the St. Louis banking market and the distance separating any two of them ranges between 4¾ and 11 miles. First State ($80.8 million in deposits) controls 1.42 percent of market deposits and ranks as the 12th largest of the 111 banks in the market; it is located on the fringe of the city limits of St. Louis in an area which has shown some economic decline in recent years. First North County ($81.1 million in deposits) controls 1.42 percent of market deposits, ranks as the 11th largest bank in the market, and is located in an area which has experienced considerable expansion in the past several years. First Northwest ($31.8 million in deposits) controls 0.56 percent of market deposits, ranks as the 53d largest bank in the market, and is also located in an area characterized by significant growth.

As indicated in the record, there is no significant existing competition between the three proposed subsidiary banks due, in part, to common shareholder control.[2] There is some overlap of service area among the subsidiary banks; however, because of the many alternative sources of banking services existing in the relevant market and in view of the long-standing affiliation between the banks, the effects of consummation of the proposal on existing competition will be insignificant. Further, in view of the strong affiliations, it appears unlikely that any substantial amount of future competition will develop. The Board concludes that consummation of this proposal would not have an adverse effect on competition between competing banks in the market nor on the concentration of banking resources.

The financial condition and managerial resources of Applicant and its proposed subsidiaries are generally satisfactory although the capital positions of the banks are somewhat low. Prospects of all are favorable in view of Applicant's proposal to add up to $4 million in equity capital to the subsidiaries and these consideraitons therefore lend weight toward approval. Considerations relating to the convenience and needs of the communities to be served are consistent with approval. 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, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

By order of the Board of Governors,[3] effective December 21, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-157 Filed 1-4-73;8:45 am]

FLORIDA NATIONAL BANKS OF FLORIDA, INC.

Acquisition of Bank

DECEMBER 26, 1972.

Florida National Banks of Florida, Inc., Jacksonville, Fla., 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 90 percent or more of the voting shares of Bank of Commerce of Florida, 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 January 22, 1973.

Board of Governors of the Federal Reserve System, December 26, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.73-149 Filed 1-4-73;8:45 am]

FRANK P. DOYLE TRUST ET AL.

Denial of Grandfather Privileges

Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) provides certain privileges (grandfather privileges) with respect to nonbanking activities of a company that, by virtue of the 1970 Amendments to the Bank Holding Company Act, became subject to the Bank Holding Company Act. Pursuant to section 4(a)(2) of the Act, a "com-

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Governor Bucher.

[1] Bank deposit data are as of June 30, 1972.

[2] For several years, the three subsidiary banks have advertised and operated as a group known as the "First Family of Banks." Since 1961, stockholders owning a majority of the common stock of First State also own a majority of the common stock of First North County. In 1965, First State acquired 50 percent ownership of the outstanding shares of First Northwest at the time of the formation of that bank. (First State is a nonmember bank.) Affiliation of the three banks is expected to continue regardless of Board action on this application.

[3] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

pany covered in 1970" may continue to engage, either directly or through a subsidiary, in nonbanking activities that such a company was lawfully engaged in on June 30, 1968 (or on a date subsequent to June 30, 1968, in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and has been continuously engaged in since June 30, 1968 (or such subsequent date).

Section 4(a)(2) of the Act provides, inter alia, that the Board of Governors of the Federal Reserve System may terminate such grandfather privileges if, having due regard to the purposes of the Act, the Board determines that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. With respect to a company that controls a bank with assets in excess of $60 million on or after December 31, 1970, the Board is required to make such a determination within a 2-year period.

Notice of the Board's review of nonbank activities and grandfather privileges of the companies listed below and opportunity for interested persons to submit comments and views or request a hearing, has been given.

Frank P. Doyle Trust, Article IX, Santa Rosa, Calif. (37 FR 21382).
Potomac Securities Corp., Silver Spring, Md. (37 FR 21382).
International Equities, Inc., New York, N.Y. (37 FR 21382).
Alexandria Shares Corp., Alexandria, Va. (37 FR 21382).
Virginia Bankshares, Inc., Richmond, Va. (37 FR 21382).
Marine Bancorporation, Seattle, Wash. (37 FR 21382).
The Hong Kong and Shanghai Banking Corp-Hong Kong (37 FR 22414).
First Bancorporation, Reno, Nev. (37 FR 22414).
Amalgamated Associates Co., Chicago, Ill. (37 FR 22414).
Amalgamated Investments Co., Chicago, Ill. (37 FR 22414).
First Highland Corp., Highland Park, Ill. (37 FR 22414).
Financial Network Corp., Milwaukee, Wis. (37 FR 22414).

The time for filing comments and views and requests has expired and all those received have been considered by the Board in the light of the factors set forth in section 4(a)(2) of the Act.

On the basis of the evidence before it, the Board finds that none of the companies named hereinabove, directly or indirectly, engaged on or before June 30, 1968, in nonbanking activities within the meaning of section 4 of the Bank Holding Company Act, other than nonbanking activities that appear to be exempt uder the provisions of section 4(c) of the Act. On this basis, no grandfather privileges under the proviso in section 4(a)(2) of the Act accrue to any of these companies.

Board of Governors of the Federal Reserve System, December 26, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-155 Filed 1-4-73;8:45 am]

MANUFACTURERS NATIONAL CORP.

Formation of Bank Holding Company

Manufacturers National 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 Manufacturers 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 Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 23, 1973.

Board of Governors of the Federal Reserve System, December 27, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.73-152 Filed 1-4-73;8:45 am]

SOUTHWEST BANCSHARES, INC.

Order Approving Acquisition of Bank

Southwest Bancshares, Inc., Houston, Tex., 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 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Gulf Coast National Bank, Houston, Tex. (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of 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, the fifth largest banking organization and third largest multibank holding company in Texas, controls 10 banks with aggregate deposits of $1,188.4 million, representing approximately 4 percent of the total deposits of commercial banks in Texas. (All banking data are as of December 31, 1971, and reflect bank holding company acquisitions approved through November 1, 1972.) Applicant is the third largest banking organization in the Houston market with five subsidiary banks holding 11.2 percent of total deposits of commercial banks in that market. Applicant presently holds approximately 19 percent of the outstanding voting shares of Bank and the proposal herein to acquire virtually all of the remaining outstanding shares of Bank would increase applicant's control of commercial bank deposits in the Houston area by 0.2 percentage points and its ranking among commercial banks in that market and in the State would be unchanged.[1]

Bank ($12.4 million of deposits) ranks 81st in deposits among 149 commercial banks in the Houston market. Bank is located in a primarily residential area approximately 10 miles southwest of applicant's lead bank which is located in downtown Houston. Individuals closely associated with applicant's lead bank were instrumental in organizing Bank in 1959 and since its formation one or more officers or directors of applicant or its lead bank have served as a director of bank. Since Bank's formation, approximately 19 percent of the voting shares of Bank have been held by applicant or its trusted affiliate. In addition to applicant's direct share ownership, shareholders common to applicant and Bank hold approximately 35 percent of the outstanding voting shares of Bank. The proposal herein represents a strengthening of existing interests rather than the acquisition of an independent competing bank. In view of applicant's significant holdings, the substantial common shareholder ties and the continued close relationship between applicant and Bank, the prospect of disaffiliation appears remote. Moreover, in view of the relatively small size of Bank, its localized service area, and the presence of a number of intervening banks, it appears that consummation of applicant's proposal would not eliminate any meaningful existing or future competition between Bank and any of applicant's subsidiary banks. Nor would consummation of this proposal raise barriers to entry by other bank holding companies into the expanding Houston market because of the large number of unaffiliated banks which will remain in this area after this transaction.

[1] In addition to its 10 subsidiary banks and its share ownership of Bank, applicant holds approximately 20 percent of the outstanding voting shares of Commerce State Bank, Houston, Tex. ($20 million of deposits). Applicant's minority interest of 24.7 percent of the voting shares of Kilgore National Bank, Kilgore, Tex., has recently been liquidated. Applicant has also filed for the Board's approval of an application to acquire Houston Intercontinental National Bank, Houston, Tex.

On the record before it, the Board concludes that consummation of applicant's proposal would not result in a monopoly nor be in furtherance of any combination, conspiracy, or attempt to monopolize the business of banking in any area, nor have any substantially anticompetitive effect.

The financial condition and managerial resources of applicant and its subsidiaries appear satisfactory and future prospects of all seem favorable. The financial condition, management resources and prospects of Bank, as a subsidiary of applicant, appear consistent with approval of this application. Soon after acquisition, applicant has agreed to strengthen the somewhat low capital position of Bank through the immediate addition of capital funds. Although the banking needs of residents of Bank's service area are adequately served by existing institutions operating in that market, provision of the varied range of banking services available through applicant in Bank's service area should contribute positively to the convenience and needs of the communities served by Bank and, therefore, these considerations are consistent with approval of this application.

It is the Board's judgment that the proposed acquisition 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 Dallas pursuant to delegated authority.

By order of the Board of Governors,[1] effective December 21, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-154 Filed 1-4-73;8:45 am]

SUMITOMO BANK, LTD. ET AL.

Entitlement to Grandfather Privileges

Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) provides certain privileges (grandfather privileges) with respect to nonbanking activities of a company that, by virtue of the 1970 Amendments to the Bank Holding Company Act, became subject to the Bank Holding Company Act. Pursuant to section 4(a)(2) of the Act, a "company covered in 1970" may continue to engage, either directly or through a subsidiary, in nonbanking activities that such a company was lawfully engaged in on June 30, 1968 (or on a date subsequent to June 30, 1968, in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and has been continuously engaged in since June 30, 1968 (or such subsequent date).

Section 4(a)(2) of the Act provides, inter alia, that the Board of Governors of the Federal Reserve System may terminate such grandfather privileges if, having due regard to the purposes of the Act, the Board determines that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. With respect to a company that controls a bank with assets in excess of $60 million on or after December 31, 1970, the Board is required to make such a determination within a 2-year period.

Notice of the Board's review of nonbank activities and the grandfather privileges of the companies listed below and opportunity for interested persons to submit comments and views or request a hearing has been given.

Sumitomo Bank, Ltd., Osaka, Japan (37 FR 21382).
Hopeton Holding Corp., Wilmington, Del. (37 FR 21382).
Financial Investments Corp., Chicago, Ill. (37 FR 21382).
First National Bank of Cicero Corp., Oak Park, Ill. (37 FR 21382).
Investment Securities Corp., Lexington, Ky. (37 FR 21382).
Tennessee Shares Corp., Cheverly, Md. (37 FR 21382).
Independent Bancorporation, Minneapolis, Minn. (37 FR 21382).
Mercantile Commerce Co., St. Louis, Mo. (37 FR 21382).
Barclay's Bank, Ltd., London, England (37 FR 21382).
Royal Bank of Canada, Montreal, Canada (37 FR 21382).
Industrial Bank of Japan, Ltd., Tokyo, Japan (37 FR 21382).
U T Securities Corp., New York, N.Y. (37 FR 21382).
Southeastern Shares Corp., New York, N.Y. (37 FR 21382).
National Bank of Greece, S.A., Athens, Greece (37 FR 21382).
Financial General Corp., Richmond, Va. (37 FR 21382).
Coronado Financial Corp., Kansas City, Mo. (37 FR 22414).
Columbia Union Bancshares, Kansas City, Mo. (37 FR 22414).
Bankshares of Indiana, Inc., Merrillville, Ind. (formerly Indiana Industries, Inc., Gary, Ind.) (37 FR 22414).

The time for filing comments and views and requests has expired and all those received have been considered by the Board in the light of the factors set forth in section 4(a)(2) of the Act.

On the basis of the evidence before it, the Board finds that none of the companies named hereinabove is entitled to grandfather privileges within the meaning of the proviso in section 4(a)(2) of the Act.

Board of Governors of the Federal Reserve System, December 26, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-156 Filed 1-4-73;8:45 am]

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

SECURITIES AND EXCHANGE COMMISSION

AFFILIATED FUND, INC.

[812-3332]

Notice of Filing of Application for Order Exempting Sale of Shares at Other Than Public Offering Price

DECEMBER 27, 1972.

Notice is hereby given that Affiliated Fund, Inc., 63 Wall Street, New York, NY 10005 (Applicant), a Delaware corporation, registered under the Investment Company Act of 1940 (Act) as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of section 22(d) of the Act a transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price described in the prospectus in exchange for substantially all of the assets of the Carlou Company ("Carlou"). All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations, which are summarized below.

Carlou, a Delaware corporation, is a private investment company all of the outstanding stock of which is beneficially owned by 82 persons and is exempt son of the provisions of section 3(c)(1) thereof. Carlou was incorporated in September 1940 as an investment company and has, at all times, been engaged primarily in the business of investing and reinvesting its funds. Pursuant to an Agreement entered into between Applicant and Carlou on October 27, 1972, substantially all of the cash and securities owned by Carlou, with a market value of approximately $2,296,000 as of October 19, 1972, will be transferred to Applicant in exchange for shares of its capital stock. The number of shares of Applicant's capital stock to be issued is to be determined by dividing the aggregate market value (with certain adjustments as set forth in detail in the application) of the assets of Carlou to be transferred to Applicant by the net asset value (with certain adjustments as set forth in detail in the application) of the assets of Carlou to be transferred to Applicant by the net asset value per share of Applicant both to be determined as of a valuation time, as defined in the Agreement. Applicant intends to sell, after acquisition thereof, securities of Carlou having a market value on October 19, 1972, of $389,943, which represented approximately 17 percent of the total market value of Carlou's assets on that date. The remainder of the assets of Carlou will be retained in Applicant's portfolio.

