

federal register

MONDAY, APRIL 23, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 77

Pages 9957-10058



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federal register

Phone 962-8626

Area Code 202



Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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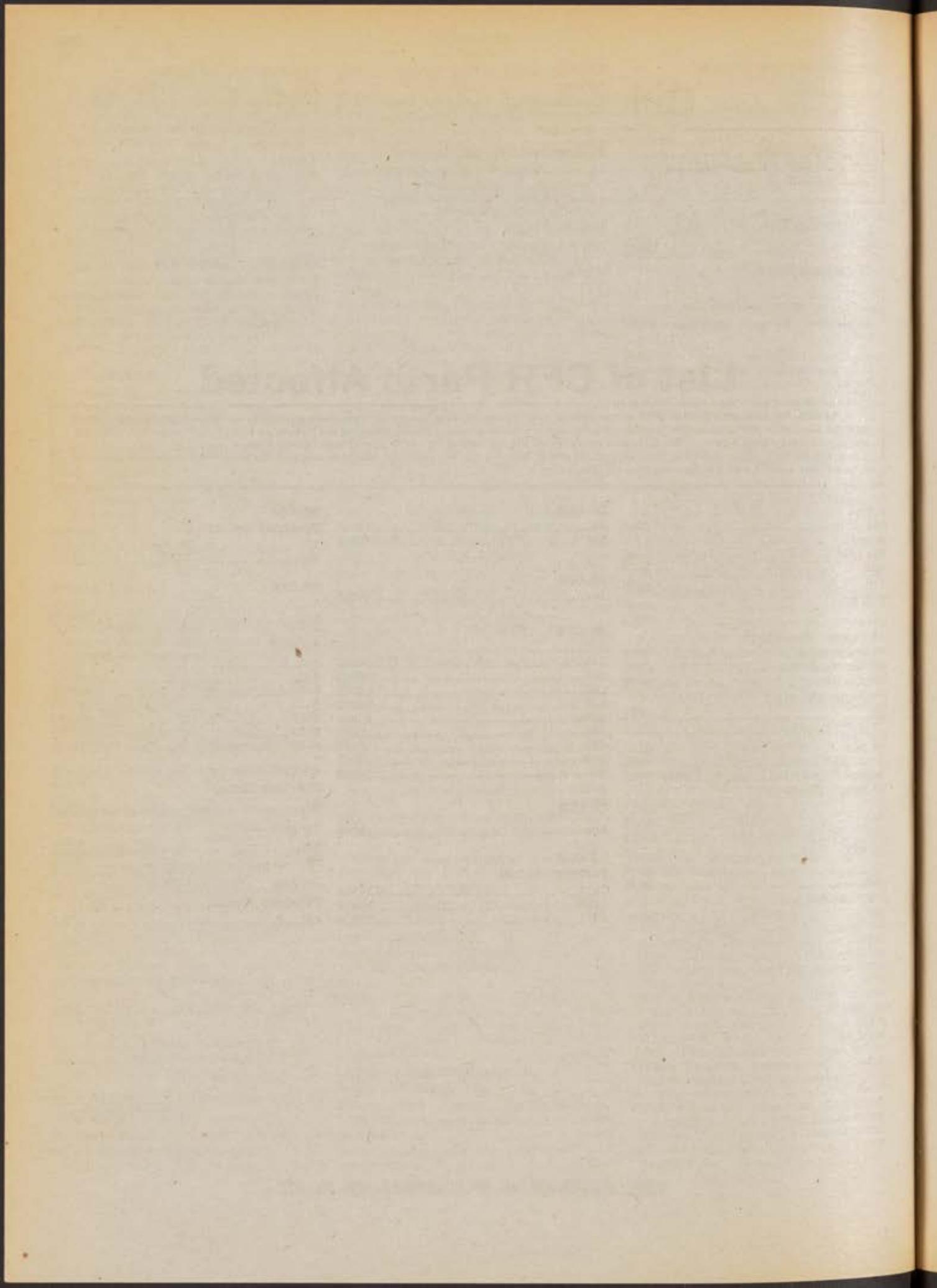
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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7272]

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

Depreciation Based on Class Lives and Asset Depreciation Ranges for Property Placed in Service After December 31, 1970

By a notice of proposed rulemaking appearing in the FEDERAL REGISTER for Thursday, January 27, 1972 (37 FR 1328), amendments to the Income Tax Regulations were proposed in order to conform the rules relating to the asset depreciation range system to the provisions of section 109 of the Revenue Act of 1971 and to make other changes. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, certain changes were made, and the proposed amendments, subject to the changes indicated below, are adopted by this document.

The final regulations provide an asset depreciation range and class life system for determining the reasonable allowance for depreciation of designated classes of assets placed in service after December 31, 1970. The system is designed to minimize disputes between taxpayers and the Internal Revenue Service as to the useful life of property, and as to salvage value, repairs, and other matters. The system is optional with the taxpayer. The taxpayer has an annual election. Generally, an election for a taxable year must apply to all additions of eligible property during the taxable year of election, but does not apply to additions of eligible property in any other taxable year. The taxpayer's election, made with the return for the taxable year, may not be revoked or modified for any property included in the election. Generally, the taxpayer must establish vintage accounts for all eligible property included in the election, must determine the allowance for depreciation of such property in the taxable year of election, and in subsequent taxable years, on the basis of the asset depreciation period specified in the election, and must apply the first-year convention specified in the election to determine the allowance for depreciation of such property. The regulations also contain special provisions for the treatment of salvage value, retirements, and the costs of the repair, maintenance, rehabilitation, or improvement of property. In general, a taxpayer may not apply any provision of the reg-

ulations unless he makes an election and thereby consents to, and agrees to apply, all the provisions of the regulations. A taxpayer who elects to apply the system does, however, have certain options as to the application of specified provisions of the regulations. A taxpayer may elect to apply the regulations for a taxable year only if for such taxable year he complies with the reporting requirements of paragraph (f) (4) of the regulations.

The final regulations, as did the proposed regulations, provide in § 1.167 (a)-11 (b) (4) (i) that an asset guideline class consists of a category of assets described in Revenue Procedure 72-10 for which a separate guideline period is in effect. Ordinarily, the category of assets includes "subsidiary assets." The final regulations make it clear, however, that asset guideline classes may be established in which subsidiary assets are treated as a class or subclass with an asset guideline period different from that of the other assets in the same class.

The final regulations modify the accounting treatment of section 1250 property. The proposed regulations required that each item of section 1250 property be placed in a separate item vintage account, that each building or structure be considered separately for repair allowance purposes, and that each retirement of an item of section 1250 property be considered an extraordinary retirement. The final regulations permit the use of multiple asset accounts for section 1250 property. In addition, only buildings must be treated separately for repair allowance purposes; other section 1250 property may be aggregated. The rule which treats all section 1250 retirements as extraordinary retirements was retained in order to insure that the proper amount of section 1250 recapture will be reported by the taxpayer.

The final regulations add a provision to paragraph (b) (5) (v) to permit taxpayers to change from a nonpermitted method to a permitted method of depreciation in certain circumstances. The final regulations also modify paragraph (b) (6) in recognition of the fact that certain public utilities for which asset guideline periods are established in Revenue Procedure 72-10 had no specified guideline life under Revenue Procedure 62-21. In such a case, the regulations provide that the public utility may be required to normalize the tax deferral resulting from the establishment of a guideline period.

The final regulations withdraw and reserve paragraph (d) (2) (i) (b) of the proposed regulations which would have conditioned the Federal income tax treatment of certain items of indirect expenses upon the taxpayers treatment of

these items in his financial statements. The final regulations also change certain other portions of the proposed regulations relating to the use of the repair allowance. The changes made in paragraph (d) (2) (v) of the proposed regulations are intended to clarify and simplify the application of the repair allowance. In addition, the definition of an excluded addition in paragraph (d) (2) (vi) (e) was changed to eliminate the rule which would have been treated as excluded additions certain modifications to small items of property which are not generally treated as identifiable units of property.

The final regulations add a provision to paragraph (d) (3) (v) to permit use of statistical tables in allocating retirements to vintage years. In addition, transfers between certain related parties during the year the asset is placed in service are treated as extraordinary retirements under paragraph (d) (3) (v) of the final regulations.

The final regulations in paragraph (e) (1) (i) contain rules regarding the date a factory building is placed in service. The rules of the proposed regulations relate principally to machinery and equipment. The final regulations apply the same principles to the treatment of factory buildings.

The final regulations in paragraph (e) (3) (iii) clarify the classification of leased assets which are included in an asset guideline class based upon the type of property. A limited transition rule is provided in the case of certain leases or contracts entered into during the period beginning March 13, 1971, and ending on April 23, 1973.

The final regulations also contain rules in paragraph (e) (1) (iv) which, in the case of a transfer of property between certain related parties, limit the depreciation life of the transferee to a life no shorter than that used by the transferor for purposes of determining the investment credit under section 46(c) of the code.

The final regulations contain special rules for the accounting treatment of "mass assets." Mass assets are, generally, numerous individual assets for which specific identification is impracticable. The proposed regulations generally require specific identification of all assets. The final regulations add a new paragraph (d) (3) (v) (c) to permit statistical identification of mass assets for retirement purposes.

Changes have been made in the final regulations to reduce the amount of information required to be supplied with the election form. The information no longer required will ordinarily be avail-

able in the taxpayer's records. The revised information requirements are required for an intelligent monitoring of the system.

Adoption of amendments to the regulations. On January 27, 1972, notice of proposed rulemaking with respect to the amendment of the Income tax regulations (26 CFR 1) to conform the regulations to the provisions of section 109 of the Revenue Act of 1971 (85 Stat. 508) and to make other changes relating to depreciation allowances using the class life asset depreciation range system was published in the FEDERAL REGISTER (37 FR 1328). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment as proposed is hereby adopted, subject to the changes which follow. Section 1.167(a)-11(f)(1)(iii) of the regulations hereby adopted supersedes the provisions of § 12.4 of this chapter (relating to election of class life asset depreciation range system (ADR)) which were prescribed by Treasury decision 7159 (37 FR 1469), approved January 27, 1972.

PARAGRAPH 1. Section 1.167(a)-11(b) is changed by inserting a new sentence immediately after the first sentence of that portion of subparagraph (2)(iii) as follows (b) thereof, by deleting the second and third sentences of subparagraph (3)(ii), by revising the first and third sentences of that portion of subparagraph (4)(i) as follows (b) thereof, by revising the last two sentences of subparagraph (4)(ii), by revising the third sentence of (c), revising (d), and adding a new (e) to subparagraph (4)(iii), by revising the second sentence of example (4)(b) of subparagraph (4)(iv), by revising the third sentence of subparagraph (5)(i), by adding "and (iv)" after "(i)" in subparagraph (5)(ii), by adding a new sentence immediately after the last sentence of subparagraph (5)(v)(a), by revising subparagraph (5)(vi), by revising subparagraph (6)(i)(b), and by revising subparagraph (6)(ii) to read as set forth below.

PAR. 2. Section 1.167(a)-11(c) is changed by revising the second sentence and adding "(4)(iii)(e)," after "paragraph (b)" in the third and the last sentences of subparagraph (1)(ii), by adding "and (1)" after "(2)" in subparagraph (1)(iii)(a), by revising the second sentence and adding a new sentence after the second sentence of subparagraph (2)(ii), by revising the third sentence of subparagraph (2)(iv), and by adding a new subparagraph (2)(v), to read as set forth below.

PAR. 3. Section 1.167(a)-11(d) is changed by withdrawing subparagraph (2)(i)(b) and reserving such subparagraph, by revising the first, second, sixth, and seventh sentences immediately after (b) of subparagraph (2)(iii), by revising the first sentence of that portion of subparagraph (2)(iv) as follows (b) thereof, by revising subparagraph (2)(v), by revising subparagraph (2)(vi)(e), by revising the first, third, seventh, eighth, fifteenth, and sixteenth sentences, and adding a new sentence after the sixth sentence of that portion

of subparagraph (2)(vi) as follows (g) thereof, by revising the last sentence of example (1), deleting the fourth and revising the fifth sentence of example (5), and revising example (8) of subparagraph (2)(vi), by adding a new sentence at the close of subparagraph (3)(iii), by redesignating subdivision (v)(c) as (v)(e) and adding new subdivisions (v)(c) and (d) to subparagraph (3), and by adding "(4)(iii)(e)", after "paragraph (b)" in subparagraph (3)(vii)(e), to read as set forth below.