When received by Carlou, the shares of Applicant, which are registered under the Securities Act of 1933, are to be distributed to Carlou's stockholders on the liquidation of Carlou. Since the ex-

change is expected, to be tax-free for Carlou and its stockholders, Affiliated's cost-basis for tax purposes for the assets acquired from Carlou will be the same as Carlou's cost-basis, rather than the price actually paid by Affiliated for the assets. Each stockholder of Carlou will represent that he has no present intention of redeeming or transferring any of the Applicant's shares following the proposed transaction.

If applicable, an adjustment to the aggregate market value of the assets of Carlou to be acquired will be made on the following basis: (i) An amount equal to the difference between the net unrealized taxable capital gain on those securities of Carlou which Affiliated shall have advised Carlou that it is Affiliated's intention to sell after the acquisition in order to realign its investment portfolio and the portion of the realized but undistributed taxable long term capital gain of Affiliated allocable to the aggregate shares of Affiliated to be issued to Carlou shall be determined: (ii) an amount equal to the difference between the net unrealized taxable capital gain on those securities of Carlou to be acquired and held by Affiliated and the portion of the net unrealized taxable capital gain of Affiliated determined on a pro forma basis given effect to the acquisition of the assets of Carlou allocable to the aggregate shares of Affiliated to be issued to Carlou shall be determined: and (iii) the amount computed under (i) above shall be increased by the amount, if positive, or decreased by 50 percent of the amount, if negative, computed under (ii) above and 10 percent of the resulting amount, if positive, shall be applied to reduce the value of the assets of Carlou to be acquired. If the valuation under the Agreement had taken place on October 19, 1972, when the net asset value of Applicant's stock was $6.97 per share, Carlou would have received 309,611.361 shares of Applicant's stock.

There is no affiliation between Applicant and Carlou. Carlou is not an affiliated person of any affiliated person of Applicant, and the agreement was negotiated at arm's length by the two companies. Applicant's Board of Directors approved the agreement as being in the best interests of its shareholders, taking all revelant considerations into account including, among others, that Applicant will be able to acquire at one time additions to its portfolio securities without affecting the market in those securities and without incurring brokerage commissions and that the resulting net increase in assets will tend to reduce per share expenses.

The exchange contemplated by the agreement would be prohibited by section 22(d) because it would constitute a sale of a redeemable security by a registered investment company at a price other than a current offering price described in the prospectus, unless exempted by an order under section 6(c) of the Act.

Section 22(d) of the Act provides that registered investment companies issuing redeemable securities may sell their shares only at the current public offering price as described in the prospectus. Section 6(c) of the Act permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in public interest and consistent with protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 12, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the 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.73-253 Filed 1-4-73;8:45 am]

[File No. 500-1]

CLINTON OIL CO.

Order Suspending Trading

DECEMBER 27, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.03⅓ par value, and all other securities of Clinton Oil Co., 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 December 28, 1972, through January 6, 1973.

By the Commission.

RONALD F. HUNT,
Secretary.

[FR Doc.73-254 Filed 1-4-73;8:45 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

DECEMBER 29, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock 10¢ 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 December 31, 1972, through January 9, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-296 Filed 1-4-73;8:45 am]

[File No. 500-1]

CRYSTALOGRAPHY CORP.

Order Suspending Trading

DECEMBER 29, 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 December 30, 1972, through January 8, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-297 Filed 1-4-73;8:45 am]

[File 500-1]

DCS FINANCIAL CORP.

Order Suspending Trading

DECEMBER 27, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock $0.10 par value, and all other securities of DCS Financial 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 December 29, 1972, through January 7, 1973.

By the Commission.

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

[FR Doc.73-255 Filed 1-4-73;8:45 am]

[File 500-1]

GOODWAY, INC.

Order Suspending Trading

DECEMBER 27, 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 December 29, 1972, through January 7, 1973.

By the Commission.

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

[FR Doc.73-256 Filed 1-4-73;8:45 am]

[812-3304]

JOHN HANCOCK MUTUAL LIFE INSURANCE CO. AND JOHN HANCOCK VARIABLE ACCOUNT C

Application for Exemption

DECEMBER 29, 1972.

Notice is hereby given that John Hancock Variable Account C (Account C), a diversified, open end management investment company registered under the Investment Company Act of 1940, as amended (Act), and John Hancock Mutual Life Insurance Co. (John Hancock), Hancock Place, Boston, Mass. 02117, a mutual life insurance company incorporated under the laws of the State of Massachusetts (hereinafter collectively called "Applicants"), have filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting applicants, to the extent noted below, from the provisions of sections 22(d), 27(c)(2), 17(f), and Rule 17f-2 thereunder. John Hancock established Account C pursuant to section 132G of Chapter 175 of the Massachusetts General Laws, as amended, to afford a medium for equity investments for certain variable annuity contracts to be issued by John Hancock. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Variable annuity contracts (the Contracts) offered for sale by John Hancock, as principal underwriter of Account C, may be Single Payment Immediate or Deferred Contracts (hereinafter collectively called "Single Payment Contracts") or Periodic Payment Deferred Contracts (Periodic Payment Contracts). In the case of all Contracts, John Hancock will make deductions from purchase payments for sales and administrative expenses based on the amount of the purchase payment and, in the case of Deferred Contracts, there will also be a charge for the minimum death benefit. Under Single Payment Contracts the maximum deduction from the purchase payments for sales expenses will be 5 percent, the administrative expense deduction will be $75 plus a maximum of 2 percent of the purchase payment, and with respect to the Single Payment Deferred Contract, there will be a deduction of 0.5 percent of the purchase payment for the minimum death benefit. The sales expense under the Periodic Payment Contracts will equal 12.5 percent for every purchase payment during the first contract year, 4.5 percent of the purchase payment made during the second through 10th years, and 3.5 percent of the purchase payment made with respect to the 11th and following years. Administrative expenses and minimum death benefit deductions, respectively, will be 2 percent and 0.5 percent of every purchase payment no matter when made.

Applicants request exemptions from the following provisions of the Act to the extent set forth below:

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter shall sell any redeemable security to the public except at a current offering price described in the prospectus. This section has been construed to prohibit variations in the sales load except as permitted by rule or order.

Exemption is requested from the provisions of section 22(d) of the Act to enable John Hancock to afford beneficiaries designated under Deferred Contracts the right, without the imposition of any sales load or other charge, to elect an Annuity Option, in lieu of receiving a single sum with respect to the minimum death benefit. Exemption is further requested to enable John Hancock to permit holders of fixed-dollar insurance policies and annuity contracts issued by John Hancock (hereinafter collectively called "fixed dollar policies") to apply amounts payable under such fixed dollar policies (in the form of maturity benefits, cash surrender values, sums due under optional methods of settlement and the like) to the purchase of Single Payment Contracts with a deduction for sales expenses of one-half the normal deduction and the regular deduction for administrative expenses and for the minimum death benefit, but without the fixed $75 administrative expense charge.

Applicants assert that in affording beneficiaries of minimum death benefits the opportunity to elect an Annuity Option from the proceeds of such benefits, there is no significant selling expense incurred by John Hancock. Applicants also assert that persons who purchase contracts with insurance or annuity proceeds of fixed dollar policies will have already incurred a charge for sales expenses in connection with such fixed dollar policies that is larger than the sales expense deduction applicable to purchase payments under the Single Payment Contracts. It is also represented that a deduction of only one-half of the normal charge more appropriately reflects the selling effort and expense involved in these circumstances.

Section 27(c)(2) of the Act prohibits a registered investment company or a depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments, other than the sales load, are deposited with a bank as trustee or custodian and held under an indenture or agreement containing, in substance, the provisions required by sections 26(a)(2) and (3) for trust indentures of a unit investment trust.

Applicants assert that all purchase payments received under the Contracts, after deductions for sales and administrative expenses, are to be applied or held for later application to the purchase of investments for Account C, of which John Hancock will have custody as owner and not as trustee. Exemption is requested from section 27(c)(2) to permit all purchase payments received under the Contracts to be held and applied by John Hancock in the manner set forth in its Management Agreement which requires, in part, that moneys received for the account be deposited in one or more cash accounts identified as assets of the account maintained in one or more banks which will have the qualifications prescribed in paragraph (1) of section 26(a) of the Act for trustees of unit investment trusts, but which banks will not act as trustee or custodian, or under an indenture or agreement meeting the requirements in sections 26(a)(2) and (3).

Section 17(f) of the Act provides, in pertinent part, that every registered

management company shall place and maintain its securities and similar investments in the custody of: (1) A bank having the qualifications prescribed in paragraph 1 of section 26(a) for trustees of unit investment trusts; (2) a company which is a member of a national securities exchange as defined in the Securities Exchange Act of 1934; or (3) such registered company, but only in accordance with such rules and regulations or orders as the Commission may from time to time prescribe for the protection of investors. Rule 17f-2 provides, among other things, that such assets be placed in a bank subject to the requirements of the rule, one of which limits the persons who shall have access to such assets to only certain specific individuals.

Applicants request an exemption from the provisions of section 17(f) and Rule 17f-2 to the extent necessary to permit the securities and similar investments of Account C to be placed and maintained in the custody of John Hancock in its vault located at its home office in Boston, Mass.

In support of their requested exemptions from section 27(c)(2), section 17(f) and Rule 17f-2 thereunder, Applicants state that John Hancock is subject to extensive supervision and regulation by the Commissioner of Insurance of Massachusetts, and to the applicable insurance laws in the other jurisdictions in which John Hancock does an insurance business. In addition, under Massachusetts law, John Hancock cannot abandon its obligations to Contract owners or annuitants until they have been fully discharged, and the assets of Account C, equal to the reserves and other liabilities under the Contracts, are not chargeable with liabilities arising out of any other business that John Hancock may conduct. It is also represented that John Hancock's vault is similar or superior in every respect to the vaults of most banks and that John Hancock maintains within it securities and other investments having a value in excess of $4 billion. In addition, the supervisory functions of the Massachusetts Commissioner of Insurance include periodic inspections of John Hancock's vault and examination of every aspect of John Hancock's operations. Applicants further state that Account C's investments will be physically segregated at all times from the other assets of John Hancock, that its securities may be withdrawn only for certain purposes, that its investments will at all times be subject to inspection by the Commission, that each person depositing or withdrawing investments will sign a notation in respect thereof, and that only certain designated persons will have access to the securities and other investments in Account C as follows: (1) Two or more jointly of the not more than 10 officers or responsible employees of Account C or of John Hancock designated pursuant to a resolution of the Board of Managers of Account C; (2) properly authorized officers and employees of John Hancock; (3) for the purposes of verification, audit, and examination, independent public accountants jointly with any of the persons designated above; and (4) authorized employees or agents of the State insurance regulatory authorities.

Section 6(c) authorizes the Commission upon application to conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act or the rules and regulations promulgated thereunder, 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.

Applicants have consented that any order granting the requested exemption from section 27(c)(2) may be made subject to the conditions: (1) That the charges under the Contracts for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved to the Commission for such purpose, and (2) that the payment of sums and charges out of the assets of Account C shall not be deemed to be exempted from regulation by the Commission by reason of the requested order: *Provided*, That the Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payments of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission or in any suit or action in any court to assert that the Commission has no authority to regulate the payment of such other sums or charges.

Notice is hereby given that any interested person may not later than January 23, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted; or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued 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.73-291 Filed 1-4-73;8:45 am]

[File 500-1]

MANAGEMENT DYNAMICS, INC.

Order Suspending Trading

DECEMBER 27, 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 Management Dynamics, 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 December 28, 1972, through January 6, 1973.

By the Commission.

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

[FR Doc.73-257 Filed 1-4-73;8:45 am]

[File No. 500-1]

MERIDIAN FAST FOOD SERVICES, INC.

Order Suspending Trading

DECEMBER 29, 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 Fast 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 January 1, 1973 through January 10, 1973.

By the Commission.

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

[FR Doc.73-294 Filed 1-4-73;8:45 am]

[File No. 500-1]

MINUTE APPROVED CREDIT PLAN, INC.

Order Suspending Trading

DECEMBER 29, 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 December 30, 1972 through January 8, 1973.

By the Commission.

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

[FR Doc.73-298 Filed 1-4-73;8:45 am]

[File No. 500-1]

MONARCH GENERAL, INC.

Order Suspending Trading

DECEMBER 29, 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 Monarch General, 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 January 1, 1973 through January 10, 1973.

By the Commission.

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

[FR Doc.73-299 Filed 1-4-73;8:45 am]

[File No. 500-1]

NOVA EQUITY VENTURES, INC.

Order Suspending Trading

DECEMBER 29, 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 Nova Equity Ventures, 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 January 3, 1973 through January 12, 1973.

By the Commission.

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

[FR Doc.73-295 Filed 1-4-73;8:45 am]

[File No. 500-1]

STAR-GLO INDUSTRIES, INC.

Order Suspending Trading

DECEMBER 29, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.10 par value, and all other securities of Star-Glo Industries 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 December 30, 1972 through January 7, 1973.

By the Commission.

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

[FR Doc.73-300 Filed 1-4-73;8:45 am]

[File No. 500-1]

TIDAL MARINE INTERNATIONAL CORP.

Order Suspending Trading

DECEMBER 29, 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 Tidal Marine International 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 January 2, 1973 through January 11, 1973.

By the Commission.

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

[FR Doc.73-293 Filed 1-4-73;8:45 am]

[812-2815]

TINTIC STANDARD MINING CO.

Filing of Application

DECEMBER 29, 1972.