PAR. 4. Section 1.167(a)-11(e) is changed by revising subparagraph (1)(i), by revising the first sentence of subparagraph (3)(ii), by adding four new sentences after the fourth sentence of subparagraph (3)(iii), and by adding a new subparagraph (3)(iv). As revised the provisions read as set forth below.

PAR. 5. Section 1.167(a)-11(f) is changed by adding a new sentence after the second sentence and revising the fifth sentence of subparagraph (1)(i), by adding a new subparagraph (1)(iii), by revising subparagraph (2)(vi), (viii), (ix), and that portion of subparagraph (2) as follows (x) thereof, by revising subparagraph (4), and by adding a new subparagraph (5). The revised and added provisions read as set forth below.

(Secs. 167(m), 85 Stat. 508; 26 U.S.C. 167, 263(f), 85 Stat. 509; 26 U.S.C. 263, 7805, Internal Revenue Code, 68A Stat. 917; 26 U.S.C. 7805.)

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

Approved April 13, 1973.

FREDERIC W. HICKMAN,
Assistant Secretary of the
Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) to the provisions of section 109 of the Revenue Act of 1971 (85 Stat. 508), and to make other changes, the regulations are amended as follows:

PARAGRAPH 1. The title of § 1.167(a)-11 is revised to read "Depreciation based on class lives and asset depreciation ranges for property placed in service after December 31, 1970."

PAR. 2. Paragraph (a)(1) of § 1.167(a)-11 is revised by adding "and class life" after "range" in the first sentence, by deleting "will" and inserting in lieu thereof "must" in the fifth sentence, and by deleting "(within the asset depreciation range)" from the seventh sentence.

PAR. 3. Paragraph (a)(2) of § 1.167(a)-11 is revised by deleting "(b)(5)(iii)(a)" and inserting in lieu thereof "(b)(5)(iii)(c)".

PAR. 4. Paragraph (b)(2) of § 1.167(a)-11 is revised by inserting "tangible" after "means" in the first sentence, by inserting "asset guideline" immediately after "and" in subdivision (i), by deleting "paragraph" and inserting in lieu thereof "subparagraph" in subdivision (i), by deleting subdivision (ii) and redesignating subdivision (iii) as subdivision (ii), by adding a new subdivision (iii), by deleting subdivision (iv), by deleting the first sentence of the flush language following subdivision (iv), and by deleting "(a)", and inserting in lieu thereof "(c)" in the second sentence

of the flush language following subdivision (iv).

PAR. 5. Paragraph (b)(3) of § 1.167(a)-11 is revised by inserting "(determined without regard to a convention described in paragraph (c)(2) of this section)" and deleting the comma immediately after "election" the first time it appears in the fourth sentence of subdivision (i), by deleting "paragraphs" and inserting in lieu thereof "paragraph" in the fifth sentence of subdivision (i), by adding a new sentence at the end of subdivision (i), and by inserting a new sentence at the beginning of subdivision (ii).

PAR. 6. Paragraph (b)(4)(i) of § 1.167(a)-11 is revised by adding "and periods" after "ranges" in the title, by deleting "the asset depreciation period selected by the taxpayer from the asset depreciation range for the assets in such account" from the first sentence and inserting in lieu thereof new subdivisions (a) and (b), by revising the second sentence, and by deleting the third and fourth sentences and inserting in lieu thereof six new sentences.

PAR. 7. Paragraph (b)(4)(ii) of § 1.167(a)-11 is revised by inserting "the asset guideline" after "and" the first time it appears in the first sentence, by inserting a comma after "periods" the second time it appears in the first sentence, by deleting "and" the third time it appears in the first sentence and inserting in lieu thereof "asset guideline", by deleting "71-25" and inserting "72-10" in the first sentence, and by revising the last two sentences, and adding a new sentence at the end thereof.

PAR. 8. Paragraph (b)(4)(iii)(a) of § 1.167(a)-11 is revised by inserting "solely with respect to property for which an asset depreciation range is in effect for the taxable year," after "may" in the first sentence, by deleting "as provided in Revenue Procedure 64-21" and inserting "by applying the provisions of Revenue Procedure 64-21 to such property" at the end of the first sentence, by deleting "for" the second time it appears in the second sentence and inserting in lieu thereof "at the beginning of", and by adding "Except as provided in paragraph (d)(2)(iii) of this section with respect to buildings and other structures," after the second sentence.

PAR. 9. Paragraph (b)(4)(iii)(b) of § 1.167(a)-11 is revised by inserting "including a change in use which results in section 1250 property becoming section 1245 property" at the end thereof.

PAR. 10. Paragraph (b)(4)(iii)(c) of § 1.167(a)-11 is revised by adding "or characterization" after "classification" each time it appears, by deleting the comma after "characterization" the third time it appears, by inserting "or (3)(ii)" after "(2)" in the first sentence, and by revising the third sentence.

PAR. 11. Paragraph (b)(4)(iii)(d) of § 1.167(a)-11 is revised.

PAR. 11a. A new paragraph (b)(4)(iii)(e) is added.

PAR. 12. Paragraph (b)(4)(iv) of § 1.167(a)-11 is revised by deleting "personal property," "predominantly used with the United States," in the third sentence of example (1) and inserting

in lieu thereof "property", by deleting "71-25" and inserting in lieu thereof "72-10" in the fourth sentence of example (1), by deleting the second sentence and inserting in lieu thereof four new sentences in example (2), by deleting "(iii)" and inserting in lieu thereof "(ii)" in the fourth sentence of example (3), by deleting "71-25" and inserting in lieu thereof "72-10" in the sixth and ninth sentences of example (3), by deleting "good faith mistakes" and inserting in lieu thereof "mistake" in the eighth sentence of example (3), by deleting "repair and" and inserting in lieu thereof "repair. Also by mistake, corporation Y" in the eighth sentence of example (3), by adding "(a)" after "Example (4)." in example (4), by deleting "71-25" and inserting in lieu thereof "72-10" in the second and third sentences of example (4), by adding a new sentence after the third sentence of example (4), by adding "all" immediately after "on" in the fifth sentence of example (4), by deleting "can" and inserting in lieu thereof "may, at its option (see subparagraph (5)(v) of this paragraph)," in the 12th sentence of example (4), by adding a new sentence at the end to example (4), and by adding a new subdivision (b) to example (4).

PAR. 13. Paragraph (b) (5) (i) of § 1.167 (a)-11 is revised by adding "and certain conditions to an election," after "election," in the second sentence, and by deleting the third sentence and inserting a new sentence in lieu thereof.

PAR. 14. Paragraph (b) (5) (ii) of § 1.167(a)-11 is revised by adding a comma after "property" the second time it appears, by adding "in subdivision (vi) of this subparagraph dealing with certain section 1250 property, in subdivision (vii) of this subparagraph dealing with certain subsidiary assets," after "amortization," and by adding "and (iv)" after "(i)".

PAR. 15. Subdivision (iii) of paragraph (b) (5) of § 1.167(a)-11 is deleted and a new subdivision (iii) inserted in lieu thereof.

PAR. 16. Paragraph (b) (5) (iv) of § 1.167(a)-11 is revised by adding "and which is not property described in section 50" after "49" in subdivision (a), and by deleting subdivision (b) and inserting a new subdivision (b) in lieu thereof.

PAR. 17. Paragraph (b) (5) (v) of § 1.167 (a)-11 is revised by deleting subdivision (a) and inserting a new subdivision (a) in lieu thereof, by adding "188" after "187," in the first sentence of subdivision (b), and by deleting "d" and inserting "(e)" in the last sentence of subdivision (b).

PAR. 18. Paragraph (b) (5) of § 1.167 (a)-11 is revised by deleting subdivision (vi) and by adding new subdivisions (vi) and (vii).

PAR. 19. Paragraph (b) (6) of § 1.167 (a)-11 is revised by deleting subdivisions (i) (b) and (ii) and inserting in lieu thereof new subdivisions (i) (b) and (ii), by deleting the first sentence of subdivision (iii) and inserting a new sentence in lieu thereof, by deleting "(d)" and inserting in lieu thereof "(e)" in the fifth sentence of subdivision (iii),

by deleting "modified" from the fifth sentence of example (1) of subdivision (iv), by deleting "(ii)" and inserting in lieu thereof "(iii)" in the fifth sentence of example (1) of subdivision (iv), by deleting the portion of the fifth sentence in example (1) of subdivision (iv) which follows "section)", by deleting "\$171,428" and inserting in lieu thereof "\$114,285" in the sixth sentence of example (1) of subdivision (iv), by deleting the portion of the seventh sentence in example (1) of subdivision (iv) which follows "period)", by deleting "\$171,428" and "\$125,974" in the ninth sentence in example (1) of subdivision (iv) and inserting in lieu thereof "\$114,258" and "\$68,831", respectively, by deleting "\$125,974, or \$60,467" and inserting in lieu thereof "\$68,831, or \$33,039" in the 10th sentence of example (1) of subdivision (iv), and by deleting example (2) and redesignating examples (3) and (4) as examples (2) and (3).

PAR. 20. Paragraph (b) (7) of § 1.167 (a)-11 is revised by deleting the first sentence of the flush language following subdivision (ii), by deleting "held" the second time it appears in the third sentence of the flush material following subdivision (ii) and inserting in lieu thereof "used", by deleting the period at the end of subdivision (ii) and inserting a colon in lieu thereof, and by deleting example (1) and inserting a new example (1).

PAR. 21. Paragraph (c) (1) (i) of § 1.167 (a)-11 is revised by deleting "selected by the taxpayer from the asset depreciation range" from the first sentence of subdivision (a), by inserting "and (j)" immediately after "(c)" in the second sentence of subdivision (a), by adding "(b)" after "(iii)" in the second sentence of subdivision (b), by deleting "selected" each time it appears in subdivision (c), by adding a new sentence at the end of subdivision (c), by deleting "(including any depreciation allowed under section 179)" from the first sentence of subdivision (e), by deleting "for all purposes of this section" and inserting in lieu thereof "under section 167.", and by adding a new sentence at the end of subdivision (e).

PAR. 22. Paragraph (c) (1) (ii) of § 1.167 (a)-11 is revised by deleting the second sentence and adding a new sentence in lieu thereof, by adding "under this section" immediately after "allowable" in the third sentence, by deleting "(c)" and inserting in lieu thereof "(d)" in the third sentence, and by adding "paragraph" immediately before "(d) (3) (iv)" in the third sentence, by deleting "(vi) and paragraph (b)" from the third and seventh sentences, and by adding "(4) (iii) (e)," after "paragraph (b)" in the third and last sentences.

PAR. 23. Paragraph (c) (1) (iii) of § 1.167(a)-11 is revised by adding "(a)" immediately after the title of the subdivision, by adding a new sentence immediately after the first sentence, by deleting "such change" from the second sentence and inserting in lieu thereof, "any change in depreciation method permitted under this section", by deleting the last sentence, by inserting "(b)" immediately after the third sentence, and

by adding new subdivisions (c), (d), (e), and (f).

PAR. 24. Paragraph (c) (1) (iv) of § 1.167(a)-11 is deleted and a new paragraph (c) (1) (iv) inserted in lieu thereof.

PAR. 25. Paragraph (c) (1) (v) of § 1.167 (a)-11 is revised by adding "(other than depreciation under section 179)" after "amortization" in the first sentence of subdivision (a), by adding "under this section" immediately after "asset" the third time it appears in the second sentence of subdivision (b), and by deleting "(including any depreciation allowed under section 179 for the asset)" from the second sentence of subdivision (b).

PAR. 26. Paragraph (c) (2) of § 1.167 (a)-11 is revised by deleting "second half of the" from the first sentence of subdivision (ii) (b) and inserting in lieu thereof "succeeding", by deleting the second sentence of subdivision (ii) and inserting in lieu thereof a new second sentence by adding a new sentence after the second sentence, by deleting the last sentence of subdivision (ii), by revising the third sentence and deleting the last four sentences of subdivision (iv) and inserting in lieu thereof four new sentences, and by adding a new subdivision (v).

PAR. 27. Paragraph (c) (3) of § 1.167 (a)-11 is revised by adding "for any such taxable year" after "may" in the third sentence, and by deleting "application" and inserting in lieu thereof "convention" in the third sentence.

PAR. 28. Paragraph (c) (4) of § 1.167 (a)-11 is revised by deleting examples (1) through (7) and inserting in lieu thereof new examples (1) through (6).

PAR. 29. Paragraph (d) (1) of § 1.167 (a)-11 is revised by adding a new example (4) to subdivision (vi).

PAR. 30. Paragraph (d) (2) (i) of § 1.167 (a)-11 is redesignated as (d) (2) (i) (a), and a new subdivision (b) is reserved.

PAR. 31. Paragraph (d) (2) (ii) of § 1.167 (a)-11 is revised by adding "In the case of an asset guideline class which consists of 'repair allowance property' as defined in subdivision (iii) of this subparagraph," at the beginning of the first sentence.

PAR. 32. Paragraph (d) (2) (iii) of § 1.167(a)-11 is revised by adding "which consists of 'repair allowance property'" after "class" the first time it appears in subdivision (a), by deleting "(as described in this subdivision)" immediately after "property" the first time it appears in subdivision (a) (1), by deleting "during the taxable year" from subdivision (a) (2) and inserting in lieu thereof, "(including ordinary retirements during the taxable year)", by inserting two new sentences and revising the fourth and fifth sentences, and adding a new sentence after the fifth sentence, of the flush material following subdivision (b), by deleting "71-25" and inserting in lieu thereof "72-10" immediately after "Procedure" in the first sentence of the flush material following subdivision (b), by deleting "(iii)" and inserting in lieu thereof "(ii)" in the sixth sentence of the flush material following subdivision (b), by adding "in an asset guideline class for which a repair allowance percentage is in effect for the taxable year" after "1970" in the sixth sentence of the flush material

following subdivision (b), and by adding two new sentences at the close of the flush material following subdivision (b).

PAR. 33. Paragraph (d)(2)(iv) of § 1.167(a)-11 is revised by deleting "repair allowance" and inserting "eligible" in lieu thereof in the first sentence, by adding "determined without regard to paragraph (b)(2)(i) of this section," immediately after "property" in the first sentence, by adding "If such property is repair allowance property and" at the beginning of subdivision (a), by adding "If such property is not repair allowance property or" at the beginning of subdivision (b), and by deleting the first sentence and inserting in lieu thereof a new sentence in the flush material, following subdivision (b).

PAR. 34. Paragraph (d)(2)(v) of § 1.167(a)-11 is revised by deleting "with re-

PAR. 35. Paragraph (d)(2) of § 1.167(a)-11 is revised by deleting subdivision (vi) and inserting a new subdivision (vi) in lieu thereof.

PAR. 36. Paragraph (d)(2)(vii) of § 1.167(a)-11 is revised by deleting "repair allowance" immediately after "of" the third time it appears in subdivision (b).

PAR. 37. Paragraph (d)(2)(ix) of § 1.167(a)-11 is revised by deleting "71-25" and inserting in lieu thereof "72-10" in the second sentence of example (1), by deleting "Example" and inserting in lieu thereof "example" in the first sentence of example (2), and by deleting "equipment" and inserting in lieu thereof "machines" in the third sentence of example (2).

PAR. 38. Paragraph (d)(3)(i) of § 1.167(a)-11 is revised by deleting "In general," at the beginning of the second sentence, and by deleting the last sentence.

PAR. 39. Paragraph (d)(3) of § 1.167(a)-11 is revised by deleting subdivision (ii) and inserting a new subdivision (ii) in lieu thereof.

PAR. 40. Paragraph (d)(3)(iii) of § 1.167(a)-11 is revised by adding "optional" immediately after "for" in the fourth sentence, by adding "(a)" immediately after "(v)" in the last sentence, by deleting "ordinary" from the last sentence, and by adding two new sentences at the end thereof.

PAR. 41. Paragraph (d)(3) of § 1.167(a)-11 is revised by redesignating subdivision (iv) as subdivision (iv)(a), by deleting the comma after "337" in the first sentence and inserting in lieu thereof "or is one to which subdivision (v)(b) of this subparagraph applies," by adding a comma after "165" in the first sentence, by deleting "section 1245" and inserting "sections 1245 and 1250" at the end of the first sentence, by adding a new second sentence, by adding "In all other cases," at the beginning of the second sentence, by deleting "account," and inserting "account, and" at the end of the second sentence, by adding "in the case of an account containing section 1245 property" immediately after "gain" in the fourth sentence, by adding "such" immediately after "for" the second time it appears in the fifth sentence, by adding a new sentence after the fifth sentence, and by adding a new subdivision (b).

PAR. 42. Paragraph (d)(3) of § 1.167(a)-11 is revised by deleting subdivision

(v) and inserting a new subdivision (v) in lieu thereof.

PAR. 43. Paragraph (d)(3)(vi) of § 1.167(a)-11 is revised by deleting "selected" from the third sentence, by deleting the comma after "C" in the first sentence of the example, by deleting "subparagraph" and inserting in lieu thereof "paragraph" the second time it appears in the second sentence of the example, and by deleting "to" the last time it appears in the last sentence of the example and inserting in lieu thereof "from".

PAR. 44. Paragraph (d)(3)(vii) of § 1.167(a)-11 is revised by designating the third and fourth sentences as subdivision (b), by deleting "in lieu thereof" and inserting ", at his option," in the third sentence of subdivision (a), by inserting "ordinary" immediately before "retirements" in the fourth sentence of subdivision (a), by redesignating subdivision (b) as subdivision (c), by deleting "or by any other reasonable method which is consistently applied" from the last sentence of subdivision (b) and inserting in lieu thereof "or any other method consistently applied which reasonably reflects that portion of the salvage value for the account originally attributable to the retired asset.", by deleting subdivision (c) and inserting in lieu thereof a new subdivision (d), by redesignating subdivision (d) as subdivision (e), by deleting "(vi) or paragraph (b)" from the first sentence of subdivision (d), by adding "(4)(iii)(e)" after "paragraph (b)" in the first sentence of subdivision (d) by deleting the comma from the first sentence of subdivision (d), and by deleting (b) and inserting in lieu thereof (c) in the last sentence of subdivision (d).

PAR. 45. Paragraph (d)(3)(viii) of § 1.167(a)-11 is revised by inserting "Special optional" at the beginning of the title to the subdivision, by deleting "follows" and inserting in lieu thereof "does not follow" in the first sentence, by deleting "(b) and (c)" and inserting in lieu thereof "(c) and (d)" in the first sentence, by deleting "for determining the basis of the retired asset in the supplies or scrap account" in the first sentence, by adding "reducing salvage value as ordinary retirements occur by transfer of assets to supplies or scrap and" immediately after "of" the fourth time it appears in the first sentence, by deleting "salvage" in the first sentence of subdivision (b), by deleting "subdivision (vii)(b) of this subparagraph" and inserting in lieu thereof "(a) of this subdivision" in the first sentence of subdivision (b), and by deleting "or" and inserting in lieu thereof "and" in the first sentence of subdivision (b)(1).

PAR. 46. Paragraph (d)(3)(ix) of § 1.167(a)-11 is revised by adding "In the case of a vintage account for section 1245 property," at the beginning of subdivision (a), by deleting "a vintage" in the first sentence of subdivision (a) and inserting in lieu thereof "such", by deleting "shall" immediately after "gain" in the second sentence of subdivision (a), by inserting "shall" at the beginning of subdivision (a)(1), by deleting "for all years" im-

mediately after "reserve" in the first sentence of subdivision (a)(1), by inserting "May" at the beginning of subdivision (a)(2), by deleting the last three sentences of subdivision (a), by inserting "In the case of an account for section 1245 property," at the beginning of subdivision (b), by deleting "a particular" immediately after "in" in the first sentence of subdivision (b) and inserting "the" in lieu thereof, by deleting "shall" from the second sentence of subdivision (b) and inserting in lieu thereof "may", by adding a new sentence at the end of subdivision (b), and by adding a new subdivision (c).

PAR. 47. Paragraph (d)(3) of § 1.167(a)-11 is revised by adding a new subdivision (xi).

PAR. 48. Paragraph (d)(4) of § 1.167(a)-11 is revised by inserting "for section 1245 property" immediately after "account" in the first sentence of example (1), by deleting "\$30" and "\$22.50" and inserting in lieu thereof "\$15" in the penultimate sentence of example (1), by adding "1971" after "a" in the first sentence of example (2), by deleting "of 1971" from the first sentence of example (2) and inserting in lieu thereof "for section 1245 property", by deleting "(3)(vii)(b)" and inserting in lieu thereof "(3)(vii)(c) and (d)(2)" in the ninth sentence of example (2).

PAR. 49. Paragraph (e)(1) of § 1.167(a)-11 is revised by deleting subdivisions (i) and (iii) and inserting new subdivisions (i) and (iii) in lieu thereof.

PAR. 50. Paragraph (e)(2) of § 1.167(a)-11 is revised by deleting "or (v)", and inserting in lieu thereof "(v), (vi) or (vii)".

PAR. 51. Paragraph (e)(3)(i) of § 1.167(a)-11 is revised by adding "(a) In general the acquiring corporation in a transaction to which section 381(a) applies is for the purposes of this section treated as if it were the distributor or transferor corporation." after the title of subdivision (i), by inserting "(b)" at the beginning of the first sentence, by deleting "is treated as if it were the distributor or transferor corporation with respect to such property. The acquiring corporation" at the end of the first sentence, by deleting "each" and inserting "the" in the third sentence, by deleting "selected by the" in the third sentence and inserting "in the hands of the" in lieu thereof, by deleting "from the asset depreciation range" immediately after "corporation" the first time it appears in the third sentence, by deleting "under paragraph (b) of § 1.167(e)-1 or" in the fourth sentence, by deleting "Thus, the" at the beginning of the fifth sentence and inserting in lieu thereof "(c) The", and by adding a new subdivision (d).

PAR. 51(a). Paragraph (e)(3) of § 1.167(a)-11 is revised by deleting the first sentence of subdivision (ii) and inserting a new sentence in lieu thereof, by adding four new sentences after the fourth sentence of subdivision (iii), and by adding a new subdivision (iv).

PAR. 52. Paragraph (f)(1) of § 1.167(a)-11 is revised by adding a new sentence after the second sentence and by revising the fifth sentence of subdivision

(i), by revising the title of subdivision (ii) to read "Other elections under this section," and by adding a new subdivision (iii).

PAR. 53. Paragraph (f) (2) of § 1.167(a)-11 is revised by deleting "by taking a full year's depreciation on property first placed in service in the first half of the taxable year" immediately after "convention" the second time it appears in subdivision (iv), by deleting "if such salvage value has been determined by application of section 167(f), the amount" and inserting in lieu thereof "the amount, if any," at the end of subdivision (v), by deleting subdivisions (vi), (viii), and (ix), and inserting new subdivisions (vi), (viii), and (ix), in lieu thereof, and by revising the flush material following subdivision (x).

PAR. 54. Paragraph (f) (4) of § 1.167(a)-11 is revised.

PAR. 54a. Paragraph (f) of § 1.167(a)-11 is revised by adding a new subparagraph (5).

PAR. 55. Paragraph (g) (1) of § 1.167(a)-11 is revised by inserting "(1) In general. Except as provided in subdivision (ii) of this subparagraph," immediately after the title of subparagraph (1), by adding "asset depreciation" immediately before "period" in the first sentence, by deleting "selected by the taxpayer" from the first sentence, and by adding a new subdivision (ii).

PAR. 56. Paragraph (g) (3) (ii) of § 1.167(a)-11 is revised by deleting "Examples" and "examples" the first time they appear and inserting in lieu thereof "Example" and "example", by deleting "(1)" after "Example" the first time it appears, and by deleting Example (2).

PAR. 57. Sections 1.167(m) and 1.167(m)-1 are added immediately before § 1.168.

PAR. 58. Sections 1.263(f) and 1.263(f)-1 are added immediately before § 1.264.

PAR. 59. The provisions of § 1.167(a)-11, as revised, read as follows:

§ 1.167(a)-11 Depreciation based on class lives and asset depreciation ranges for property placed in service after December 31, 1970.