Notice is hereby given that Tintic Standard Mining Co. (Applicant), 1112 Walker Bank Building, Salt Lake City, Utah, 84111, organized under the laws of the State of Utah, has filed an application for an order of the Commission, pursuant to section 3(b)(2) of the Investment Company Act of 1940 (Act), declaring that it is primarily engaged in a business other than that of investing, reinvesting, owning, holding, or trading in securities, either directly or through majority owned subsidiaries or through controlled companies conducting similar types of businesses. In the alternative, Applicant requests an order pursuant to section 6(c) exempting it and its affiliates from all provisions of the Act. All interested persons are referred to the application and amendments thereto on file with the Commission for a statement of the representations set forth therein which are summarized below.

Applicant was organized in 1907 to develop mining properties in Utah. Since then it has been primarily engaged in the mining business and, since 1953, to a lesser degree, it has also been engaged in the business of acquiring interests in oil and gas properties and their exploration and development. In 1913, it discovered several large silver and lead ore bodies in the East Tintic area of Utah. There were other companies owning mining claims adjacent or near to its properties and it acquired a majority stock interest in those companies to control as much of the potential ore bodies as possible and it still owns a majority of the stock of those companies. From 1913 to 1950, approximately $80 million in value of silver and lead ores were mined and marketed from the East Tintic area by Applicant. Other potential ore bodies exist in the same area but because of the large amount of capital required to further explore and develop them, Applicant and all of the companies owning properties in the area, including Applicant's subsidiaries, entered into a lease with Bear Creek Mining Co., now Kennecott Copper Corp. (Kennecott), for the further exploration and development of the area and Kennecott is now operating the properties under that lease.

In 1953, after Banner Mining Co., a Nevada corporation (Banner), had made what appeared to be a substantial copper ore discovery near Tucson, Ariz., Applicant, in order to participate in the development and operations of Banner, purchased approximately 12 percent of the Banner stock and to aid in its participation in Banner, it caused its affiliate, U-Tex Oil Company, a Utah corporation controlled by Applicant's president ("U-Tex"), to acquire a substantial block of the Banner stock.

Total adjusted assets of Applicant on December 31, 1971, were $12,132,738, of which $11,830,000 consisted of Banner stock, or approximately 97 percent of total adjusted assets. Since the value of the Banner stock exceeds 40 percent of the value of Applicant's total assets, Applicant concedes that it is within the provisions of section 3(a)(3) of the Act which defines investment company status.

Applicant represents that it exercises control over the operations and management of Banner and in support of that contention, states that: it is the owner of 788,664 shares or 11.33 percent of Banner's stock; its directors own an aggregate of 716,315 shares or 10.29 percent; and U-Tex, the said affiliate of Applicant, owns 568,785 shares or 8.7 percent, making an aggregate ownership by Applicant, its directors and its affiliate of 29.79 percent of the outstanding

shares of Banner. To further substantiate its claim of control of Banner, Applicant states that: it is the largest single shareholder of Banner; five of its directors serve on the present nine-man Banner Board; three of Applicant's directors are members of Banner's present four-man executive committee; the president of Banner is a member of Applicant's Board; and Applicant's president and the members of its board who are on the Banner Board actively participate in all of the significant decisions and important policies with respect to the operations of Banner. Applicant states that the only other shareholder owning more than 10 percent of the outstanding stock of Banner is Rico Argentine Mining Co., which owns approximately 10.51 percent of the total outstanding stock.

Applicant states that it now is and has been since its organization engaged primarily in the mining business through its direct participation in such business, through its majority controlled subsidiaries and through its control of Banner. Applicant claims that it does not now and has never been engaged in the business of investing, reinvesting or trading in securities. It claims that it has never held itself out to be engaged in the investment business and its directors and officers are not qualified to nor do they act or purport to act as investment advisers. During the past 20 years it has participated in only 45 transactions involving the purchase or sale of stock in other companies, including Banner.

Applicant also states that a proposed plan of reorganization and merger (filed as exhibits to the application) has been agreed upon, in principle, between it and American Climax, Inc., a New York corporation (Amax), for the merger of Applicant into Amax Cooper Mines, Inc. (ACM), a wholly owned subsidiary of Amax, whereby each share of Applicant will be exchanged for and converted into 0.1236 of a share of Amax Series B Convertible Preferred Stock and that if the merger is consummated, Applicant's corporate existence will end.

Section 3(a)(3) of the Act defines as an investment company 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 percent of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis.

Section 3(b)(2) of the Act, among other things, excepts from the definition of an investment company in section 3(a)(3), any issuer which the Commission finds and by order declares to be primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities, either directly through majority owned subsidiaries, or through controlled companies conducting similar types of businesses.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person or transaction from any provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 19, 1973, 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 reasons for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-292 Filed 1-4-73;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

CALIFORNIA DEVELOPMENTAL PLAN

Notice of Submission of Plan and Availability for Public Comment

1. *Submission and description of plan.* Pursuant to section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) and 29 CFR 1902.11 setting forth the method whereby States may assume responsibility for the development and enforcement therein of occupational safety and health standards, notice is hereby given that a developmental occupational safety and health plan has been submitted by the State of California and that on the basis of a preliminary review of the plan the issue of its approval is now under consideration.

The plan involves making those changes in the attributes of the State's current occupational safety and health program that appear necessary to bring it into full conformity with the requirements of section 18(c) of the Act and 29 CFR Part 1902.

The State's program would be enforced by the Division of Industrial Safety of the Department of Industrial Relations of the California Agriculture and Service Agency. Current safety and health standards would be continued unless amended by the State's Occupational Safety and Health Standards Board. Appeals from the granting or denial of requests for variances will also come within the jurisdiction of this Board. Administrative adjudications will be the responsibility of a newly created Occupational Safety and Health Appeals Board.

It is contemplated that enabling legislation will be passed during 1973 and that within 1 year thereafter the plan will be administratively implemented and necessary changes in standards will be effected making it fully operational.

The State program is expected to extend its protection to all employees in the State except those employed by Federal agencies, maritime workers, household domestic service workers, and railroad workers not employed in railroad shops.

2. *Location of plan for inspection and copying.* A copy of the plan may be inspected and copied during normal business hours at the following locations: Office of Federal and State Operations, OSHA, Room 305, 400 First Street NW., Washington, DC 20210; Regional Office, OSHA, Room 9470, Federal Office Building, 450 Golden Gate Avenue, San Francisco, CA 94102; Agriculture and Services Agency, 1220 N Street, Room 114, Sacramento, CA 95814; Department of Industrial Relations, 455 Golden Gate Avenue, Room 999, San Francisco, CA 94102; and Division of Industrial Safety, 3460 Wilshire Boulevard, Room 916, Los Angeles, CA 90010.

3. *Public participation.* Interested persons are hereby given until February 5, 1973, in which to submit written data, views, and arguments concerning the plan. Such requests or submissions are to be addressed to the Director of Federal and State Operations, Room 408, 400 First Street NW., Washington, DC 20210. The written comments will be available for public inspection and copying at this address.

Copies of pages from the plan or of written comments received with respect thereto will be provided in accordance with the general Department of Labor fee schedule (29 CFR 70.62(a)).

Any interested person may request a hearing concerning the proposed plan, or any part thereof, whenever particularized written objections thereto are filed within the time allowed for comments specified above. If it is found that substantial objections are filed, a formal or informal hearing on the subjects and issues involved shall be held.

After consideration has been given to all material submitted a final decision

as to the approval or disapproval of the plan will be issued.

Signed at Washington, D.C., this 31st day of December 1972.

CHAINN ROBBINS,
Acting Assistant Secretary of Labor.

[FR Doc.73-284 Filed 1-4-73;8:45 am]

Office of the Secretary

HAWAII

Notice of Termination of Extended Unemployment Compensation

The Federal-State Extended Unemployment Compensation Act of 1970, Title II of Public Law 91-373, establishes a program of payment to unemployed workers who have received all of the regular compensation to which they are entitled, commencing when unemployment is high (according to indicators set forth in the law) and terminating when unemployment ceases to be high (according to indicators set forth in the law). Pursuant to section 203(b)(2) of the Act, notice is hereby given that Robert K. Hasegawa, Director, Labor and Industrial Relations, State of Hawaii, has determined that there was a State "off" indicator in Hawaii for the week ending November 11, 1972 and that an extended benefit period terminated in the State with the week ending December 2, 1972.

Signed at Washington, D.C., this 29th day of December, 1972.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.73-275 Filed 1-4-73;8:45 am]

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS AT SPECIAL MINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR IN AGRICULTURE

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR, Part 519), and Administrative Order No. 621 (36 FR 12819), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly rates lower than the minimum wage rates otherwise applicable under section 6 of the act. While effective and expiration dates are shown for those certificates issued for less than a year, only the expiration dates are shown for certificates issued for a year. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

The following certificates provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full-time students at wages below $1 an hour in the base year; or provide the same standards authorized in certificates previously issued to the establishment.

Andrews Nursing Home, Inc., nursing home; 12 Market Square, South Paris, Maine; 9-29-73.

Annes Department Store, variety-department store; 4810-20 North Milwaukee Avenue, Chicago, Ill.; 10-28-73.

Banner Food Store, food store; No. 23, Jacksonville, Fla.; 10-2-72 to 9-28-73.

Beatrice Super Market, Inc., food store; 808 Court Street, Beatrice, NE; 10-13-73.

Ben Franklin Store, variety-department stores: Carolina Shopping Center, Boger City, N.C.; 10-14-73; Highway 76 and Gapway Street, Mullins, S.C.; 9-23-73.

Blyth and Fargo Co., variety-department store; Evanston, Wyo.; 10-19-73.

Boone Crest 5-10-25¢ Stores Co., variety-department store; Boone, N.C.; 9-30-73.

Byrd's, Inc., food store; 304 East Main Street, Carrboro, NC; 10-2-73.

Chatham Drug Co., Inc., drug store; Park Shopping Center, Siler City, N.C.; 9-21-73.

Community Memorial Hospital, hospitals, 10-4-73, except as otherwise indicated: Park Street, Sheldon, Iowa; Hettinger, N. Dak.; 819 Ash Street, Spooner, WI (10-26-73).

Cook's, Inc., hardware store; 1100 Washington Street, Grand Haven, MI; 9-25-73.

Crest Stores Co., variety-department store; Villa Park Shopping Center, Conover, N.C.; 10-9-73.

Culter's Drugs, drug stores, 9-20-73: Nos. 2, 5, and 6, Columbus, Ohio.

Discount Foodland, food store; Highway 63 South, Macon, Mo.; 10-17-73.

Discount Food Market, food store; 845 Broad Street, Camden, SC; 9-30-73.

Eagle Stores Co., Inc., variety-department store; No. 6, Sylva, N.C.; 10-16-73.

Elliotts Stores, Inc., apparel stores, 10-15-73; 118 Front Street, Beaver Dam, WI; Four South Main Street, Janesville, WI; 5614 Sixth Avenue, Kenosha, WI; 200 Main Street, Watertown, WI.

Food Fair, Inc., food store; London, Ky.; 9-30-73.

Frank's IGA, food store; 1402 Main, Rock Valley, IA; 10-14-73.

Geri's Hamburgers, restaurant; 1320 North State Street, Belvidere, IL; 9-29-73.

W. T. Grant Co., variety-department stores: No. 243, Galesburg, Ill., 10-27-73; No. 33, Peoria, Ill., 9-28-73; No. 1106, Roselle, Ill., 11-28-73; No. 828, Wyckoff, N.J., 9-30-73; No. 572, Cleveland, Ohio, 10-10-73.

Harvey's Dime Store, Inc., variety-department store; 108 North Broad, Griffith, IN; 10-28-73.

Hively's Pharmacy, Inc., drug store; 101 West Broadway, Monticello, IN; 10-3-73.

John P. Robilio & Co., food store; 910 Vance Avenue, Memphis, TN; 10-9-73.

Johnny's IGA Market, food store; 6190 Madison Pike, Independence, KY; 9-21-73.

Kingsford Drugs, drug store; 373 Woodward Avenue, Kingsford, MI; 9-26-73.