(a) In general.—(1) Summary. This section provides an asset depreciation range and class life system for determining the reasonable allowance for depreciation of designated classes of assets placed in service after December 31, 1970. The system is designed to minimize disputes between taxpayers and the Internal Revenue Service as to the useful life of property, and as to salvage value, repairs, and other matters. The system is optional with the taxpayer. The taxpayer has an annual election. Generally, an election for a taxable year must apply to all additions of eligible property during the taxable year of election, but does not apply to additions of eligible property in any other taxable year. The taxpayer's election, made with the return for the taxable year, may not be revoked or modified for any property included in the election. Generally, the taxpayer must establish vintage accounts for all

eligible property included in the election, must determine the allowance for depreciation of such property in the taxable year of election, and in subsequent taxable years, on the basis of the asset depreciation period specified in the election, and must apply the first-year convention specified in the election to determine the allowance for depreciation of such property. This section also contains special provisions for the treatment of salvage value, retirements, and the costs of the repair, maintenance, rehabilitation or improvement of property. In general, a taxpayer may not apply any provision of this section unless he makes an election and thereby consents to, and agrees to apply, all the provisions of this section. A taxpayer who elects to apply this section does, however, have certain options as to the application of specified provisions of this section. A taxpayer may elect to apply this section for a taxable year only if for such taxable year he complies with the reporting requirements of paragraph (f) (4) of this section.

(2) Definitions. For the meaning of certain terms used in this section, see paragraphs (b) (2) ("eligible property"), (b) (3) ("vintage account" and "vintage"), (b) (4) ("asset depreciation range", "asset guideline class", "asset guideline period", and "asset depreciation period"), (b) (5) (iii) (c) ("used property"), (b) (6) (i) ("public utility property"), (c) (1) (iv) ("original use"), (c) (1) (v) ("unadjusted basis" and "adjusted basis"), (c) (2) (ii) ("modified half-year convention"), (c) (2) (iii) ("half-year convention"), (d) (1) (i) ("gross salvage value"), (d) (1) (ii) ("salvage value"), (d) (2) (iii) ("repair allowance", "repair allowance percentage", and "repair allowance property"), (d) (2) (vi) ("excluded addition"), (d) (2) (vii) ("property improvement"), (d) (3) (ii) ("ordinary retirement" and "extraordinary retirement"), (d) (3) (vi) ("special basis vintage account"), and (e) (1) ("first placed in service") of this section.

(b) Reasonable allowance using asset depreciation ranges.—(1) In general. The allowance for depreciation of eligible property (as defined in subparagraph (2) of this paragraph) to which the taxpayer elects to apply this section shall be determined as provided in paragraph (c) of this section and shall constitute the reasonable allowance for depreciation of such property under section 167(a).

(2) Definition of eligible property. For purposes of this section, the term "eligible property" means tangible property which is subject to the allowance for depreciation provided by section 167(a) but only if—

(i) An asset guideline class and asset guideline period are in effect for such property for the taxable year of election (see subparagraph (4) of this paragraph);

(ii) The property is first placed in service (as described in paragraph (e) (1) of this section) by the taxpayer after December 31, 1970 (but see subparagraph (7) of this paragraph for special rule where there is a mere change in the form of conducting a trade or business); and

(iii) The property is either—
(a) Section 1245 property as defined in section 1245(a) (3), or
(b) Section 1250 property as defined in section 1250(c).

See, however, subparagraph (6) of this paragraph for special rule for certain public utility property as defined in section 167(l) (3) (A). Property which meets the requirements of this subparagraph is eligible property even if depreciation with respect to such property, determined in accordance with this section, is allocated to or otherwise required to be reflected in the cost of a capitalized item. The term "eligible property" includes any property which meets the requirements of this subparagraph, whether such property is new property, "used property" (as described in subparagraph (5) (iii) (c) of this paragraph), a "property improvement" (as described in paragraph (d) (2) (vii) of this section), or an "excluded addition" (as described in paragraph (d) (2) (vi) of this section). For the treatment of expenditures for the repair, maintenance, rehabilitation or improvement of certain property, see paragraph (d) (2) of this section.

(3) Requirement of vintage accounts.—(1) In general. For purposes of this section, a "vintage account" is a closed-end depreciation account containing eligible property to which the taxpayer elects to apply this section, first placed in service by the taxpayer during the taxable year of election. The "vintage" of an account refers to the taxable year during which the eligible property in the account is first placed in service by the taxpayer. Such an account will consist of an asset, or a group of assets, within a single asset guideline class established pursuant to subparagraph (4) of this paragraph and may contain only eligible property. Each item of eligible property to which the taxpayer elects to apply this section, first placed in service by the taxpayer during the taxable year of election (determined without regard to a convention described in paragraph (c) (2) of this section) shall be placed in a vintage account of the taxable year of election. For rule regarding "special basis vintage accounts" for certain property improvements, see paragraph (d) (2) (viii) and (3) (vi) of this section. Any number of vintage accounts of a taxable year may be established. More than one account of the same vintage may be established for different assets of the same asset guideline class. See paragraph (d) (3) (xi) of this section for special rule for treatment of certain multiple asset and item accounts.

(ii) Special rule. Section 1245 property may not be placed in a vintage account with section 1250 property. Each count with section 1250 property. Property the original use of which does not commence with the taxpayer may not be placed in a vintage account with property the original use of which commences with the taxpayer. Property described in section 167(f) (2) may not be placed in a vintage account with property not described in section 167(f) (2). Property

described in section 179(d)(1) for which the taxpayer elects the allowance for the first taxable year in accordance with section 179(c) may not be placed in a vintage account with property not described in section 179(d)(1) or for which the taxpayer does not elect such allowance for the first taxable year. For special rule for property acquired in a transaction to which section 381(a) applies, see paragraph (e)(3)(i) of this section. For additional rules with respect to accounting for eligible property, see paragraph (e) of this section.

(4) *Asset depreciation ranges and periods*—(i) *Selection of asset depreciation period.* An election shall specify for each vintage account of the taxable year of election—

(a) In the case of vintage account for property in an asset guideline class for which no asset depreciation range is in effect for the taxable year, the asset depreciation period (which shall be equal to the asset guideline period for the assets in such account), or

(b) In the case of a vintage account for property in an asset guideline class for which an asset depreciation range is in effect for the taxable year, the asset depreciation period selected by the taxpayer from the asset depreciation range for the assets in such account.

Unless otherwise expressly provided in the establishment thereof, for purposes of this section, the term "asset guideline class" means a category of assets (including "subsidiary assets") for which a separate asset guideline period is in effect for the taxable year as provided in subdivision (ii) of this subparagraph. The "asset depreciation range" is a period of years which extends from 80 percent of the asset guideline period to 120 percent of such period, determined in each case by rounding any fractional part of a year to the nearer of the nearest whole or half year. Except as provided in paragraph (e)(3)(iv) of this section, in the case of an asset guideline class for which an asset depreciation range is in effect, any period within the asset depreciation range for the assets in a vintage account which is a whole number of years or a whole number of years plus a half year, may be selected. The term "asset depreciation period" means the period selected from the asset depreciation range, or if no asset depreciation range is in effect for the class, the asset guideline period. The "asset guideline period" is established in accordance with subdivision (ii) of this subparagraph and is the class life under section 167(m). See Revenue Procedure 72-10 for special rules for section 1250 property and property predominantly used outside the United States. In general, an asset guideline period, but no asset depreciation range, is in effect for such property.

(ii) *Establishment of asset guideline classes and periods.* The asset guideline classes and the asset guideline periods, and the asset depreciation ranges determined from such periods, in effect for taxable years ending before the effective date of the first supplemental asset guideline classes, asset guideline periods,

and asset depreciation ranges, established pursuant to this section are set forth in Revenue Procedure 72-10. Asset guideline classes and periods, and asset depreciation ranges, will from time to time be established, supplemented, and revised with express reference to this section, and will be published in the Internal Revenue Bulletin. The asset guideline classes, the asset guideline periods, and the asset depreciation ranges determined from such periods in effect as of the last day of a taxable year of election shall apply to all vintage accounts of such taxable year, except that neither the asset guideline period nor the lower limit of the asset depreciation range for any such account shall be longer than the asset guideline period or the lower limit of the asset depreciation range, as the case may be, for such account in effect as of the first day of the taxable year (or as of such later time in such year as an asset guideline class first established during such year becomes effective). Generally, the reasonable allowance for depreciation of property for any taxable year in a vintage account shall not be changed to reflect any supplement or revision of the asset guideline classes or periods, and asset depreciation ranges, for the taxable year in which the account is established, which occurs after the end of such taxable year. However, if expressly provided in such a supplement or revision, the taxpayer may, at his option in the manner specified therein, apply the revised or supplemented asset guideline classes or periods and asset depreciation ranges to such property for such taxable year and succeeding taxable years.

(iii) *Applicable guideline classes and periods in special situations.* (a) An electric or gas utility which would in accordance with Revenue Procedure 64-21 be entitled to use a composite guideline class basis for applying Revenue Procedure 62-21 may, solely with respect to property for which an asset depreciation range is in effect for the taxable year, elect to apply this section on the basis of a composite asset guideline class and asset guideline period determined by applying the provisions of Revenue Procedure 64-21 to such property. The asset depreciation range for such a composite asset guideline class shall be determined by reference to the composite asset guideline period at the beginning of the first taxable year to which the taxpayer elects to apply this section and shall not be changed until such time as major variations in the asset mix or the asset guideline classes or periods justify some other composite asset guideline period. Except as provided in paragraph (d)(2)(iii) of this section with respect to buildings and other structures, for the purposes of this section, all property in the composite asset guideline class shall be treated as included in a single asset guideline class. If the taxpayer elects to apply this subdivision, the election shall be made on the tax return filed for the first taxable year for which the taxpayer elects to apply this section. An election to apply this subdivision for any taxable

year shall apply to all succeeding taxable years to which the taxpayer elects to apply this section, except to the extent the election to apply this subdivision is with the consent of the Commissioner terminated with respect to a succeeding taxable year and all taxable years thereafter.

(b) For purposes of this section, property shall be included in the asset guideline class for the activity in which the property is primarily used. See paragraph (e)(3)(iii) of this section for rule for leased property. Property shall be classified according to primary use even though the activity in which such property is primarily used is insubstantial in relation to all the taxpayer's activities. No change in the classification of property shall be made because of a change in primary use after the end of the taxable year in which property is first placed in service, including a change in use which results in section 1250 property becoming section 1245 property.

(c) An incorrect classification or characterization by the taxpayer of property for the purposes of this section (such as under (b) of this subdivision or under subparagraph (2) or (3)(ii) of this paragraph) shall not cause or permit a revocation of the election to apply this section for the taxable year in which such property was first placed in service. The classification or characterization of such property shall be corrected. All adjustments necessary to the correction shall be made, including adjustments of unadjusted basis, adjusted basis, salvage value, the reserve for depreciation of all vintage accounts affected, and the amount of depreciation allowable for all taxable years for which the period for assessment of tax prescribed in section 6501 has not expired. If because of incorrect classification or characterization property included in an election to apply this section was not placed in a vintage account and no asset depreciation period was selected for the property or the property was placed in a vintage account but an asset depreciation period was selected from an incorrect asset depreciation range, the taxpayer shall place the property in a vintage account and select an asset depreciation period for the account from the correct asset depreciation range. The asset depreciation period selected shall be specified on the tax return filed for the taxable year during which the classification or characterization of the property is determined to be incorrect.

(d) Generally, except as provided in subparagraph (5)(v)(a) of this paragraph, a taxpayer may not compute depreciation for eligible property first placed in service during the taxable year under a method of depreciation not described in section 167(b)(1), (2), or (3). (If the taxpayer computes depreciation with respect to such property under section 167(k), or amortizes such property, the property must be excluded from the election to apply this section.) (See subparagraph (5)(v)(b) of this paragraph.) However, if the taxpayer establishes to the satisfaction of the

Commissioner that a method of depreciation not described in section 167(b) (1), (2), (3), or (k) was adopted for property in the asset guideline class on the basis of a good faith mistake as to the proper asset guideline class for the property, then, unless the requirements of subparagraph (5) (v) (a) of this paragraph are met, the taxpayer must terminate (as of the beginning of the taxable year) such method of depreciation with respect to all eligible property in the asset guideline class which was first placed in service during the taxable year. In such event, the taxpayer's election to apply this section shall include eligible property in the asset guideline class without regard to subparagraph (5) (v) (a) of this paragraph. The provisions of (c) of this subdivision shall apply to the correction in the classification of the property.