S. S. Kresge Co., variety-department stores: No. 4283, Jacksonville, Fla., 11-2-73; No. 4071, Marietta, Ga., 10-10-73; No. 4189, Savannah, Ga., 10-25-73; No. 4337, Addison, Ill., 10-28-73; No. 81, Aurora, Ill., 9-22-73; No. 88, Belleville, Ill., 10-31-73; No. 4381, Bridgeview, Ill., 10-31-73; No. 4368, Carol Stream, Ill., 9-30-73; No. 253, Chicago, Ill., 9-26-73; No. 305, Chicago, Ill., 9-28-73; No. 301, Chicago Heights, Ill., 10-10-73; No. 4030, Danville, Ill., 10-25-73; No. 4097, Elgin, Ill., 10-31-73; No. 4454, Hanover Park, Ill., 9-30-73; No. 4095, Joliet, Ill., 10-12-73; No. 4322, Kankakee, Ill., 10-28-73; No. 554, Moline, Ill., 9-28-73; No. 502, Mount Prospect, Ill., 9-21-73; No. 463, Oak Lawn, Ill., 9-20-73; No. 187, Palatine, Ill., 9-20-73; No. 4107, Peoria, Ill., 10-23-73; No. 4433, Quincy, Ill., 9-30-73; No. 455, Springfield, Ill., 9-20-73; No. 4048, Springfield, Ill., 10-20-73; No. 4345, Tinley Park, Ill., 9-30-73; No. 4035, Anderson, Ind., 10-30-73; No. 4249, Elkhart, Ind., 10-6-73; No. 4067, Fort Wayne, Ind., 11-8-73; Nos. 4196 and 4203, Indianapolis, Ind., 10-7-73; No. 4336, Indianapolis, Ind., 10-9-73; No. 167, Logansport, Ind., 10-2-73; No. 101, South Bend, Ind., 10-23-73; No. 312, Speedway, Ind., 10-8-73; No. 4124, Terre Haute, Ind., 11-6-73; No. 154, Council Bluffs, Iowa, 10-5-72 to 9-30-73; No. 93, Ottumwa, Iowa., 10-6-72 to 8-5-73; No. 4222, Shawnee Mission, Kans., 9-25-72 to 9-12-73; No. 4437, Topeka, Kans., 10-14-73; No. 4565, Topeka, Kans., 10-8-73; No. 4232, Lexington, Ky., 10-18-73; No. 4006, Louisville, Ky., 10-1-73; No. 4180, Louisville, Ky., 10-4-73; No. 4105, Ann Arbor, Mich., 11-8-73; No. 6, Bay City, Mich., 10-21-73; No. 4091 Bay City, Mich., 9-30-73; No. 681, Birmingham, Mich., 9-28-73; No. 453, Clawson, Mich., 10-23-73; No. 490, Dearborn, Mich., 10-24-73; No. 352, Detroit, Mich., 10-7-73; No. 4134, East Lansing, Mich., 10-21-73; No. 4118, Grand Rapids, Mich., 11-1-73; No. 405, Inkster, Mich., 9-22-73; No. 4256, Lansing, Mich, 10-21-73; No. 4382, Lansing, Mich., 10-31-73; No. 423, Livonia, Mich., 9-23-73; No. 4238, Melvindale, Mich., 10-9-73; No. 4098, Monroe, Mich., 11-1-73; No. 4145, Mount Clemens, Mich., 11-8-73; No. 4099, Mount Morris, Mich., 11-1-73; No. 4481, Plymouth, Mich., 10-14-73; No. 404, Pontiac, Mich., 9-25-73; No. 4323, Pontiac Township, Mich., 10-31-73; No. 4096, Saginaw, Mich., 11-1-73; No. 501, Southfield, Mich., 10-16-73; No. 4326, Sterling Heights, Mich., 10-31-73; No. 4059, Taylor, Mich., 11-14-73; No. 115, Troy, Mich., 10-5-73; No. 4106, Ypsilanti, Mich., 10-30-73; No. 4570, Austin, Minn., 10-19-73; No. 135, Minneapolis, Minn., 11-16-73; No. 694, Minneapolis, Minn., 10-10-72 to 9-2-73; No. 4351, Rochester, Minn., 9-30-73; No. 4251, Charlotte, N.C., 9-24-73; No. 4335, Kannapolis, N.C., 9-29-73; No. 4173, Cincinnati, Ohio 10-19-73; No. 240, Cleveland, Ohio, 9-20-73, No. 376, Cleveland, Ohio, 9-27-73; No. 640, Columbus, Ohio, 10-9-73; No. 644, Dayton, Ohio, 9-20-73; No. 4190, Dayton, Ohio, 10-19-73; No. 150, Portsmouth, Ohio, 10-31-73; No. 4043, Columbia, S.C., 9-23-73; No. 4016, Greenville, S.C., 10-16-73; No. 738, Chattanooga, Tenn., 9-20-73; No. 723, Cleveland, Tenn., 10-7-73; No. 4218, Appleton, Wis., 11-24-73; No. 4385, Greenfield, Wis., 10-31-73; No. 4255, Janesville, Wis., 10-31-73; No. 4517, Janesville, Wis., 10-9-73; No. 4579, Kenosha, Wis., 9-26-73; No. 4486, Milwaukee, Wis., 9-30-73; No. 4254, Oshkosh, Wis., 10-13-73; No. 4380, Wauwatosa, Wis., 10-31-73.

Lerner Shops, apparel stores, 11-4-73, except as otherwise indicated: No. 139, Daytona Beach, Fla.; No. 197, Gainesville, Fla. (11-8-73); No. 346, Hialeah, Fla. (10-31-73); No. 348, Hollywood, Fla. (10-31-73); No. 180, Jacksonville, Fla.; Nos. 102 and 183, Miami, Fla.; No. 66, Miami Beach, Fla.; No. 136, Pensacola, Fla.; No. 344, Pensacola, Fla. (10-31-73); No. 146, Sarasota, Fla.; No. 341, Tallahassee, Fla. (10-31-73); Nos. 54, 62, and 106, Tampa, Fla. (11-8-73); No. 193, Tampa, Fla. (9-22-73); No. 199, Titusville, Fla. (11-10-73); No. 196, West Palm Beach, Fla. (10-18-73); No. 347, Winter Haven, Fla. (10-31-73); No. 144, Savannah, Ga.

Lo Mark, food store; 1013 South Fayetteville Street, Asheboro, NC; 9-30-73.

McCrory-McLellan-Green Stores, variety-department stores: No. 274, Danbury, Conn., 10-7-73; No. 1009, Norwalk, Conn., 10-14-73; No. 7504, Casselberry, Fla., 10-16-72 to 10-6-73; No. 73, Daytona Beach, Fla., 9-22-73; No. 52, Englewood, Fla., 10-14-73; No. 388, Live

Oak, Fla., 10–20–73; No. 365, Melbourne, Fla., 9–25–72 to 9–2–73; No. 204, Merritt Island, Fla., 10–18–73; Nos. 319 and 7502, Orlando, Fla., 10–6–73; No. 356, Plant City, Fla., 10–2–13; No. 310, St. Petersburg, Fla., 9–20–73; No. 340, Tarpon Springs, Fla., 9–22–73; No. 262, Titusville, Fla., 9–30–73; No. 339, Winter Garden, Fla., 9–21–72 to 9–2–73; No. 120, Winter Haven, Fla., 10–14–73; No. 432, Athens, Ga., 9–20–73; No. 72, Atlanta, Ga., 10–14–73; No. 359, Dalton, Ga., 9–21–72 to 9–18–73; No. 225, Monroe, Ga., 9–24–73; No. 557, Thomson, Ga., 9–25–72 to 9–19–73; No. 1204, Lexington, Ky., 10–11–73; No. 1135, Louisville, Ky., 10–19–73; No. 382, Fall River, Mass., 10–22–73; No. 641, Greenfield, Mass., 10–8–73; No. 343, Hadley, Mass., 9–24–73; No. 393, Southgate, Mich., 10–21–73; No. 506, Ypsilanti, Mich., 9–23–73; No. 377, Stirling, N.J., 10–2–73; No. 1073, Trenton, N.J., 9–23–73; No. 402, Washington, N.C., 9–25–72 to 9–2–73; No. 1045, Wilmington, N.C., 9–21–72 to 9–2–73; No. 1040, Columbus, Ohio, 9–21–73; No. 210, Pique, Ohio, 9–24–73; No. 1048, Anderson, S.C., 10–26–73; No. 59, Goodlettsville, Tenn., 10–14–73; No. 297, Kingsport, Tenn., 9–20–73; No. 1120, Memphis, Tenn., 10–7–73; No. 320, Whitehaven, Tenn., 9–24–73; No. 144, Madison, Wis., 10–25–73.

Main at Locust Pharmacy, drug store; 129 West Locust Street, Davenport, IA; 9–30–73.

Masons Department Store, variety-department store; 102–112 East Ward Street, Douglas, GA; 11–8–73.

Max Adler, Co., apparel store; 2524 Miracle Lane, Mishawaka, IN; 10–27–73.

Millner-Aycock's, Inc., variety-department store; North Broad Street, Monroe, Ga.; 9–24–73.

Millner's, Inc., variety-department store; 104 Main Street SW., Gainesville, GA; 9–24–73.

H. Minkovitz & Sons, Inc., variety-department store; One South Main Street, Statesboro, GA; 10–4–73.

Mr. H's Village Kitchen, food store; 13925 West Capitol Drive, Brookfield, WI; 9–30–73.

G. C. Murphy Co., variety-department stores: No. 345, Effingham, Ill., 10–31–73; No. 326, Decatur, Ind., 10–14–73; No. 313, Indianapolis, Ind., 10–2–73; No. 324, Okemos, Mich., 9–29–73; No. 332, Minneapolis, Minn., 10–4–73; No. 141, Durham, N.C., 10–31–73; No. 463, Delphos, Ohio, 10–14–73.

Neisner Brothers, Inc., variety-department stores: No. 190, Cape Coral, Fla., 10–17–73; No. 95, Englewood, Fla., 10–9–73; No. 136, Miami, Fla., 11–2–73; No. 5, Palatka, Fla., 10–13–73.

J. J. Newberry Co., variety-department stores: No. 476, Macon, Ga., 10–31–73; 203–7 East Mount Vernon Street, Somerset, Ky., 9–21–73; No. 732, Sidney, Nebr., 9–26–72 to 9–2–73; No. 303, Hackettstown, N.J., 10–10–73; No. 17, New Brunswick, N.J. 10–24–73.

Nobles Super Market, Inc., food store; 10th and Payne Street, Tell City, Ind.; 10–6–73.

Peace Haven Association, nursing home; Walnut, Iowa; 10–8–73.

Pecan Shop, food store; U.S. Highway No. 66, Lexington, Ill., 9–27–73.

Platte Fair United Super Grocery, food store; Platte City, Mo.; 9–25–72 to 8–31–73.

Pleezing Food Store, food store; 201 East Wright Street, Pensacola, FL; 9–30–73.

Rayless Department Store, variety-department store, East Brainerd Road, Chattanooga, Tenn.; 9–21–73.

Rose's Stores, Inc., variety-department stores: No. 93, Belhaven, N.C., 9–20–73; No. 214, Marion, S.C.; 9–30–73.

Rusty's Food Centers, Inc., food store; 23d and Louisiana, Lawrence, Kans.; 9–22–73.

Samuel Schlesinger, Inc., apparel store; 5716 Bergenline Avenue, West New York, NJ, 10–17–73.

Schensul's Cafeteria, restaurant; East Grand River Avenue, Okemos, Mich.; 10–28–72 to 9–30–73.

Schradzki Co., apparel store; 213–215 South West Adams, Peoria, IL; 11–9–73.

Scott Stores Co., variety-department store; Ashland and Union Streets, Aurora, Ill.; 9–30–73.

Skippers Table, Inc., restaurant; No. 2, Livonia, Mich.; 10–14–73.

Spurgeon's variety-department stores: 521 North Adams, Carroll, IA, 10–6–73; 202 East Robinson Street, Knoxville, IA, 9–30–73; 131 West Broadway, Owantonna, MN, 10–17–73; 929 Main Street, Stevens Point, WI, 10–1–73.

T. G. & Y. Stores Co., variety-department stores: No. 1306, Fort Walton Beach, Fla., 10–14–73; No. 9231, Iola, Kans., 10–4–73; No. 126, Kansas City, Mo., 9–20–73; No. 176, Santa Fe, N.Mex., 9–22–73.

Tarboro Crest Stores Co., variety-department store; Tarboro Shopping Center, Tarboro, N.C.; 9–30–73.

Thornberry's Super Valu Market, Inc., food store; Winchester, Ky.; 10–6–73.

Thirftown, food store; 1875 Perry Boulevard NW., Atlanta, GA; 10–19–73.

Tomlinson Stores, Inc., variety-department store; 806 Front Street, Georgetown, SC; 10–16–73.

Town & Country Market, Inc., food store; 2020 10th Street, Sidney, NE; 9–26–73.

Toy House, Inc., toy store; 400 North Mechanic Street, Jackson, MI; 10–3–73.

White's Stores, Inc., variety-department store; 601–607 Dickinson Avenue, Greenville, NC; 10–19–73.

Wilbert Bakery Corp., food store; 3628 West Villard Avenue, Milwaukee, WI; 10–31–73.

Wood's 5 & 10¢ Stores, Inc., variety-department stores: East Gate Shopping Center, Chapel Hill, N.C., 10–31–73; Biggs Park Shopping Center, Lumberton, N.C., 11–5–73.

Younker Brothers, Inc., variety-department store; the Kennedy Mall, Dubuque, Iowa; 10–17–73.

H. Zimmerman & Sons, Inc., apparel store; 118 West Third Street, Marion, IN; 11–9–73.

The following certificates issued to establishments permitted to rely on the base-year employment experience of others were either the first full-time student certificates issued to the establishment, or provide standards different from those previously authorized. The certificates permit the employment of full-time students at rates of not less than 85 percent of the applicable statutory minimum in the classes of occupations listed, and provide for the indicated monthly limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees.

Burger Chef, restaurants, for the occupation of general restaurant worker, 6 to 37 percent, 10–31–73: 648 State Street, New Albany, IN; 629 Versailles Road, Frankfort, KY; 811 Eastern Parkway, Louisville, KY; 3627 Frederica Street, Owensboro, KY.

Cherry Creek Nursing Home, Inc., nursing home; 350 North Center Street, Lowell, MI; nurse's aide; 10 percent; 10–29–73.

Gail's Fashions, apparel stores, for the occupations of salesclerk, stock clerk, office clerk, porter, 7 to 21 percent, 10–31–73: 47th and State Streets, Kansas City, Kans.; 944 East 23d Street, Fremont, NE.

Holaway's Food Market, food store; 1223 Danville Road Southwest, Decatur, AL; 20 percent; 10–14–73.