(e) If the provisions of section 167 (j) apply to require a change in the method of depreciation with respect to an item of section 1250 property in a multiple asset vintage account, the asset shall be removed from the account and placed in a separate item vintage account. The unadjusted basis of the asset shall be removed from the unadjusted basis of the vintage account as of the first day of the taxable year in which the change in method of depreciation is required and the depreciation reserve established for the account shall be reduced by the depreciation allowable for the property computed in the manner prescribed in paragraph (c) (1) (v) (b) of this section for determination of the adjusted basis of property. See paragraph (d) (3) (vii) (e) of this section for treatment of salvage value when property is removed from a vintage account.

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

Example (1).—Corporation X purchases a bulldozer for the use in its construction business. The bulldozer is first placed in service in 1972. Since the bulldozer is tangible property for which an asset guideline class and period have been established, the bulldozer is eligible property. The bulldozer is in asset guideline class 15.1 of Revenue Procedure 72-10, and the asset depreciation range is 4-6 years.

Example (2).—In 1972, corporation Y first places in service a factory building. Since the factory building is tangible property for which an asset guideline class and period have been established, it is eligible property. The factory building is in asset guideline class 65.11 of Revenue Procedure 72-10. Since no asset depreciation range is in effect for the asset guideline class, the asset depreciation period is the asset guideline period of 45 years. (See subparagraph (5) (vi) of this paragraph for election to exclude certain section 1250 property during transition period.)

Example (3).—In January of 1971, corporation Y, a calendar year taxpayer, pays or incurs \$2,000 for the rehabilitation and improvement of machine A which was first placed in service in 1969. On January 1, 1971, corporation Y first places in service machines B and C, each with an unadjusted basis of \$10,000. Machines B and C are eligible property. Machine A would be eligible property but for the fact it was first placed in service prior to January 1, 1971 (that is, machine A is eligible property determined without

regard to subparagraph (2) (ii) of this paragraph). Corporation Y elects to apply this section for the taxable year, and adopts the modified half-year convention described in paragraph (c) (2) (ii) of this section, but does not elect to apply the asset guideline class repair allowance described in paragraph (d) (2) (iii) of this section. Machines A, B, and C are in asset guideline class 24.4 under Revenue Procedure 72-10 for which the asset depreciation range is 8 to 12 years. The \$2,000 expended on machine A substantially increases its capacity and is a capital expenditure under sections 162 and 263. The \$2,000 is a property improvement (as defined in paragraph (d) (2) (vii) (b) of this section) which is eligible property. However, corporation Y by mistake treats the property improvement of \$2,000 as a deductible repair. Also by mistake, corporation Y includes machine B in asset guideline class 24.3 under Revenue Procedure 72-10 for which the asset depreciation range is 5 to 7 years. Corporation Y establishes vintage accounts for 1971, and computes depreciation for 1971 and 1972 as follows:

	Dec. 31, 1972, reserve for depreciation	Dec. 31, 1972, adjusted basis
Vintage account for machine B, with an asset depreciation period of 5 years and an unadjusted basis of \$10,000 for which corporation Y adopts the straight line method....	\$4,000	\$6,000
Vintage account for machine C, with an asset depreciation period of 8 years and an unadjusted basis of \$10,000 for which corporation Y adopts the straight line method....	2,500	7,500

After audit in 1973 of corporation Y's taxable years 1971 and 1972, it is determined that the \$2,000 paid in 1971 for the rehabilitation and improvement of machine A is a capital expenditure and that machine B is in asset guideline class 24.4. The incorrect classification is corrected. Corporation Y places machine B and the property improvement in a vintage account of 1971 and on its tax return filed for 1973 selects an asset depreciation period of 8 years for that account. Giving effect to the correction in classification of the property in accordance with subdivision (iii) (c) of this subparagraph, at the end of 1972 the unadjusted basis, reserve for depreciation, and adjusted basis of the vintage account for machine B and the property improvement with respect to machine A are \$12,000, \$3,000, and \$9,000, respectively. Corporation Y's deduction of the \$2,000 property improvement in 1971 as a repair expense under section 162 is disallowed. For 1971 and 1972 depreciation deductions are disallowed in the amount of \$500 each year (that is, \$750 excess annual depreciation on machine B minus \$250 annual depreciation on the property improvement).

Example (4). (a) In 1971, Corporation X, a calendar year taxpayer, first places in service machines A through M, all of which are eligible property. All the machines except machine A are in asset guideline class 24.3 under Revenue Procedure 72-10. Machine A is in asset guideline class 24.4 under Revenue Procedure 72-10. Machine B has an unadjusted basis equal to 80 percent of the total unadjusted basis of machines B through M. By good faith mistake as to proper classification, corporation X includes both machine A and machine B in asset guideline class 24.4. Corporation X consistently uses the machine hour method of depreciation on all property in asset guideline class 24.4, and for 1971 computes depreciation for machines A and B under that method. Corporation X elects to apply this section for 1971 on the assumption that the election includes machines C

through M which are in asset guideline class 24.3. In 1973, upon audit of corporation X's taxable years 1971 and 1972, it is determined that machine B is included in asset guideline class 24.3 and that since for 1971 corporation X computed depreciation on machine B under the machine hour method, in accordance with subparagraph (5) (v) (a) of this paragraph, all property in asset guideline class 24.3 (machines B through M) is excluded from corporation X's election to apply this section for 1971. Although corporation X has consistently used the machine hour method for asset guideline class 24.4, corporation X has not in the past used the machine hour method for machines of the type and function of machines C through M which are in asset guideline class 24.3. Both machine A and machine B are used in connection with the manufacture of wood products. There is reasonable basis for corporation X having assumed that machine B is in asset guideline class 24.4 along with machine A to which it is similar. Corporation X establishes to the satisfaction of the Commissioner that it used the machine hour method for machine B on the basis of a good faith mistake as to the proper classification of the machine. Corporation X may, at its option (see subparagraph (5) (v) of this paragraph), terminate the machine hour method of depreciation for machine B as of the beginning of 1971, and in that event corporation X's election to apply this section for 1971 will apply to machines B through M without regard to subparagraph (5) (v) (a) of this paragraph. The adjustments provided in subdivision (iii) (c) of this subparagraph will be made as a result of the correction in classification of property. If corporation X does not terminate the machine hour method with respect to machine B, machines B through M must be excluded from the election to apply this section (see subparagraph (5) (v) of this paragraph).

(b) The facts are the same as in (a) of this example except that machine B has an unadjusted basis equal to only 65 percent of the total unadjusted basis of machines B through M.

In this case, corporation X must either terminate the machine hour method of depreciation with respect to asset B (since the provisions of subparagraph (5) (v) of this paragraph do not permit the exclusion of the property from the election to apply this section) or otherwise comply with the provisions of subparagraph (5) (v) of this paragraph. (See paragraph (c) (1) (iv) for limitation on methods which may be adopted for property included in the election to apply this section.)

(5) *Requirements of election.*—(i) *In general.*—Except as otherwise provided in paragraph (d) (2) of this section dealing with expenditures for the repair, maintenance, rehabilitation or improvement of certain property, no provision of this section shall apply to any property other than eligible property to which the taxpayer elects in accordance with this section, to apply this section. For the time and manner of election, and certain conditions to an election, see paragraph (f) of this section. Except as otherwise provided in subparagraph (4) (iii) of this paragraph, subdivision (v) of this subparagraph and in subparagraph (6) (iii) of this paragraph, a taxpayer's election to apply this section may not be revoked or modified after the last day prescribed for filing the election. Thus, for example, after such day, a taxpayer may not cease to apply this section to property included in the election, establish different vintage accounts for the

taxable year of election, select a different period from the asset depreciation range for any such account, or adopt a different first-year convention for any such account.

(ii) *Property required to be included in election.*—Except as otherwise provided in subdivision (iii) of this subparagraph dealing with certain "used property", in subdivision (iv) of this subparagraph dealing with "section 38 property", in subdivision (v) of this subparagraph dealing with property subject to special depreciation or amortization, in subdivision (vi) of this subparagraph dealing with certain section 1250 property, in subdivision (vii) of this subparagraph dealing with certain subsidiary assets, and in paragraph (e) (3) (i) and (iv) of this section dealing with transactions to which section 381(a) applies, if the taxpayer elects to apply this section to any eligible property first placed in service by the taxpayer during the taxable year of election, the election shall apply to all such eligible property, whether placed in service in a trade or business or held for production of income.

(iii) *Special 10 percent used property rule.*—(a) If (1) the unadjusted basis of eligible used section 1245 property (as defined in (c) of this subdivision) first placed in service by the taxpayer during the taxable year of election, for which no specific used property asset guideline class (as defined in (c) of this subdivision) is in effect for the taxable year, exceeds (2) 10 percent of the unadjusted basis of all eligible section 1245 property first placed in service during the taxable year of election, the taxpayer may exclude all (but not less than all) the property described in (a) (1) of this subdivision from the election to apply this section.

(b) If (1) the unadjusted basis of eligible used section 1250 property first placed in service by the taxpayer during the taxable year of election, for which no specific used property asset guideline class is in effect for the taxable year, exceeds (2) 10 percent of the unadjusted basis of all eligible section 1250 property first placed in service during the taxable year of election, the taxpayer may exclude all (but not less than all) the property described in (b) (1) of this subdivision from the election to apply this section.

(c) For the purposes of this section, the term "used property" means property the original use of which does not commence with the taxpayer. Solely for the purpose of determining whether the 10 percent rule of this subdivision is satisfied, (1) eligible used property first placed in service during the taxable year and excluded from the election to apply this section pursuant to subdivision (v) (a) of this subparagraph and (2) eligible property acquired during the taxable year in a transaction to which section 381(a) applies, shall all be treated as used property regardless of whether such property would be treated as new property under section 167(c) and the regulations thereunder. The term "specific used property asset guideline class" means a class established in

accordance with subparagraph (4) of this paragraph solely for used property primarily used in connection with the activity to which the class relates.

(iv) *Property subject to investment tax credit.*—The taxpayer may exclude from an election to apply this section all, or less than all, units of eligible property first placed in service during the taxable year which is—

(a) "Section 38 property" as defined in section 48(a) which meets the requirements of section 49 and which is not property described in section 50, or

(b) Property to which section 47(a) (5) (B) applies which would be section 38 property but for section 49 and which is placed in service to replace section 38 property (other than property described in section 50) disposed of prior to August 15, 1971.

(v) *Property subject to special method of depreciation or amortization.*—(a) In the case of eligible property first placed in service in a taxable year of election (and not otherwise properly excluded from an election to apply this section) the taxpayer may not compute depreciation for any of such property in the asset guideline class under a method not described in section 167 (b) (1), (2), (3), or (k) unless he (1) computes depreciation under a method or methods not so described for eligible property first placed in service in the taxable year in the asset guideline class with an unadjusted basis at least equal to 75 percent of the unadjusted basis of all eligible property first placed in service in the taxable year in the asset guideline class and (2) agrees to continue to depreciate such property under such method or methods until the consent of the Commissioner is obtained to a change in method. The consent of the Commissioner must be obtained by filing Form 3115 with the Commissioner of Internal Revenue, Washington, D.C. 20224, within the first 180 days of the taxable year for which the change is desired. If for the taxable year of election the taxpayer computes depreciation under any method not described in section 167 (b) (1), (2), (3), or (k) for any eligible property (other than property otherwise properly excluded from an election to apply this section) first placed in service during the taxable year, an election to apply this section for the taxable year shall not include such property or any other eligible property in the same asset guideline class as such property. With respect to a taxable year beginning before January 1, 1973, if the taxpayer has adopted a method of depreciation which is not permitted under this subdivision, the taxpayer may under this section adopt a method of depreciation permitted under this subdivision or otherwise comply with the provisions of this subdivision.