S. S. Kresge Co., variety-department stores, for the occupations of salesclerk, stock clerk, checker-cashier, 10–31–73, except as otherwise indicated:

No. 4489, Tallahassee, Fla., 7 to 21 percent (salesclerk, 9–30–73); No. 3061, Tampa, Fla., 7 to 24 percent (salesclerk, 10–14–73); No. 4384, Palatine, Ill., 18 to 29 percent; No. 3032, Waukegan, Ill., 18 to 25 percent; No 3057, Louisville, Ky., 11 to 25 percent (salesclerk, stock clerk, office clerk, maintenance); No. 3016, Bossier City, La., 4 to 15 percent (salesclerk, stock clerk, office clerk, maintenance, 10–14–73); No. 3069, Flint, Mich., 10 percent (salesclerk, stock clerk, office clerk, food preparation, maintenance); No. 4217, Independence, Mo., 13 to 20 percent (10–10–72 to 7–14–73); No. 7003, Muskogee, Okla., 7 to 27 percent (salesclerk); No. 7007, Aiken, S.C., 11 to 22 percent (salesclerk, checker, 10–14–73); No. 3003, North Augusta, S.C., 4 to 13 percent (salesclerk, 10–14–73); No. 7008, Orangeburg, S.C., 11 to 22 percent (salesclerk, checker, 10–14–73); No. 7004, Victoria, Tex., 7 to 27 percent (salesclerk, 9–30–73).

Lentz Food Market, food store; 80 West Market Street, Hellam, PA; stock clerk; 19 to 20 percent; 9–30–73.

Lo Mark, food store; No. 16, Pittsboro, N.C.; bagger, carry out, clean up, stock clerk, cashier; 18 percent; 10–31–73.

Mr. J's Quality Discount Foods, food store; 4270 West 5415 South, Kearns, UT; bagger, checker, stock clerk, general clerk; 47 to 49 percent; 10–31–73.

G. C. Murhpy Co., variety-department stores: No. 351, Wallace, N.C., salesclerk, stock clerk, office clerk; janitorial, 6 to 27 percent, 10–31–73; No. 805, Warren, Ohio, sales clerk, stock clerk, office clerk, janitorial, 9 to 22 percent, 9–30–73.

Piggly Wiggly, food store; Oneonta, Ala.; bagger, stock clerk; 9 to 27 percent; 10–14–73.

Randall's Food Markets, Inc., food store; Houston, Tex.; stock clerk, carry out; 28 percent; 10–3–73.

Rose's Stores, Inc., variety-department stores, for the occupations of salesclerk, stock clerk, 9–30–73, except as otherwise indicated: No. 229, Columbus, Miss., 13 to 32 percent (salesclerk, stock clerk, office clerk, checker); No. 219, Eden, N.C., 13 to 28 percent; No. 225, Chester, S.C., 11 to 27 percent; No. 223, Greenville S.C., 11 to 23 percent.

Spurgeon's, variety-department store; 102 Fourth Avenue, Baraboo, WI; salesclerk, stock clerk, janitorial, receiving clerk, marking clerk; 9 to 15 percent; 10–31–73.

T. G. & Y. Stores Co., variety-department stores, for the occupations of salesclerk, stock clerk, office clerk, 10–31–73, except as otherwise indicated; No. 1615, Hueytown, Ala., 15 to 30 percent (9–30–73); No. 1407, Iola, Kans., 19 to 30 percent; No. 300, Kansas City, Mo., 22 to 30 percent; No. 482, Kansas City, Mo., 22 to 30 percent (9–30–73); No. 282, Artesia, N. Mex., 13 to 24 percent (10–14–73); No. 1019, Ada, Okla., 20 to 30 percent; No. 72, Ponca City, Okla., 14 to 30 percent (9–30–73).

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificate may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may

seek a review or reconsideration thereof within 30 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 21st day of December 1972.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[FR Doc.73-160 Filed 1-4-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 148]

ASSIGNMENT OF HEARINGS

JANUARY 2, 1973.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No Amendments will be entertained after the date of this publication.

No. 35533, Petroleum Products, Williams Brothers, Pipe Line Co., No. 35533 Sub 1, Petroleum Products to Illinois, Iowa, and Missouri, Williams Brothers Pipe Line Co., No. 35533 Sub 2, Petroleum Products, Williams Brothers Pipe Line Co., No. 35540 Petroleum Products, Louisiana and Texas to Midwest, PSA No. 42327, Pipeline Rates-Petroleum Products from the Southwest is continued to February 5, 1973, at the Office of the Interstate Commerce Commission, Washington, D.C.

FD 26583, Detroit and Toledo Shore Line Railroad Petition for Joint Use of Terminal Facilities at Trenton, Mich., now being assigned hearing March 22, 1973 (2 days), at Toledo, Ohio, in a hearing room to be later designated.

AB-5 Sub 62, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees of the Property of Penn Central Transportation Co., Debtor, Abandonment Between Mt. Gilead and Health, Morrow, Delaware, Knox, and Licking Counties, Ohio, now being assigned hearing March 26, 1973 (2 days), at Johnstown, Ohio, in a hearing room to be later designated.

AB-5 Sub 93, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees of the Property of Penn Central Transportation Co., Debtor, Abandonment Portion Mt. Vernon Secondary Track Between Howard and Holmesville, Knox and Holmes Counties, Ohio, now being assigned hearing March 28, 1973 (3 days), at Millersburg, Ohio, in a hearing room to be later designated.

No. 35641, The Chesapeake and Ohio Railway Co. v. Atlantic and East Carolina Railway Co. et al., now being assigned hearing March 26, 1973, at the Office of the Interstate Commerce Commission, Washington, D.C.

I&S No. 8808, Sand, Yuma, Mich., to Cleveland, Ohio, now being assigned hearing February 21, 1973, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC-105566 Sub 53, Sam Tanksley Trucking, Inc., Extension-Bananas, now assigned January 10, 1973, at Columbus, Ohio, is canceled and application dismissed.

MC-133565 Sub 6, True Transport, Inc., now assigned February 5, 1973, at New York, N.Y., is canceled and application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-301 Filed 1-4-73;8:45 am]

[Notice 149]

ASSIGNMENT OF HEARINGS

JANUARY 2, 1973.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

CORRECTION

MC 120280 Sub 2, State Motor Lines, Inc., now being assigned February 5, 1973, at Raleigh, N.C., in a hearing room to be lated designated, instead of MC 120820 Sub 2.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-302 Filed 1-4-73;8:45 am]

[Notice 176]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 2, 1973.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 107064 (Sub-No. 91 TA), filed December 19, 1972. Applicant: STEERE TANK LINES, INC., Post Office Box 2998, 2808 Fairmount Street, 75201, Dallas, TX 75221. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, TX 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oil*, from Wynnewood, Okla., to points in Texas, for 180 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: Lone Star Producing Co., 301 South Harwood Street, Dallas, TX 75201. Send protests to: District Supervisor E. K. Willis, Jr., Bureau of Operations, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 110420 (Sub-No. 670 TA), filed December 14, 1972. Applicant: QUALITY CARRIERS, INC., Pleasant Prairie, Wis., Mail: Post Office Box 186, 53158, Office: I-94 County Highway C, Bristol Kenosha County, WI 53104. Applicant's representative: Fred H. Figge (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Antibiotic residues*, liquid, in bulk, in tank vehicles, from Terre Haute, Ind., to St. Paul, Minn., for 180 days. Supporting shipper: Knappen Molasses, 13550 Indiana, Riverdale, IL (Joseph B. Decker III, Traffic Manager). Send protests to: District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 110563 (Sub-No. 96 TA), filed December 12, 1972. Applicant: COLDWAY FOOD EXPRESS, INC., 113 North Ohio Avenue, Ohio Building, Sidney, OH 45365. Applicant's representative: John L. Maurer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and dairy products*, from Newman Grove, Nebr., to points in Michigan, Ohio, Indiana, Pennsylvania, New Jersey, and New York, for 180 days. Supporting shipper: Mid-West Producers' Creameries, Inc., 224 West Jefferson Boulevard, South Bend, IN 46601. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 111170 (Sub-No. 198 TA), filed December 18, 1972. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, 2811 North West Avenue, El Dorado, AR 71730. Applicant's representative: Tom Moore (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Weed killing com-*

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

pound, in bulk, from Jacksonville, Ark., to Grand Fork, N. Dak., for 180 days. Supporting shipper: Transvaal, Inc., Post Office Box 69, Jacksonville, AR 72076. Send protests to: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 125168 (Sub-No. 26 TA), filed December 19, 1972. Applicant: OIL TANK LINES, INC., Hook Road and Darby Creek, Post Office Box 190, Darby, PA 19023. Applicant's representative: R. H. Davis (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (excluding petrochemicals), in bulk, in tank vehicles, from Bayonne and Bayway, N.J., to Falling Rock, W. Va., and between Pittsburgh, Pa., and Falling Rock, W. Va., for 180 days. Supporting shipper: Pennzoil Co., Drake Building, Oil City, Pa. 16301. Send protests to: Peter R. Guman, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1600, 1518 Walnut Street, Philadelphia, PA 19102.

No. MC 125996 (Sub-No. 31 TA), filed December 18, 1972. Applicant: ROAD RUNNER TRUCKING, INC., 7728 F Street, Post Office Box 37491, Omaha, NE 68137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Onion rings, chopped onions, egg plant*, breaded, precooked, frozen, from Grand Island and York, Nebr., to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Delicious Foods Co., Grand Island, Nebr. Send protests to: Carroll Russell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 127100 (Sub-No. 10 TA), filed December 13, 1972. Applicant: B & B MOTOR LINES, INC., 911 Summit Street, Toledo, OH 43604. Applicant's representative: Earl F. Boxell, 9th Floor, Toledo Building, Toledo, Ohio 43604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* (beer and ale) in containers, from Chicago, Ill., to Toledo, Ohio; and *empty containers on return trip*, from Toledo, Ohio, to Chicago, Ill., for 90 days. Supporting shipper: Metropolitan Distributing Co., Toledo, Ohio. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 129870 (Sub-No. 9 TA), filed December 18, 1972. Applicant: GAS INCORPORATED, 95 East Merrimack Street, Lowell, MA 01853. Applicant's representative: John Pacinda (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid methane*, in bulk, in tank vehicles, from Carlstadt, N.J., to Holbrook, N.Y., for 180 days. Supporting shipper: Long Island Lighting Co., 250 Old Country Road, Mineola, NY 11501. Send protests to: G. Warren Flynn, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, Analex Building, Fifth Floor, 150 Causeway Street, Boston, MA 02114.

No. MC 136956 (Sub-No. 3 TA), filed December 18, 1972. Applicant: ROYAL TRANSPORTS, INC., Post Office Box 1451, Kansas City, KS 66117. Applicant's representative: J. Max Harding, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oil*, in bulk, in tank vehicles, from the refinery and distribution facilities of Phillips Petroleum Co., at Kansas City, Kans., to points in Jackson, Clay and Buchanan Counties, Mo., under continuing contract or contracts with Consolidated Fuel Oil Co., Inc., Kansas City, Kans., for 180 days. Supporting shipper: Consolidated Fuel Oil Co., Inc., 462 East Donovan Road, Kansas City, KS. Send protests to: Vernon V. Coble, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.73-303 Filed 1-4-73;8:45 am]

[Notice 190]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73954. By order of December 13, 1972, the Motor Carrier Board on reconsideration approved the transfer to W. A. Barnes Trucking Co., Inc., Stoney Creek, Va., of the operating rights in Permit No. MC-29748 (Sub-No. 3) issued October 15, 1971, to Direct Transport, Inc., Richmond, Va., authorizing the transportation of lumber, from Richmond, Va., and points in Virginia within 60 miles of Richmond, to points in Maryland, Delaware, New Jersey, and that part of Pennsylvania within 90 miles of Reading, Pa., including Reading, and the District of Columbia. T. Taylor Cralle, 220 North Sycamore, Petersburg, VA 23803, Attorney for applicants.

No. MC-FC-73982. By order of November 30, 1972, the Motor Carrier Board approved the transfer to Vatter Trucking Co., a corporation, Cincinnati, Ohio, of the operating rights in Certificate No. MC-106438 and Permit No. MC-133134 issued September 1, 1964, and April 1, 1969, respectively, to Walter E. Vatter, doing business as Vatter Trucking Co., Cincinnati, Ohio, authorizing transportation (a) as a motor common carrier, of household appliances, air conditioning and refrigeration units, and materials and supplies used in the installation thereof, between Cincinnati, Ohio, and points in Indiana, Kentucky, and Ohio within 25 miles of Cincinnati, Ohio; and (b) as a motor contract carrier, of such merchandise as is dealt in by retail department stores, and materials, equipment, and supplies used in the conduct of such business, for McAlpin Co., of Cincinnati, Ohio, between Middletown and Cincinnati, Ohio, and points in Union Township, Clermont County, Ohio, on the one hand, and, on the other, points in Boone County, Ky., and Lexington, Ky. *Dual operations were approved.* James W. Muldoon, 50 West Broad Street, Columbus, OH 43215, Attorney for applicants.

No. MC-FC-73989. By order of December 4, 1972, the Motor Carrier Board approved the transfer to Custom Motor Freight, Inc., Columbus, Ohio, of the operating rights in Certificate No. MC-14552 (Sub-No. 35) issued July 16, 1970, to J. V. McNicholas Transfer Co., a corporation, Youngstown, Ohio, authorizing the transportation of prefabricated steel, from Bellefontaine, Ohio, to points in Illinois (except points on and south of U.S. Highway 36), Indiana, Kentucky, Michigan (except points on and south of U.S. Highway 21), Pennsylvania (except points in the Sharon, Pa., Commercial Zone as defined by the Commission), and West Virginia. The operations authorized herein are restricted to the transportation of traffic originating at the plant site and warehouse facilities of Carter Steel and Fabricating Co. at Bellefontaine, Ohio. Paul F. Berry, Suite 1660, 88 East Broad Street, Columbus, OH 43215, Attorney for applicants.

No. MC-FC-74041. By order of December 15, 1972, the Motor Carrier Board approved the transfer to B & L Trucking, Inc., Minneapolis, Minn., of Certificates No. MC-45134 and MC-45134 Subs 3, 4, and 7, issued September 12, 1957, March 12, 1959, August 29, 1963, and January

28, 1972, respectively, to Collins Truck Line, Inc., Minneapolis, Minn., authorizing the transportation of: general commodities from St. Paul, Minn., to Grand Forks, N. Dak.; manufactured fertilizer, dry, in bags, serving Pine Bend, Minn., and Valley Park, Minn., as offroute points in connection with carrier's authorized regular-route general commodity operation from Minneapolis and St. Paul, Minn., and petroleum and petroleum products, gasoline additives, antifreeze, in containers, and tires, batteries, and service station accessories and supplies, except in bulk, from the plant site and storage facilities of Mobile Oil Corp. in the St. Paul-Minneapolis, Minn., Commercial Zone, as defined, to points in Montana. James S. Holmes, 2014 IDS Center, 80 South Eighth Street, Minneapolis, MN, Applicants' representative.

No. MC–FC–74057. By order of December 11, 1972, the Motor Carrier Board approved the transfer to Vern Rowley, Inc., doing business as Vera's Conoco, Lehi, Utah, of the operating rights in Certificate No. MC–123605 issued November 28, 1961, to Jack H. Christensen, doing business as Jack's 24 Hour Wrecker Service, Spanish Fork, Utah, authorizing the transportation of wrecked or disabled motor vehicles, except passenger automobiles, in truck-away service by means of heavy duty wrecker equipment only, between points in Davis, Salt Lake, and Weber Counties, Utah, on the one hand, and, on the other, points in Arizona, Colorado, Idaho, Montana, Nevada, Utah, and Wyoming. Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111, Attorney for applicants.

No. MC–FC–74083. By order of December 1, 1972, the Motor Carrier Board approved the transfer to H. E. Rohrer, Inc., doing business as Rohrer Bus Service, Duncannon, Pa., of Certificate No. MC–111749 issued February 8, 1967, to Howard E. Rohrer, Jr., doing business as H. E. Rohrer, Jr., Duncannon, Pa., authorizing the transportation of: passengers and their baggage, in the same vehicle with passengers, in round trip charter operation, beginning and ending at Millerstown, Pa., and points within 10 miles thereof and extending to points in New York, New Jersey, Maryland, Virginia, and the District of Columbia. Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101, Applicants' representative.

No. MC–FC–74086. By order of December 4, 1972, the Motor Carrier Board approved the transfer to Trans Valley Transport, a California corporation, Gilroy, Calif., of the operating rights in Certificate No. MC–10278 issued May 7, 1969, to Donald J. Triolo, doing business as Tony Victorine Transporation, Gilroy, Calif., authorizing the transportation of various commodities from and to specified points and areas in California. Marvin Handler, 405 Montgomery Street, San Francisco, CA 94104, Attorney for applicants.

No. MC–FC–74088. By order of December 1, 1972, the Motor Carrier Board approved the transfer to Allen D. Taylor, doing business as Allen Taylor Truck Line, Yates Center, Kans. of the operating rights in Certificate No. MC–1808 issued April 1, 1965, to Cecil T. Weide, Yates Center, Kans., authorizing the transportation of various commodities between specified points and areas in Kansas and Missouri.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-304 Filed 1-4-73;8:45 am]

CUMULATIVE LIST OF PARTS AFFECTED—JANUARY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during January.

FEDERAL REGISTER PAGES AND DATES—JANUARY

Pages	*Date*
1–721	Jan. 3
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837–945	3

federal register

FRIDAY, JANUARY 5, 1973

Volume 38 ■ Number 3

PART II

DEPARTMENT OF LABOR

Employment Standards Administration

■

Minimum Wages for Federal and Federally Assisted Construction

Area Wage Determination Decisions, Modifications, and Supersedeas Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decisions, Modifications, and Supersedeas Decisions

Area wage determination decisions. Area Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing dates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a), and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

Area Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and supersedeas decisions to area wage determination decisions. Modifications and Supersedeas Decisions to Area Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing Area Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule making procedures prescribed in 5 U.S.C. 553 has been set forth in the original Area Wage Determination Decision.

Set forth below in this document are the following: Modifications to Area Wage Determinations Decisions for the following States (the numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State):

California	AP–245; AP–248, Oct. 13, 1972.
Louisiana	AP–366; AP–367, Dec. 8, 1972.
Michigan	AP–78, Dec. 22, 1972.
Ohio	AP–34; AP–35; AP–36; AP–37; AP–38; AP–39; AP–40; AP–41; AP–42; AP–43; AP–44; AP–45; AP–46, Nov. 17, 1972.
Tennessee	AM–504, Aug. 20, 1971.
Texas	AP–344, Sept. 29, 1972.
Utah	AP–254, Dec. 8, 1972.
Virginia	AP–440; AP–441, Nov. 3, 1972.
Wyoming	AP–250, Nov. 10, 1972.

Supersedeas Decision number AP–454 for Pennsylvania which supersedes Decision No. AM–5,968—published in the FEDERAL REGISTER on December 17, 1971.

Signed at Washington, D.C., this 29th day of December 1972.

BEN P. ROBERTSON,
Acting Administrator,
Wage and Hour Division.

MODIFICATIONS P. 1

DECISION #AP-245 - Mod. #2
(37 FR 21721 - October 13, 1972)
Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara and Ventura Counties, California

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Change:						
Bricklayers; Stonemasons:						
Los Angeles & Orange Counties	$8.15	.60	.55		.06	
Riverside & San Bernardino Counties	7.12	.60	.55		.06	
Electricians:						
Orange County						
Electricians	9.40	.25	1%+.45		.02	
Cable splicers	9.81	.25	1%+.45		.02	
Riverside County						
Electricians	8.42	.60	1%+.40		.03	
Cable splicers	8.72	.60	1%+.40		.03	
Santa Barbara County						
Vandenberg Air Force Base:						
Electricians	9.60	.65	1%+.85		.03	
Cable splicers	10.60	.65	1%+.85		.03	
Remainder of County:						
Electricians	8.35	.65	1%+.85		.03	
Cable splicers	9.35	.65	1%+.85		.03	
Ventura County						
Electricians	8.53	.60	1%+.45			
Cable splicers	9.38	.60	1%+.45			
Tile Setters:						
Imperial County	6.71	.30	.45	.60		
Roofers:						
Riverside & San Bernardino Counties	6.80	.55	.40	.50		
Add:						
Bricklayers; Stonemasons:						
Ventura County	7.60	.50	1.00			
Roofers:						
Imperial County	6.64	.40	.25	1.00		

MODIFICATIONS P. 2

DECISION #AP-248 - Mod. #2
(37 FR 21740 - October 13, 1972)
Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Change:						
Bricklayers; Stonemasons:						
Los Angeles & Orange Counties	$8.15	.60	.55		.06	
Riverside & San Bernardino Counties	7.12	.60	.55		.06	
Electricians:						
Orange County						
Electricians	9.40	.25	1%+.45		.02	
Cable splicers	9.81	.25	1%+.45		.02	
Riverside County						
Electricians	8.42	.60	1%+.40		.03	
Cable splicers	8.72	.60	1%+.40		.03	
Santa Barbara County						
Vandenberg Air Force Base:						
Electricians	9.60	.65	1%+.85		.03	
Cable splicers	10.60	.65	1%+.85		.03	
Remainder of County:						
Electricians	8.35	.65	1%+.85		.03	
Cable splicers	9.35	.65	1%+.85		.03	
Ventura County						
Electricians	8.53	.60	1%+.45			
Cable splicers	9.38	.60	1%+.45			
Elevator Constructors						
Imperial, Inyo, Kern (South of Tehachapi Range) Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties						
Elevator Constructors	9.21	.195	.20	2%+a		
Elevator Constructors' Helpers	70%JR	.195	.20	2%+a		
Kern County (North of Tehachapi Range)						
Elevator Constructors	8.99	.195	.20	2%+a		
Elevator Constructors' Helpers	70%JR	.195	.20	2%+a		
Line Construction:						
Riverside County						
Groundmen	6.33	.60	1%+.40		.02	
Linemen; Line equipment ops.	8.43	.60	1%+.40		.02	
Cable splicers	8.73	.60	1%+.40		.02	

DECISION #AP-248 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Line Construction: (Cont'd)						
Ventura County						
Groundmen	$7.35	.60	11%+.45			
Linemen; Line equipment ops.	8.53	.60	11%+.45			
Cable splicers	9.38	.60	11%+.45			
Marble Setters; Terrazzo Workers; Tile Setters:						
Imperial County	6.71	.30	.45	.60		
Roofers:						
Riverside & San Bernardino Counties	6.80	.55	.40	.50		
Add:						
Bricklayers; Stonemasons:						
Ventura County	7.60	.50	1.00		.01	
Roofers:						
Imperial County	6.64	.40	.25	1.00		
DECISION #AP-366 - Mod. #3 (37 FR 26245 - December 8, 1972) Calcasieu Parish, Louisiana						
Change:						
Electricians:						
Electricians	$7.99	.25	11%+.10			
Cable splicers	8.24	.25	11%+.10			
DECISION #AP-367 - Mod. #3 (37 FR 26247 - December 8, 1972) Calcasieu Parish, Louisiana						
Change:						
Electricians:						
Electricians	7.99	.25	11%+.10			
Cable splicers	8.24	.25	11%+.10			
Add:						
Line Construction:						
Lineman	7.99	.25	11%+.10			
Cable splicers	8.24	.25	11%+.10			
Equipment operators	7.99	.25	11%+.10			
Groundmen	5.99	.25	11%+.10			

DECISION #AP-78-Mod. #1
(37 FR 28377 - December 22, 1972)

Alpena, Antrim, Arenac, Baraga, Benzie, Charlevoix, Cheboygan, Chippawa, Clare Crawford, Delta, Dickinson, Emmet, Gladwin, Gogebic, Grand, Traverse, Houghton, Iosco, Iron, Isabella, Kalkaska, Keweena, Luce, Mackinac, Manistee, Marquette, Mason, Mecosta, Menominee, Montonorency, Newago, Oceana, Ogemaw, Ontonagon, Osceola, Oscode, Otsego, Presque Isle, Roscommon, Schoolcraft, and Wexford Counties, Michigan

ADD TO COUNTIES:
Alcona and Alger

DECISION #AP-34 - Mod. #2 (37 FR 24563 - November 17, 1972) Butler County, Ohio					
Change:					
Power Equipment Operators:					
Heavy & Highway Construction					
Class I	$7.41	.38	.65		.09
Class II	7.34	.38	.65		.09
Class III	6.73	.38	.65		.09
Class IV	6.46	.38	.65		.09
Class V	5.78	.38	.65		.09
DECISION #AP-35 - Mod. #2 (37 FR 24568 - November 17, 1972) Clark County, Ohio					
Change:					
Power Equipment Operators					
Heavy & Highway Construction					
Class I	$7.41	.38	.65		.09
Class II	7.34	.38	.65		.09
Class III	6.73	.38	.65		.09
Class IV	6.46	.38	.65		.09
Class V	5.78	.38	.65		.09
DECISION #AP-36 - Mod. #2 (37 FR 24572 - November 17, 1972) Cuyahoga County, Ohio					
Change:					
Power Equipment Operators					
Heavy & Highway Construction					
Class I	$8.12	.38	.65		.09
Class II	8.02	.38	.65		.09
Class III	7.55	.38	.65		.09
Class IV	7.15	.38	.65		.09
Class V	6.73	.38	.65		.09

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION # AP-37 - Mod. #3 (37 FR24576 - November 17, 1972) Franklin & Pickaway Counties, Ohio						
Change:						
Power Equipment Operators						
Heavy & Highway Construction						
Class I	$7.41	.38	.65		.09	
Class II	7.34	.38	.65		.09	
Class III	6.73	.38	.65		.09	
Class IV	6.46	.38	.65		.09	
Class V	5.78	.38	.65		.09	
DECISION #AP-38 - Mod. #3 (37 FR 24580 - November 17, 1972) Greene & Montgomery Counties, Ohio						
Change:						
Cement masons, Building Const.	$8.08	.40			.03	
Power Equipment Operators						
Heavy & Highway Construction						
Class I	7.41	.38	.65		.09	
Class II	7.34	.38	.65		.09	
Class III	6.73	.38	.65		.09	
Class IV	6.46	.38	.65		.09	
Class V	5.78	.38	.65		.09	
DECISION #AP-39 - Mod. #1 (37 FR 24585 - November 17, 1972) Hamilton County, Ohio						
Change:						
Lead burners	$8.25	.30		c	.01	
Power Equipment Operators						
Heavy & Highway Construction						
Class I	7.41	.38	.65		.09	
Class II	7.34	.38	.65		.09	
Class III	6.73	.38	.65		.09	
Class IV	6.46	.38	.65		.09	
Class V	5.78	.38	.65		.09	

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-40 - Mod. #3 (37 FR 24590 - November 17, 1972) Licking County, Ohio						
Change:						
Power Equipment Operators						
Heavy & Highway Construction						
Class I	$7.41	.38	.65		.09	
Class II	7.34	.38	.65		.09	
Class III	6.73	.38	.65		.09	
Class IV	6.46	.38	.65		.09	
Class V	5.78	.38	.65		.09	
DECISION #AP-41 - Mod. #3 (37 FR 25494 - November 17, 1972) Lucas County, Ohio						
Change:						
Roofers	$9.14	.50	.20		.01	
Power Equipment Operators						
Heavy & Highway Construction						
Class I	7.41	.38	.65		.09	
Class II	7.34	.38	.65		.09	
Class III	6.73	.38	.65		.09	
Class IV	6.46	.38	.65		.09	
Class V	5.78	.38	.65		.09	
DECISION #AP-42-Mod. #3 (37 FR 24599 - November 17, 1972) Mahoning County, Ohio						
Change:						
Laborers:						
Building & construction Laborer	$6.79	.45	.20			
Jackhammer op. (All machine driven tools, electric, gas or air & gas buggies	6.91	.45	.20			
Mortar mixers (hand or Machine)	6.91	.45	.20			
Trenching & shaft excavations (7' or more)	6.89	.45	.20			
Jackhammer op. in trench or shaft 7' or more	7.01	.45	.20			
Powder & dynamite	7.09	.45	.20			
Sewer pipelayer	7.09	.45	.20			
Asphalt paving	6.79	.45	.20			
Scrap iron burning	6.89	.45	.20			
Gunnite nozzleman	7.40	.45	.20			
Gunnite Scaffoldman over 25'	6.99	.45	.20			
Gunnite gunman	7.40	.45	.20			
Gunnite mixerman	6.89	.45	.20			