(b) An election to apply this section shall not include eligible property for which, for the taxable year of election, the taxpayer computes depreciation under section 167(k), or computes amortization under section 169, 184, 185, 187, 188, or paragraph (b) of § 1.162-11. If the taxpayer has elected to apply this

section to eligible property described in section 167(k), 169, 184, 185, or 187 and the taxpayer thereafter computes depreciation or amortization for such property for any taxable year in accordance with section 167(k), 169, 184, 185, or 187, then the election to apply this section to such property shall terminate as of the beginning of the taxable year for which depreciation or amortization is computed under such section. Application of this section to the property for any period prior to the termination date will not be affected by the termination. The unadjusted basis of the property shall be removed as of the termination date from the unadjusted basis of the vintage account. The depreciation reserve established for the account shall be reduced by the depreciation allowable for the property, computed in the manner prescribed in paragraph (c) (1) (v) (b) of this section for determination of the adjusted basis of the property. See paragraph (d) (3) (vii) (e) of this section for treatment of salvage value when property is removed from a vintage account.

(vi) *Certain section 1250 property.*—(a) The taxpayer may exclude from an election to apply this section all, or less than all, items of eligible section 1250 property first placed in service during the taxable year of election provided that—

(1) The item is first placed in service before the earlier of the effective date of the first supplemental asset guideline class including such property established in accordance with subparagraph (4) (ii) of this paragraph, or January 1, 1974, and

(2) The taxpayer establishes that a useful life shorter than the asset guideline period in effect on January 1, 1971, for such item of property is justified for such taxable year.

A useful life shorter than the asset guideline period in effect on January 1, 1971, will be considered justified only if such life is justified in accordance with the provisions of Revenue Procedure 62-21 (including all modifications, amendments or supplements thereto as of January 1, 1971), determined without application of the minimal adjustment rule in section 4, part II, of Revenue Procedure 65-13. If an item of section 1250 property is excluded from an election to apply this section pursuant to this subdivision, any elevator or escalator which is a part of such item shall also be excluded from the election.

(b) If the taxpayer excludes an item of section 1250 property from an election to apply this section in accordance with this subdivision, the useful life justified under Revenue Procedure 62-21 in accordance with this subdivision for the taxable year of exclusion will be treated as justified for such item of section 1250 property for the taxable year of the exclusion and all subsequent taxable years.

(vii) *Subsidiary assets.*—The taxpayer may exclude from an election to apply this section all (but not less than all) subsidiary assets first placed in serv-

ice during the taxable year of election in an asset guideline class, provided that—

(a) The unadjusted basis of eligible subsidiary assets first placed in service during the taxable year in the class is as much as 3 percent of the unadjusted basis of all eligible property first placed in service during the taxable year in the class, and

(b) Such subsidiary assets are first placed in service by the taxpayer before the earlier of (1) the effective date of the first supplemental asset guideline class including such subsidiary assets established in accordance with subparagraph (4) (ii) of this paragraph, or (2) January 1, 1974.

For purposes of this subdivision the term "subsidiary assets" includes jigs, dies, molds, returnable containers, glassware, silverware, textile mill cam assemblies, and other equipment included in group 1, class 5, of Revenue Procedure 62-21, which is usually and properly accounted for separately from other property and under a method of depreciation not expressed in terms of years.

(6) *Special rule for certain public utility property*—(1) *Requirement of normalization in certain cases.* Under section 167(1), in the case of public utility property (as defined in section 167(1) (3) (A)), if the taxpayer—

(a) Is entitled to use a method of depreciation other than a "subsection (1) method" of depreciation (as defined in section 167(1) (3) (F)) only if it uses the "normalization method of accounting" (as defined in section 167(1) (3) (G)) with respect to such property, or

(b) Is entitled for the taxable year to use only a "subsection (1) method" of depreciation,

such property shall be eligible property (as defined in subparagraph (2) of this paragraph) only if the taxpayer normalizes the tax deferral resulting from the election to apply this section.

(ii) *Normalization.*—The taxpayer will be considered to normalize the tax deferral resulting from the election to apply this section only if it computes its tax expense for purposes of establishing its cost of service for ratemaking purposes and for reflecting operating results in its regulated books of account using a period for depreciation no less than the lesser of—

(a) 100 percent of the asset guideline period in effect in accordance with subparagraph (4) (ii) of this paragraph for the first taxable year to which this section applies, or

(b) The period for computing its depreciation expense for ratemaking purposes and for reflecting operating results in its regulated books of account,

and makes adjustments to a reserve to reflect the deferral of taxes resulting from the use of a period for depreciation under section 167 in accordance with an election to apply this section different from the lesser of the periods described in (a) and (b) of this subdivision. In the case of public utility property described in section 167(1) (3) (A) (iii) for

which no guideline life was prescribed in revenue procedure 62-21 (or for which reference was made in revenue procedure 62-21 to lives or rates established by governmental regulatory agencies), for the purpose of (a) of this subdivision, the asset guideline period shall be deemed to be the period for computing the taxpayer's depreciation expense for ratemaking purposes and for reflecting operating results in its regulated books of account instead of the asset guideline period in effect in accordance with subparagraph (4) (ii) of this paragraph for the first taxable year to which this section applies. A determination whether the taxpayer is considered to normalize under this subdivision the tax deferral resulting from the election to apply this section shall be made in a manner consistent with the principles for determining whether a taxpayer is using the "normalization" method of accounting (within the meaning of section 167(1) (3) (G)). See § 13.13 of the temporary regulations prescribed by T.D. 7049 approved June 25, 1970.

(iii) *Failure to normalize.* If a taxpayer, which has elected to apply this section to any eligible public utility property and is required under subdivision (1) of this subparagraph to normalize the tax deferral resulting from the election to apply this section to such property, fails to normalize such tax deferral, the election to apply this section to such property shall terminate as of the beginning of the taxable year for which the taxpayer fails to normalize such tax deferral. Application of this section to such property for any period prior to the termination date will not be affected by the termination. The unadjusted basis of the property shall be removed as of the termination date from the unadjusted basis of the vintage account. The depreciation reserve established for the account shall be reduced by the depreciation allowable for the property, computed in the manner prescribed in paragraph (c) (1) (v) (b) of this section for determination of the adjusted basis of the property. See paragraph (d) (3) (vii) (e) of this section for treatment of salvage value when property is removed from a vintage account.

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

Example (1). Corporation A is a gas pipeline company, subject to the jurisdiction of the Federal Power Commission, which is entitled under section 167(1) to use a method of depreciation other than a "subsection (1) method" of depreciation (as defined in section 167(1) (3) (F)) only if it uses the "normalization method of accounting" (as defined in section 167(1) (3) (G)). Corporation A elects to apply this section for 1972 with respect to all eligible property. In 1972, corporation A places in service eligible property with an unadjusted basis of \$2 million. One hundred percent of the asset guideline period for such property is 22 years and the asset depreciation range is from 17.5 years to 26.5 years. The taxpayer uses the double declining balance method of depreciation, selects an asset depreciation period of 17.5 years and applies the half-year convention (described in paragraph (c) (2) (iii) of this

section). The depreciation allowable under this section with respect to such property in 1972 is \$114,285. The taxpayer will be considered to normalize the tax deferral resulting from the election to apply this section and to use the "normalization method of accounting" (within the meaning of section 167(1) (3) (G)) if it computes its tax expense for purposes of determining its cost of service for rate making purposes and for reflecting operating results in its regulated books of account using a "subsection (1) method" of depreciation, such as the straight line method, determined by using a depreciation period of 22 years (that is, 100 percent of the asset guideline period). A depreciation allowance computed in this manner is \$45,454. The difference in the amount determined under this section (\$114,285) and the amount used in computing its tax expense for purposes of estimating its cost of service for rate making purposes and for reflecting operating results in its regulated books of account (\$45,454) is \$68,831. Assuming a tax rate of 48 percent, the deferral of taxes resulting from an election to apply this section and using a different method of depreciation for tax purposes from that used for establishing its cost of service for rate making purposes and for reflecting operating results in its regulated books of account is 48 percent of \$68,831, or \$33,039, which amount should be added to a reserve to reflect the deferral of taxes resulting from the election to apply this section and from the use of a different method of depreciation in computing the allowance for depreciation under section 167 from that used in computing its depreciation expense for purposes of establishing its cost of service for rate making purposes and for reflecting operating results in its regulated books of account.

Example (2). Corporation B, a telephone company subject to the jurisdiction of the Federal Communications Commission used a "flow-through method of accounting" (as defined in section 167(1) (3) (H)) for its "July 1969 accounting period" (as defined in section 167(1) (3) (I)) with respect to all of its pre-1970 public utility property and did not make an election under section 167(1) (4) (A). Thus, corporation B is entitled under section 167(1) to use a method of depreciation other than a "subsection (1) method" with respect to certain property without using the "normalization method of accounting." In 1972, corporation B makes an election to apply this section with respect to all eligible property. Corporation B is not required to normalize the tax deferral resulting from the election to apply this section in the case of property for which it is not required to use the "normalization method of accounting" under section 167(1).

Example (3). Assume the same facts as in example (2) except that corporation B made a timely election under section 167(1) (4) (A) that section 167(1) (2) (C) not apply with respect to property which increases the productive or operational capacity of the taxpayer. Corporation B must normalize the tax deferral resulting from the election to apply this section with respect to such property.

(7) *Mere change in form of conducting a trade or business.* Property which was first placed in service by the transferor before January 1, 1971, shall not be eligible property if such property is first placed in service by the transferee after December 31, 1970, by reason of a mere change in the form of conducting a trade or business in which such property is used. A mere change in the form of conducting a trade or business in

which such property is used will be considered to have occurred if—

(i) The transferor (or in a case where the transferor is a partnership, estate, trust, or corporation, the partners, beneficiaries, or shareholders) of such property retains a substantial interest in such trade or business, or

(ii) The basis of such property in the hands of the transferee is determined in whole or in part by reference to the basis of such property in the hands of the transferor.

For purposes of this subparagraph, a transferor (or in a case where the transferor is a partnership, estate, trust, or corporation, the partners, beneficiaries, or shareholders) shall be considered as having retained a substantial interest in the trade or business only if, after the change in form, his (or their) interest in such trade or business is substantial in relation to the total interest of all persons in such trade or business. This subparagraph shall apply to property first placed in service prior to January 1, 1971, held for the production of income (within the meaning of section 167(a)(2)) as well as to property used in a trade or business. The principles of this subdivision may be illustrated by the following examples:

Example (1). Corporation X and corporation Y are includible corporations in an affiliated group as defined in section 1504(a). In 1971 corporation X sells property to corporation Y for cash. The property would meet the requirements of subparagraph (2) of this paragraph for eligible property except that it was first placed in service by corporation X in 1970. After the transfer, the property is first placed in service by corporation Y in 1971. The property is not eligible property because of the mere change in the form of conducting a trade or business.

Example (2). In 1971, in a transaction to which section 351 applies, taxpayer B transfers to corporation W property which would meet the requirements of subparagraph (2) of this paragraph for eligible property except that the property was first placed in service by B in 1969. Corporation W first places the property in service in 1971. The property is not eligible property because of the mere change in the form of conducting a trade or business.

(c) *Manner of determining allowance—(1) In general—(i) Computation of allowance.* (a) The allowance for depreciation of property in a vintage account shall be determined in the manner specified in this paragraph by using the method of depreciation adopted by the taxpayer for the account and a rate based upon the asset depreciation period for the account. (For limitations on methods of depreciation permitted with respect to property, see section 167 (c) and (j) and subdivision (iv) of this subparagraph.) In applying the method of depreciation adopted by the taxpayer, the annual allowance for depreciation of a vintage account shall be determined without adjustment for the salvage value of the property in such account except that no account may be depreciated below the reasonable salvage value of the account. (For rules regarding estimation and treatment of

salvage value, see paragraph (d) (1) and (3) (vii) and (viii) of this section.) Regardless of the method of depreciation adopted by the taxpayer, the depreciation allowable for a taxable year with respect to a vintage account may not exceed the amount by which (as of the beginning of the taxable year) the unadjusted basis of the account exceeds (1) the reserve for depreciation established for the account plus (2) the salvage value of the account. The unadjusted basis of a vintage account is defined in subdivision (v) of this subparagraph. The adjustments to the depreciation reserve are described in subdivision (ii) of this subparagraph.