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-43 - Mod. #2 (37 FR 24603 - November 17, 1972) Muskingum County, Ohio						
Change:						
Lead burners	$8.25	.30		c	.01	
Power Equipment Operators Heavy & Highway Construction						
Class I	7.41	.38	.65		.09	
Class II	7.34	.38	.65		.09	
Class III	6.73	.38	.65		.09	
Class IV	6.46	.38	.65		.09	
Class V	5.78	.38	.65		.09	
DECISION #AP-44 - Mod. #2 (37 FR 24608 - November 17, 1972) Portage County, Ohio						
Change:						
Power Equipment Operators Heavy & Highway Construction						
Class I	$7.41	.38	.65		.09	
Class II	7.34	.38	.65		.09	
Class III	6.73	.38	.65		.09	
Class IV	6.46	.38	.65		.09	
Class V	5.78	.38	.65		.09	
DECISION #AP-45 - Mod. #3 (37 FR 24613 - November 17, 1972) Stark County, Ohio						
Change:						
Power Equipment Operators Heavy & Highway Construction						
Class I	$7.41	.38	.65		.09	
Class II	7.34	.38	.65		.09	
Class III	6.73	.38	.65		.09	
Class IV	6.46	.38	.65		.09	
Class V	5.78	.38	.65		.09	

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-46 - Mod. #2 (37 FR 24618 - November 17, 1972) Summit County, Ohio						
Change:						
Power Equipment Operators Heavy & Highway Construction						
Class I	$7.41	.38	.65		.09	
Class II	7.34	.38	.65		.09	
Class III	6.73	.38	.65		.09	
Class IV	6.46	.38	.65		.09	
Class V	5.78	.38	.65		.09	

DECISION #AM-504 - Mod. #2
(36 FR 16493 - August 20, 1971)
Statewide, Tennessee

MODIFICATIONS P. 9

Change:
HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	
Bricklayers	$5.20					
Carpenters	4.35					
Cement masons	4.29					
Ironworkers, reinforcing	4.18					
Ironworkers, structural	4.64					
Painter or sand blaster	4.03					
Laborers:						
Laborers, unskilled	2.60					
Air tool operator	2.88					
Mortar mixer, chain saw, pipelayer, conc. rubber	2.84					
Concrete saw op., guard rail erector, sign erector	2.96					
Firemen	2.90					
Asphalt raker	3.07					
Concrete edger	3.01					
Powderman	3.45					
Form setter, steel road	3.09					
Nozzleman or gunman (gunite)	4.29					
Flagman	2.60					
OPERATING ENGINEERS:						
Dragline op., shovel op., crane op., end loader 5 yds. & over, pile driver op., motor patrol finish, mechanic (class I),	4.35					
Backhoe operator, concrete paver op.	4.27					
End loader under 5 yds., mechanic, class II, motor patrol (rough), central mixing (asphalt or concrete), concrete finishing machine, soil cement machine, asphalt paver	3.83					
Bulldozer or push dozer op., scraper op., trenching machine, tractor (boom and hoist),	3.91					
Roller (high type),	3.79					
Spreader (self-propelled)	3.65					
Distributer (bituminous)	3.54					
Roller, other than finish, dozer or loader - stock pile only	3.40					
Tractor, crawler, utility	3.54					
Concrete mixer, less than 1 yd., earth drill	3.17					
Mulcher or seeder, scale op., motor crane driver & oiler	3.12					
Tractor, farm	2.89					
Curb machine	2.94					
Ditch paver, mechanic helpers	2.88					
Pump operator, welder helper	2.82					
Track drill operator	3.01					
Oiler	2.94					
TRUCK DRIVERS:						
2 axles	2.91					
3 axles	2.96					
4 axles	3.15					
5 axles or more or heavy off the road trucks or haulers	3.40					
Welders - Rate for Craft.						

DECISION #AP-344 - Mod. #5
(37 FR 20491 - September 29, 1972)
Travis County, Texas

MODIFICATIONS P. 10

Change:
Building Construction:

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Bricklayers; Stonemasons	$6.95	.35			.03	

DECISION #AP-254 - Mod. #1
(37 FR 26255 - December 8, 1972)
Statewide, Utah

Change:

Carpenters:						
Acoustical Carpenters (all zones)	7.05	.30	.35	.25	.03	
Laborers (That area in the State of Utah beyond 45 road miles of the county seats and all of Daggett County)						
Tunnel and Shaft Work:						
Group I						
Underground Laborers	5.93	.25	.25	.15	.04	

DECISION #AP-440 - Mod. #3
(37 FR 23493 - November 3, 1972)
The Cities of Norfolk, Chesapeake, Portsmouth and Virginia Beach, Virginia

Change:

Painters:						
Brush and roller	$5.60		.20			
Structural steel from ground to 74'	6.10		.20			
Spray	5.95		.20			
Any work over 74' from the ground	6.90		.20			
Bituminous coating & hot creosote	7.25		.20			
Swing stage under 40'	5.85		.20			
Swing stage over 40' up to 74'	6.10		.20			
Sandblasting	6.35		.20			

DECISION #AP-441 - Mod. #3
(37 FR 23495 - November 3, 1972)
Henrico County and the City of Richmond, Virginia

Change:

Electricians, linemen and cable splicers:						
Zone 1 within the City of Richmond	7.03	5%	1%			
Zone 2 within 15 miles of Richmond	7.28	5%	1%			
Zone 3 beyond 15 miles of Richmond	7.53	5%	1%			

DECISION #AP-250 - Mod. #1
(37 FR 24011 - November 10, 1972)
Laramie County, Wyoming

Change:
HEAVY & HIGHWAY CONSTRUCTION
POWER EQUIPMENT OPERATORS

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP I AUGER MACHINE OPERATOR (Post hole, etc., Batch Bin Weighman, Scissorman or Hopperman; Beginner Op.; Brakeman and Helpers; Crusher Oiler, Utility Screed Op.; Tractor Op., Farm, Crawler or Wheel type, 60 hsp. (drawbar) or less with or without use of power attachments except for use of backhoe or bucket	$ 4.60	.17	.20		.01	
GROUP II BROOM OPERATORS, self-propelled; Cableway Signalman (Bellboy); Concrete Saw (self-propelled); Fireman; Power Loader, Belt & Bucket type	4.65	.17	.20		.01	
GROUP III AIR COMPRESSOR over 315 cu. ft. cap.; Chip Spreader Op.; Form Grader; Joint Machine Op.; Longitudinal Float Op.; Mixer op., concrete (under 1 yd.); Helper (welder or heavy duty); Roller Op., self-propelled (pneumatic, rubber tired, Sheep foot, vibratory or comb. type); Tire Repairman	4.70	.17	.20		.01	
GROUP IV PUMP OPERATOR (except in tunnels, shafts raises)	4.73	.17	.20		.01	
GROUP V CONVEYOR BELT OPERATOR; Fork Lift and Lumber Staker; Screening Plant Op.	4.76	.17	.20		.01	
GROUP VI A-FRAME TRUCK; Tractor Op., Farm, Crawler or Wheel type, over 60 hsp. (drawbar); without use of power attachments	4.81	.17	.20		.01	
GROUP VII OILER, Lead Utility	4.85	.17	.20		.01	
GROUP VIII GUNNITE AND GROUT MACHINE OPERATOR; Mulching Machine Op.; Oiler Distributor	4.86	.17	.20		.01	

MODIFICATIONS P. 12

DECISION #AP-250 - (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP IX FRONT END LOADER (up to & incl. 1 1/2 cu. yds.); Pavement Breakers, Hydro-Tamper & similar type machine; Pump, Well Points	4.97	.17	.20		.01	
GROUP X HOIST OPERATOR (one drum)	5.02	.17	.20		.01	
GROUP XI HAULAGE MOTORMAN & INDUSTRIAL TYPE MOTORMAN; Motor Patrol Op. (all except finish); Pump Op. (in tunnels, shafts, raises); Hydro type Cranes (up to 15 tons)	5.04	.17	.20		.01	
GROUP XII AIR COMPRESSOR, two or more machines or tunnels, shafts, raises or plant op.; Asphalt Plant Op.; Bituminous Laydown Machine Op.; CMI Machine & similar; Concrete Batch Plant; Concrete Finish Machine Op.; Concrete Multi-Blade Span Saw (Hunt process or similar); Concrete Spfeader and Paver Op.; Crusher Op.; Drilling Machine, integrated (core, rotary, caisson, diamond); Elevating Grader; Front End Loader (over 1 1/2 cu. yds.); Jumbo Form Op.; Mixer Op., base course pugmill type; Mixer Bituminous Op. (travel plant); Mixer Op. Concrete (over one yd.); Motor Patrol Op. (finish); Mucking Machine Op.; (all types); Pneumatic Guns; Pumpcrete Op.; Roller Op. (tandem steel wheel, 3 axle or 3 wheel); Scraper Equipment (all types); Shovels, Draglines, Cranes, Pile-drivers, all Truck Mounted Cranes (mfg's rating) Up to 3 1/2 yds. all attachments; Hydro type Cranes (15 tons and over); Shuttle Car Op. Subgrade Machine Op. (power); Tractor Ops. (all w/use of power attachments & incl. Pushcat, Dozer, Tournadozer, etc.); Trenching Machine Op.; Wash Plant Operator	5.21	.17	.20		.01	

DECISION #AP-250 - (Cont'd)

MODIFICATIONS P. 13

POWER EQUIPMENT OPERATORS (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP XIII WELDER, Machine Doctor	5.25	.17	.20		.01	
GROUP XIV HOIST OPERATOR (two or more drums or shafts or raises); Heavy Duty Mechanics, Machine Doctor	5.31	.17	.20		.01	
GROUP XV CABLEWAY OPERATOR; Mixer, dual drum; Cranes (Whirley, Gantry, Stiffleg, Overhead Traveling)	5.37	.17	.20		.01	
GROUP XVI SHOVELS, Draglines, Cranes, Piledrivers, all Truck Mounted Cranes (mfg's rating) 3 1/2 to 7 cu. yds., all attachments; Wheel Operator	5.53	.17	.20		.01	
GROUP XVII SHOVELS, Draglines, Cranes, Piledrivers, all Truck Mounted Cranes (mfg's rating) 7 cu. yds. & over, all attachments	5.85	.17	.20		.01	

WYOMING LINE CONSTRUCTION - 1 (1-1)

LINE CONSTRUCTION

All work over 34.5 KV, all work on steel towers and/or multiple wood structures, all cross country underground communications work, and all motor traffic controlling, street and highway lighting:

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Cable Splicer	$7.15	.25	1%		3/4%	
Linemen	6.50	.25	1%		3/4%	
Equipment Operator	5.95	.25	1%		3/4%	
Groundman	4.91	.25	1%		3/4%	
All work 34.5 KV and under						
Lineman	6.28	.25	1%		3/4%	
Line Equipment Operator	5.46	.25	1%		3/4%	
Experienced Groundman (2yrs)	4.85	.25	1%		3/4%	
Groundman	4.19	.25	1%		3/4%	

DECISION #AP-250 - (Cont'd)

MODIFICATIONS P. 14

1-WYO-TD-2-3- (1-2)

HEAVY AND HIGHWAY CONSTRUCTION TRUCK DRIVERS

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP I DUMP (Water level capacity box) over 40 cu. yds. to & incl. 45 cu. yds.	$ 4.90					
GROUP II FIELD MECHANICS	4.88					
GROUP III DUMP (Water level capacity box) 35 cu. yds. to & incl. 40 cu. yds.	4.85					
GROUP IV DUMP (Water level capacity box) 30 cu. yds. to & incl. 35 cu. yds.	4.80					
GROUP V DUMP (Water level capacity box) 25 cu. yds. to & incl. 30 cu. yds.	4.75					
GROUP VI DUMP (Water level capacity box) 20 cu. yds. to & incl. 25 cu. yds.; Heavy duty (Euclids, electric or similar type)	4.65					
GROUP VII LOWBOY & Tandem Axle Float Drivers; Multiple Axle Type; Semi; Dump (Water level capacity box) 13 cu. yds. to & incl. 20 cu. yds.	4.65					
GROUP VIII HELPERS - FIELD (Welders, Mechanics, etc.)	4.41					
GROUP IX OVER 3600 gal. (semi-truck); Transit Mix or Wet Mix over 10 cu. yds.	4.35					
GROUP X OVER 3600 gal. (straight truck); Transit Mix or Wet Mix, over 5 cu. yds. to 10 cu. yds.; Tandem Axle	4.25					
GROUP XI OVER 2500 gals. to & incl. 3600 gals.; Dump (Water level capacity box) over 10 cu. yds. to & incl. 13 cu. yds.; Flat Rack, over 5 tons; Winch Trailer						

MODIFICATIONS P. 15

DECISION #AP-250 - (Cont'd)

1-WYO-TD-2-3- (2-2)

TRUCK DRIVERS (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP XI (Cont'd) (cable & hoist); Utility Winch; "A" Frame Transit Mix or Wet Mix, less than 5 cu. yds.; Single Axle	5.15					
GROUP XII DUMP (Water level capacity box) over 7 cu. yds. to & incl. 10 cu. yds.; 2500 gals. or less (semi-truck); Flat Rack, 2 tons to 5 tons; Power Broom; Material Checkers	4.05					
GROUP XIII DUMP (Water level capacity box) 7 cu. yds. or less; Gravel Spreader; Flat Rack, less than 2 tons; Gang; Single Axle Type Truck; Warehousemen, Partsmen & Helpers; 2500 gals. or less (straight truck); Fuel Service; Greasemen, Tiremen, Servicemen & Helpers	4.45					
GROUP XIV PILOT CAR DRIVERS; Pick-up	3.85					

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Armstrong, Blair, Crawford, Indiana, McKean, Venango, Warren

DECISION NO.: AP-454 DATE: Date of Publication

Supersedes Decision No. AM-3,968, dated December 17, 1971, in 36 FR 24028.

DESCRIPTION OF WORK: Heavy and Highway Construction.

42-LAB-2-3-J

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
Laborers:						
Construction laborer (including tenders handling salamanders, L.P. gas heaters or similar, etc.), Air or electric impactor wrench, Air tamper operator, Asphalt tampers, Batchman (weigh), Blaster's helper, Blower men (bulk cement), Brakeman, Coffer dam, Concrete pitman, puddler including vibrator operators, Drill runner's helper (includes drill mounted on truck, track or similar and Davey drills (spots-clean-up & helps to maintain), Fence construction, Form stripper and mover, Hydro-Jet blaster nozzleman, Manually moved emulsion sprayer, Radio actuated traffic control operator (non-automatic), Rip rap work, Scaffolds and runways (as per agreement of record), Sheeters and shorers, structural concrete top surfacer, Walk behind street sweeper, Welder's helper (pipeline), Wood chipper	$5.09	.30	.30			
Asphalt, batch and concrete plant operator (manually operated), Asphalt rakers, Burner, Caisson men (open air), carryable pumps, Chain saw operator, Chipping hammer or similar (air or otherwise), Combination tamper and vibrator, Concrete buster (paving breaker), Cribbing (concrete or steel), Curb machine operator (asphalt and concrete) (walk behind), Earth drill, Fork lift (walk behind), Form setter (road forms line man), Handyman, Highway slab reinforcement placers (incl. joint and basket setter), Hydraulic pipe pusher, Jack hammer operator, Liner plates (tile or vitrified clay), Manually operated diamond hand core drill, Mechanical joint sealer, Dope pot, and Tar kettle, Mortar mixer (hand or machine), Pin drivers or puller (power-highway), Pipe layers, Plant set-up, Maintenance man, Portable single unit conveyor, Post hole auger (2 or 4 cycle) (hand operated), Power fence operator, Power wheelbarrows and buggies, Rail porter, or spiker, Screed operator						

AP-454 P. 2

42-LAB-2-3-J

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
Laborers (cont'd):						
Signal man, Wacker	$5.31	.30	.30			
All Railroad Track Work:						
Adzing machine, Ballast router, Bolting machine, Power jacks, Rail drills, Railroad brakeman, Rail saws, Spike drivers, Spike pullers, Tamping machine	5.31	.30	.30			
Cement mortar lining car pusher, Cement mortar mixer (pipe relining), Cement saw operator (walk behind), Form setter (road forms-lead man), Grout machine operator, Gunnite (nozzle and machine man), Paving block rammers, Wagon drill (air track or similar) operators, Walk behind power rollers (1 or 2 barrel), Walk behind roller and tamper, Walk behind ditching machine(trencher or similar)	5.60	.30	.30			
Blacksmith, Blaster, Brick and block pavers (wood, belgian and asphalt), Curb cutters and setters, Manhole or catch basin builder (brick, block, concrete or any prefabrication)	5.74	.30	.30			
Multi-plate pipe (aligning and securing), Placing wire mesh on gunite projects, Reinforcing steel placers (bending, aligning and securing)	6.05	.30	.30			
Welder (pipeline	7.20	.30	.30			
Tunnel and Shaft Work (Inside)						
Change house attendent	5.07	.30	.30			
Muckers, Brakemen and all other labor (includes installation of utility lines), Signal man, Drill runner helper	5.31	.30	.30			
Miners and drillers (including lining, supporting and form workmen, setting of shields, miscellaneous equipment & jumbos)	5.60	.30	.30			
Caisson and tunnel men under pressure (0-18 pounds)	5.74	.30	.30			
Reinforcing steel placers (bending, aligning and securing)	6.05	.30	.30			
Carpenters by counties:						
Armstrong	7.11	6%	3%			
Blair, Crawford, Indiana, McKean, Venango and Warren	6.76	6%	3%			
Cement masons	7.05	.423	.705			
Piledrivermen	7.96	5%	6%			

AP-454 P. 3 PA-2-PEO-2-3- G (1-2)

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS:						
Austin Western or Similar (25 ton & over) Austin Western or Similar (under 25 ton) Autograder (C.M.I. & similar) Backfiller, Backhoe - 360° Swing, Cableway, Caisson Drill (Similar to Hugh Williams) Central Mix Plant, Cooling Plant, Concrete Paving Mixer, Cranes, Cranes (Tower - Stationary-Climbing Tower Crane) Derrick, Derrick Boat, Dragline, Dredge, Dredge Hydraulic (1 Leverman - 1 Oiler - Apprentice) Elevating Grader, Franki Pile Machine, Gradall (Remote control or otherwise) Grader (Power-Fine Grade) Guard Rail Post Driver (Truck Mtd.) Guard Rail Post Driver (Skid Type) (Self Propelled - Arrow or similar) Helicopter (over 1500 lb. lift) Helicopter (under 1500 lb. lift) Hilift (4cy. and over) Hoists 2 Drums or more (in one unit) Kocal, Koering Skooper, Lead Mechanic, Locomotive (std. Guage) Mix Mobile, Mix Mobile (with self loading Attachment) Mucking Machine (Tunnel) Pile Driver Machine, Pipe Extrusion Machine, Presplitter Drill (Self Contained) Quad Nine, Refrigeration Plant (Soil stabilization) Scraper (Multi-bowl) Shovel - Power, Slip Form Paver C.M.I. and similar) Trenching Machine (30,000 lb. and over) Trenching Machine (under 30,000 lb.) Tunnel Machine (Mark XXI Jarva or similar) Whirley	$7.73	.35	.50		.04	
Asphalt Paving Machine (Spreader) Asphalt Plant Operator, Athey Loader, Auger (Tractor Mtd,) Auger (Truck Mtd.) Backhoe (Rear Pivotal Swing) (180° Swing) Boring Machine, Cable Placer or Layer, Compactor with blade, Concrete Batch Plant (Electronically Synchronized) Concrete Belt Placer (C.M.I. and Similar) Concrete Mixer (over 1 cy.) Concrete Pump, Core Drill (Truck or skid Mtd. - similar to Penn Drill) Dozer, Euclid Loader, Grader - Power, Grease Unit Operator (Head) Hilift (under 4 cy,) Job Work Boat (Powered)						

AP-454 P. 4 PA-2-PEO-2-3- G (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Jumbo Operator, Locomotive (narrow guage) Mechanic, Minor Equipment Operator (Accumulative four units) Mucking Machine, Over-head Crane, Roller-power-asphalt, Ross Carrier, Scraper, Side Boom or tractor mounted boom, stone Crusher (Screening-Washing Plants) Stone Spreader (Self-propelled Truck Mounted Drill (Davey or similar) Welder and Repairman, Well Point Pump Operator	$7.47	.35	.50		.04	
Compactors/Rollers (Static or Vibratory) (Self-propelled) Minor Equipment Operator (Two to three units) Soil Stabilizer Machine, Tire Repairman Tube Finisher (C.M.I. or similar) Well Driller and Horizontal	5.46	.35	.50		.04	
Ballast Regulator, Compressor, Concrete Finishing Machine and Spreader, Concrete Mixer (1 cy. and under with Skip) Concrete Saw (Ridden or self-propelled) Conveyor, Curb Builder (Self-propelled) Elevator (Material hauling only) Forklift (Ridden or self-propelled) Form line Machine, Generator, Crout Pump, Heater (Mechanical) Hoist (single drum) Ladavator, Light-Plant, Mulching Machine, Pavement Breaker (self-propelled or ridden) Personnel Boat (Powered) Pulverizer, Pumps, Seeding Machine, Spray Cure Machine (Power driven) Subgrader, Tie Puller, Tie Tamper (Multi-head) Tractor-snaking and hauling, Tugger, Welding Machine (Gas or Diesel) Winch or Hydraulic Boom Truck (when hoisting and placing)	5.01	.35	.50		.04	
Deck Hand, Farm Tractor, Fireman on Boiler, Mechanic's Helper, Oiler, Power Broom, Side Delivery Shoulder Spreader	4.86	.35	.50		.04	

PA-2-TD-2-3-F 1 of 1

HEAVY & HIGHWAY CONSTRUCTION TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Trucks under 33,000 lbs. gross load category (including all types of trucks such as fuel, dump, flat bottom, pick-up, and similar equipment, parts man and warehousemen)	$5.70	6%	3.5%			
Trucks over 33,000 lbs. gross load category (including all types of trucks such as fuel, dump (tandem), flat bottom, scissors, and combination fuel and grease)	5.85	6%	3.5%			
Tri-axle trucks	5.93	6%	3.5%			
Heavy equipment whose capacity exceeds that for which state licenses are issued - specifically refers to units in excess of 8 ft. width (such as euclids: end or belly dump, single twin-engined or tandem: athey wagon; pay loader, tournawagons, and similar equipment when not self-loaded rated under forty-five tons)	5.93	6%	3.5%			
Heavy off-the-road equipment (rated at forty-five tons or over)	6.03	6%	3.5%			
Heavy duty trailer, such as low boy, hi-boy, pole trailer, A-Frames (when used for transporting materials), dumpsters, ross carriers, form trucks, dual-purpose trucks (when load has been loaded or unloaded with truck winch, loading, hauling and unloading), mechanical tailgate trucks, bucket self-loading trucks, farm tractors (when pulling and hauling), fork lift trucks (in storage areas and warehouses)	6.01	6%	3.5%			
Single-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	5.75	6%	3.5%			
Tandem-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	5.85	6%	3.5%			
Tri-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	5.93	6%	3.5%			
Ready-mixed Concrete Trucks with towed or built-in attachments (10¢ per hour additionsl to respecitve size truck						
Tar and Asphalt Distributing trucks (all liquid tank trucks, straight and semi, including water, sprinkler, oil trucks, etc.)	5.85	6%	3.5%			
Tar and Asphalt Trailer Trucks	5.93	6%	3.5%			
Trucks with Dolly or Trailer	5.80	6%	3.5%			
Bottom or Belly-Dump Trucks	6.03	6%	3.5%			

[FR Doc.73-145 Filed 1-4-73;8:45 am]

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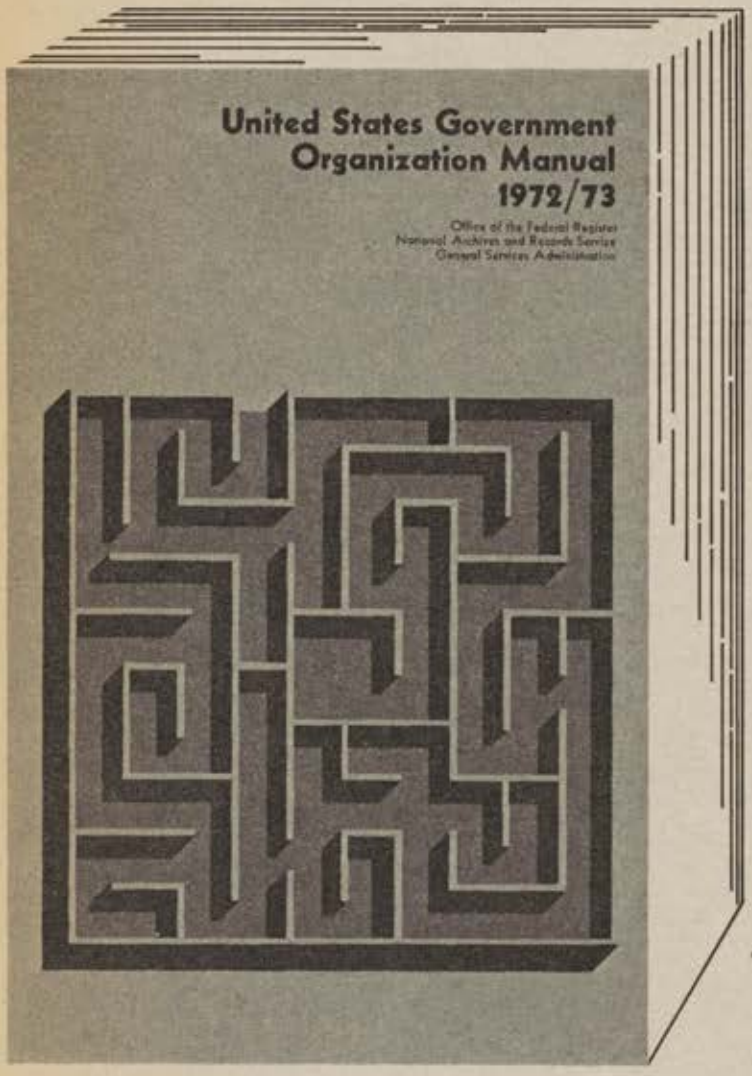

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