(b) The annual allowance for depreciation of a vintage account using the straight line method of depreciation shall be determined by dividing the unadjusted basis of the vintage account (without reduction for salvage value) by the number of years in the asset depreciation period selected for the account. See subdivision (iii) (b) of this subparagraph for the manner of computing the depreciation allowance following a change from the declining balance method or the sum of the years-digits method to the straight line method.

(c) In the case of the sum of the years-digits method, the annual allowance for depreciation of a vintage account shall be computed by multiplying the unadjusted basis of the vintage account (without reduction for salvage value) by a fraction, the numerator of which changes each year to a number which corresponds to the years remaining in the asset depreciation period for the account (including the year for which the allowance is being computed) and the denominator of which is the sum of all the year's digits corresponding to the asset depreciation period for the account. See subdivision (iii) (c) of this subparagraph for the manner of computing the depreciation allowance following a change from the declining balance method to the sum of the years-digits method.

(d) The annual allowance for depreciation of a vintage account using a declining balance method is determined by applying a uniform rate to the excess of the unadjusted basis of the vintage account over the depreciation reserve established for that account. The rate under the declining balance method may not exceed twice the straight line rate based upon the asset depreciation period for the vintage account.

(e) The allowance for depreciation under this paragraph shall constitute the amount of depreciation allowable under section 167. See section 179 for additional first-year allowance for certain property.

(ii) *Establishment of depreciation reserve.*—The taxpayer must establish a depreciation reserve for each vintage account. The amount of the reserve for a guideline class must be stated on each income tax return on which depreciation with respect to such class is determined under this section. The depreciation reserve for a vintage account consists of the accumulated depreciation allowable

under this section with respect to the vintage account, increased by the adjustments for ordinary retirements prescribed by paragraph (d) (3) (iii) of this section, by the adjustments for reduction of the salvage value of a vintage account prescribed by paragraph (d) (3) (vii) (d) of this section, and by the adjustments for transfers to supplies or scrap prescribed by paragraph (d) (3) (viii) (b) of this section, and decreased by the adjustments for extraordinary retirements and certain special retirements as prescribed by paragraph (d) (3) (iv) and (v) of this section, by the adjustments for the amount of the reserve in excess of the unadjusted basis of a vintage account prescribed by paragraph (d) (3) (ix) (a) of this section, and by the adjustments for property removed from a vintage account prescribed by paragraph (b) (4) (iii) (e), (5) (v) (b) and (6) (iii) of this section. The adjustments to the depreciation reserve for ordinary retirements during the taxable year shall be made as of the beginning of the taxable year. The adjustments to the depreciation reserve for extraordinary retirements shall be made as of the date the retirement is treated as having occurred in accordance with the first-year convention (described in subparagraph (2) of this paragraph) adopted by the taxpayer for the vintage account. The adjustment to the depreciation reserve for reduction of salvage value and for transfers to supplies or scrap shall, in the case of an ordinary retirement, be made as of the beginning of the taxable year, and in the case of an extraordinary retirement the adjustment for reduction of salvage value shall be made as of the date the retirement is treated as having occurred in accordance with the first-year convention (described in subparagraph (2) of this paragraph) adopted by the taxpayer for the vintage account. The adjustment to the depreciation reserve for property removed from a vintage account in accordance with paragraph (b) (4) (iii) (e), (5) (v) (b) and (6) (iii) of this section shall be made as of the beginning of the taxable year. The depreciation reserve of a vintage account may not be decreased below zero.

(iii) *Consent to change in method of depreciation.* (a) During the asset depreciation period for a vintage account, the taxpayer is permitted to change under this section from a declining balance method of depreciation to the sum of the years-digits method of depreciation and from a declining balance method of depreciation or the sum of the years-digits method of depreciation to the straight line method of depreciation with respect to such account. Except as provided in section 167(j) (2) (i), and paragraph (e) (3) (i) of this section, no other changes in the method of depreciation adopted for a vintage account will be permitted. The provisions of § 1.167(e)-1 shall not apply to any change in depreciation method permitted under this section. The change in method applies to all property in the vintage account and must be adhered to for the entire taxable year of the change.

(b) When a change is made to the straight line method of depreciation, the annual allowance for depreciation of the vintage account shall be determined by dividing the adjusted basis of the vintage account (without reduction for salvage value) by the number of years remaining (at the time as of which the change is made) in the asset depreciation period selected for the account. However, the depreciation allowable for any taxable year following a change to the straight line method may not exceed an amount determined by dividing the unadjusted basis of the vintage account (without reduction for salvage value) by the number of years in the asset depreciation period selected for the account.

(c) When a change is made from the declining balance method of depreciation to the sum of the years-digits method of depreciation, the annual allowance for depreciation of a vintage account shall be determined by multiplying the adjusted basis of the account (without reduction for salvage value) at the time as of which the change is made by a fraction, the numerator of which changes each year to a number which corresponds to the number of years remaining in the asset depreciation period selected for the account (including the year for which the allowance is being computed), and the denominator of which is the sum of all the year's digits corresponding to the number of years remaining in the asset depreciation period at the time as of which the change is made.

(d) The number of years remaining in the asset depreciation period selected for an account is equal to the asset depreciation period less the number of years of depreciation previously allowed. For this purpose, regardless of the first year convention adopted by the taxpayer, it will be assumed that depreciation was allowed for one-half of a year in the first year.

(e) The taxpayer shall furnish a statement setting forth the vintage accounts for which the change is made with the income tax return filed for the taxable year of the change.

(f) The principles of this subdivision may be illustrated by the following examples:

Example (1).—A, a calendar year taxpayer, places new section 1245 property in service in a trade or business as follows:

Asset	Placed in service	Unadjusted basis	Estimated salvage
X	Mar. 15, 1971	\$400	\$20
Y	June 13, 1971	500	50
Z	July 30, 1971	100	0

The property is eligible property and is properly included in a single vintage account. The asset depreciation range for such property is 5 to 7 years and the taxpayer selects an asset depreciation period of 5½ years and adopts the 200-percent declining balance method of depreciation. The taxpayer adopts the half-year convention described in subparagraph (2) (iii) of this paragraph. After 3 years, A changes from the 200-percent declining balance method to the straight line method of depreciation. Depreciation allowances would be as follows:

Year	Unadjusted basis	Rate	Depreciation	Reserve	Adjusted basis
1971	\$1,000	0.28182	\$181.82	\$181.82	\$818.18
1972	1,000	.36363	297.52	479.34	520.66
1973	1,000	.36363	185.33	668.67	331.33
1974	1,000	.33333	110.44	779.11	220.89
1975	1,000	.33333	110.44	889.55	110.44
1976	1,000	.33333	140.44	930.00	70.00

¹ Rate applied to adjusted basis of the account (without reduction by salvage) at the time as of which the change is made to the straight line method.

² The allowable depreciation is limited by estimated salvage.

Example (2). The facts are the same as in example (1) except that A elects to use the modified half-year convention described in subparagraph (2) (ii) of this paragraph. The depreciation allowances would be as follows:

Year	Unadjusted basis	Rate	Depreciation	Reserve	Adjusted basis
1971	\$1,000	0.36363	\$327.27	\$327.27	\$672.73
1972	1,000	.36363	244.63	571.90	428.10
1973	1,000	.36363	155.67	727.57	272.43
1974	1,000	.33333	90.81	818.38	181.62
1975	1,000	.33333	90.81	909.19	90.81
1976	1,000	.33333	220.81	930.00	70.00

¹ Rate applied to \$900, the amount of assets placed in service during the first half of the taxable year.

² The allowable depreciation is limited by estimated salvage.

Example (3). The facts are the same as in example (1) except that A adopted the sum of the years-digits method of depreciation and does not change to the straight line method of depreciation. The depreciation allowances would be as follows:

Year	Unadjusted basis	Rate	Depreciation	Reserve	Adjusted basis
1971	\$1,000	12.75/18	\$152.78	\$152.78	\$847.22
1972	1,000	6/18	277.78	430.56	569.44
1973	1,000	4/18	222.22	652.78	347.22
1974	1,000	2/18	166.67	819.45	180.55
1975	1,000	2/18	110.55	930.00	70.00
1976	1,000	1/18	0.00	930.00	70.00
1977	1,000	0.25/18	0.00	930.00	70.00

¹ Rate is equal to one-half of 5.5/18. The denominator is equal to 5.5+4.5+3.5+2.5+1.5+0.5.

² The allowable depreciation is limited by estimated salvage.

Example (4). The facts are the same as in example (3) except that A elects to use the modified half-year convention described in subparagraph (2) (ii) of this paragraph. The depreciation allowances would be as follows:

Year	Unadjusted basis	Rate	Depreciation	Reserve	Adjusted basis
1971	\$1,000	15.5/18	\$275.00	\$275.00	\$725.00
1972	1,000	5/18	277.78	552.78	447.22
1973	1,000	4/18	222.22	775.00	225.00
1974	1,000	3/18	155.00	930.00	70.00
1975	1,000	2/18	0.00	930.00	70.00
1976	1,000	1/18	0.00	930.00	70.00
1977	1,000	0.25/18	0.00	930.00	70.00

¹ Rate applied to \$900, the amount of assets placed in service during the first half of the taxable year.

² The allowable depreciation is limited by estimated salvage.

Example (5). The facts are the same as in example (2) except that after 2 years A changes from the 200-percent declining balance method to the sum of the years-digits method of depreciation. The depreciation allowances would be as follows:

Year	Unadjusted basis	Rate	Depreciation	Reserve	Adjusted basis
1971	\$1,000	0.36363	\$327.27	\$327.27	\$672.73
1972	1,000	.36363	244.63	571.90	428.10
1973	1,000	4/10	171.24	743.14	256.86
1974	1,000	3/10	128.43	871.67	128.43
1975	1,000	2/10	158.43	930.00	70.00
1976	1,000	1/10	0.00	930.00	70.00

¹ The allowable depreciation is limited by estimated salvage.

(iv) **Limitation on methods.**—(a) The same method of depreciation must be adopted for all property in a single vintage account. Generally, the method of depreciation which may be adopted is subject to the limitations contained in section 167 (c) and (j).

(b) Except as otherwise provided in section 167(j) with respect to certain eligible section 1250 property—

(i) In the case of a vintage account for which the taxpayer has selected an asset depreciation period of 3 years or more and which only contains property the original use of which commences with the taxpayer, any method of depreciation described in section 167(b) (1), (2), or (3) may be adopted, but if the vintage account contains property the original use of which does not com-

mence with the taxpayer, or if the asset depreciation period for the account is less than 3 years, a method of depreciation described in section 167(b) (2) or (3) may not be adopted for the account, and

(2) The declining balance method using a rate not in excess of 150 percent of the straight line rate based upon the asset depreciation period for the vintage account may be adopted for the account even if the original use of the property does not commence with the taxpayer provided the asset depreciation period for the account is at least 3 years.

(c) The term "original use" means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer. (See § 1.167(c)-1).

(v) *Unadjusted and adjusted basis.*—(a) For purposes of this section, the unadjusted basis of an asset (including an "excluded addition" and a "property improvement" as described, respectively, in paragraph (d) (2) (vi) and (vii) of this section) is its cost or other basis without any adjustment for depreciation or amortization (other than depreciation under section 179) but with other adjustments required under section 1016 or other applicable provisions of law. The unadjusted basis of a vintage account is the total of the unadjusted bases of all the assets in the account. The unadjusted basis of a "special basis vintage account" as described in paragraph (d) (3) (vi) of this section is the amount of the property improvement determined in paragraph (d) (2) (vii) (a) of this section.

(b) The adjusted basis of a vintage account is the amount by which the unadjusted basis of the account exceeds the reserve for depreciation for the account. The adjusted basis of an asset in a vintage account is the amount by which the unadjusted basis of the asset exceeds the amount of depreciation allowable for the asset under this section computed by using the method of depreciation and the rate applicable to the account. For purposes of this subdivision, the depreciation allowable for an asset shall include, to the extent identifiable, the amount of proceeds previously added to the depreciation reserve in accordance with paragraph (d) (3) (iii) of this section upon the retirement of any portion of such asset. (See paragraph (d) (3) (vi) of this section for election under certain circumstances to allocate adjusted basis of an amount of property improvement determined under paragraph (d) (2) (vii) (a) of this section.)

(2) *Conventions applied to additions and retirements.*—(i) *In general.*—The allowance for depreciation of a vintage account (whether an item account or a multiple asset account) shall be determined by applying one of the conventions described in subdivisions (ii) and (iii) of this subparagraph. (For the manner of applying a convention in the case of taxable years beginning before and ending after December 31, 1970, see subparagraph (3) of this paragraph.) The same convention must be adopted for all vintage accounts of a taxable year, but the

same convention need not be adopted for the vintage accounts of another taxable year. An election to apply this section must specify the convention adopted. (See paragraph (f) of this section for information required in making the election.) The convention adopted by the taxpayer is a method of accounting for purposes of section 446, but the consent of the Commissioner will be deemed granted to make an annual adoption of either of the conventions described in subdivisions (ii) and (iii) of this subparagraph.

(i) *Modified half-year convention.*—The depreciation allowance for a vintage account for which the taxpayer adopts the "modified half-year convention" shall be determined by treating: (a) All property in such account which is placed in service during the first half of the taxable year as placed in service on the first day of the taxable year; and (b) all property in such account which is placed in service during the second half of the taxable year as placed in service on the first day of the succeeding taxable year. The depreciation allowance for a vintage account for a taxable year in which there is an extraordinary retirement (as defined in paragraph (d) (3) (ii) of this section) of property first placed in service during the first half of the taxable year is determined by treating all such retirements from such account during the first half of the taxable year as occurring on the first day of the taxable year and all such retirements from such account during the second half of the taxable year as occurring on the first day of the second half of the taxable year. The depreciation allowance for a vintage account for a taxable year in which there is an extraordinary retirement (as defined in paragraph (d) (3) (ii) of this section) of property first placed in service during the second half of the taxable year is determined by treating all such retirements from such account during the first half of the taxable year as occurring on the first day of the second half of the taxable year and all such retirements in the second half of the taxable year as occurring on the first day of the succeeding taxable year.

(ii) *Half-year convention.*—The depreciation allowance for a vintage account for which the taxpayer adopts the "half-year convention" shall be determined by treating all property in the account as placed in service on the first day of the second half of the taxable year and by treating all extraordinary retirements (as defined in paragraph (d) (3) (ii) of this section) from the account as occurring on the first day of the second half of the taxable year.

(iv) *Rules of application.*—The first-year convention adopted for a vintage account must be consistently applied to all additions to and all extraordinary retirements from such account. See paragraph (d) (3) (ii) and (iii) of this section for definition and treatment of ordinary retirements. If the actual number of months in a taxable year is other than 12 full calendar months, depreciation is allowed only for such actual num-

ber of months and the term "taxable year", for purposes of this subparagraph, shall mean only such number of months. In such event, the first half of such taxable year shall be deemed to expire at the close of the last day of a calendar month which is the closest such last day to the middle of such taxable year and the second half of such taxable year shall be deemed to begin the day after the expiration of the first half of such taxable year. If a taxable year consists of a period which includes only 1 calendar month, the first half of the taxable year shall be deemed to expire on the first day which is nearest to the midpoint of the month, and the second half of the taxable year shall begin the day after the expiration of the first half of the month. Thus, for example, if a taxpayer which is a corporation comes into existence (within the meaning of paragraph (a) (2) of § 1.6012) on September 1st and adopts a taxable year ending on December 31st, the taxable year consists of 4 months, and for the purposes of this subparagraph the first half of such taxable year ends on October 31st and the second half of such taxable year begins on November 1st.

(v) *Mass assets.*—In the case of mass assets, if extraordinary retirements of such assets in a guideline class during the first half of the taxable year are allocated to a particular vintage year for which the taxpayer applied the modified half-year convention, then that portion of the mass assets so allocated which bears the same ratio to the total number of mass assets so allocated as the mass assets in the same vintage and asset guideline class placed in service during the first half of that vintage year bear to the total mass assets in the same vintage and asset guideline class shall be treated as retired on the first day of the taxable year. The remaining mass assets which are subject to extraordinary retirement during the first half of the taxable year and which are allocated to that vintage year and asset guideline class shall be treated as retired on the first days of the second half of the taxable year. If extraordinary retirements of mass assets in a guideline class occur in the second half of the taxable year and are allocated to a particular vintage year for which the taxpayer applied the modified half-year convention, then that portion of the mass assets so allocated which bears the same ratio to the total number of mass assets in the same vintage and asset guideline class first placed in service during the first half of that vintage year bear to the total mass assets in the same vintage and asset guideline class shall be treated as retired on the first day of the second half of the taxable year. The remaining mass assets which are subject to extraordinary retirements during the second half of the taxable year and which are allocated to that same vintage and asset guideline class shall be treated as retired on the first day of the succeeding taxable year. If the taxpayer has applied the half-year convention for the vintage year to which the extraordinary retirements are allocated, the mass assets

shall be treated as retired on the first day of the second half of the taxable year.

(3) *Taxable years beginning before and ending after December 31, 1970.*—In the case of a taxable year which begins before January 1, 1971, and ends after December 31, 1970, property first placed in service after December 31, 1970, but treated as first placed in service before January 1, 1971, by application of a convention described in subparagraph (2) of this paragraph shall be treated as provided in this subparagraph. The depreciation allowed (or allowable) for the taxable year shall consist of the depreciation allowed (or allowable) for the period before January 1, 1971, determined without regard to this section plus the amount allowable for the period after December 31, 1970, determined under this section. However, neither the modified half-year convention described in subparagraph (2) (ii) of this paragraph, nor the half-year convention described in subparagraph (2) (iii) of this paragraph may for any such taxable year be applied with respect to property placed in service after December 31, 1970, to allow depreciation for any period prior to January 1, 1971, unless such convention is consistent with the convention applied by the taxpayer with respect to property placed in service in such taxable year prior to January 1, 1971.

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

Example (1).—Taxpayer A, a calendar year taxpayer, places new property in service in a trade or business as follows:

Asset	Placed in service	Unadjusted basis
W.....	Apr. 1, 1971	\$5,000
X.....	June 30, 1971	8,000
Y.....	July 15, 1971	12,000

Taxpayer A adopts the modified half-year convention described in subparagraph (2) (ii) of this paragraph. Assets W, X, and Y are placed in a multiple asset account for which the asset depreciation range is 8 to 12 years. A selects 8 years, the minimum asset depreciation period with respect to such assets, and adopts the declining balance method of depreciation using a rate twice the straight line rate (computed without reduction for salvage). The annual rate under this method using a period of 8 years is 25 percent. The depreciation allowance for assets W and X for 1971 is \$3,250, a full year's depreciation under the modified half-year convention (that is, basis of \$13,000 (unreduced by salvage) multiplied by 25 percent). The depreciation allowance for asset Y for 1971 is zero under the modified half-year convention.

Example (2).—The facts are the same as in example (1), except that the taxpayer adopts the half-year convention described in subparagraph (2) (iii) of this paragraph. The depreciation allowance with respect to asset Y is \$1,500 (that is the basis of \$12,000 multiplied by 25 percent, then multiplied by 1/2). Assets W and X are also entitled to a depreciation allowance for only a half year. Thus, the depreciation allowance for assets W and X for 1971 is \$1,625 (that is, 1/2 of the \$3,250 allowance computed in example (1)).

Example (3).—Asset Z is placed in service by a calendar year taxpayer on December 1,

1971. The taxpayer places asset Z in an item account and adopts the sum of the years-digits method and the half year convention described in subparagraph (2) (iii) of this paragraph. The asset depreciation range for such asset is 4 to 6 years and the taxpayer selects an asset depreciation period of 5 years. The depreciation allowance for asset Z in 1971 is \$10,000 (that is, basis of \$60,000 (unreduced by salvage) multiplied by 3/5, the appropriate fraction using the sum of the years-digits method then multiplied by 1/2, since only one half year's depreciation is allowable under the convention).

Example (4).—A is a calendar year taxpayer. All taxpayer A's assets are placed in service in the first half of 1971. If the taxpayer selects the modified half-year convention described in subparagraph (2) (ii) of this paragraph, a full year's depreciation is allowable for all assets.

Example (5).—(1) The taxpayer during his taxable year which begins April 1, 1970, and ends March 31, 1971, places new property in service in a trade or business as follows:

Asset	Placed in service	Unadjusted basis
A.....	Apr. 30, 1970	\$10,000
B.....	Dec. 15, 1970	10,000
C.....	Jan. 1, 1971	10,000

The taxpayer adopted a convention under § 1.167(a)-10(b) with respect to assets placed in service prior to January 1, 1971, which treats assets placed in service during the first half of the year as placed in service on the first day of such year and assets placed in service in the second half of the year as placed in service on the first day of the following year. If the taxpayer selects the half-year convention described in subparagraph (2) (iii) of this paragraph, one year's depreciation is allowable on asset A determined without regard to this section. No depreciation is allowable for asset B. No depreciation is allowable for asset C for the period prior to January 1, 1971. One-fourth year's depreciation is allowable on asset C determined under this section.

(ii) The facts are the same as in (i) of this example except that the taxpayer adopts the modified half-year convention described in subparagraph (2) (ii) of this paragraph for 1971. No depreciation is allowable for assets B and C which were placed in service in the second half of the taxable year.

Example (6).—The taxpayer during his taxable year which begins August 1, 1970, and ends July 31, 1971, places new property in service in a trade or business as follows:

Asset:	Placed in service
A.....	Aug. 1, 1970.
B.....	Jan. 15, 1971.
C.....	June 30, 1971.

The taxpayer adopted a convention under § 1.167(a)-10(b) with respect to assets placed in service prior to January 1, 1971, which treats all assets as placed in service at the mid-point of the taxable year. If the taxpayer selects the half-year convention described in subparagraph (2) (iii) of this paragraph, one-half year's depreciation is allowable for asset A determined without regard to this section. One-half year's depreciation is allowable for assets B and C determined under this section.

(d) *Special rules for salvage, repairs and retirements.*—(1) *Salvage value.*—(i) *Definition of gross salvage value.*—“Gross salvage” value is the amount which is estimated will be realized upon a sale or other disposition of the property in the vintage account when it is no longer use-

ful in the taxpayer's trade or business or in the production of his income and is to be retired from service, without reduction for the cost of removal, dismantling, demolition or similar operations. If a taxpayer customarily sells or otherwise disposes of property at a time when such property is still in good operating condition, the gross salvage value of such property is the amount expected to be realized upon such sale or disposition, and under certain circumstances, as where such property is customarily sold at a time when it is still relatively new, the gross salvage value may constitute a relatively large proportion of the unadjusted basis of such property.

(ii) *Definition of salvage value.*—“Salvage value” means gross salvage value less the amount, if any, by which the gross salvage value is reduced by application of section 167(f). Generally, as provided in section 167(f), a taxpayer may reduce the amount of gross salvage value of a vintage account by an amount which does not exceed 10 percent of the unadjusted basis of the personal property (as defined in section 167(f) (2)) in the account. See paragraph (b) (3) (ii) of this section for requirement of separate vintage accounts for personal property described in section 167(f) (2).

(iii) *Estimation of salvage value.*—The salvage value of each vintage account of the taxable year shall be estimated by the taxpayer at the time the election to apply this section is made, upon the basis of all the facts and circumstances existing at the close of the taxable year in which the account is established. The taxpayer shall specify the amount, if any, by which gross salvage value taken into account is reduced by application of section 167(f). See paragraph (f) (2) of this section for requirement that the election specify the estimated salvage value for each vintage account of the taxable year of election. The salvage value estimated by the taxpayer will not be redetermined merely as a result of fluctuations in price levels or as a result of other facts and circumstances occurring after the close of the taxable year of election. Salvage value for a vintage account need not be established or increased as a result of a property improvement as described in subparagraph (2) (vii) of this paragraph. The taxpayer shall maintain records reasonably sufficient to determine facts and circumstances taken into account in estimating salvage value.

(iv) *Salvage as limitation on depreciation.*—In no case may a vintage account be depreciated below a reasonable salvage value after taking into account any reduction in gross salvage value permitted by section 167(f).

(v) *Limitation on adjustment of reasonable salvage value.*—The salvage value established by the taxpayer for a vintage account will not be redetermined if it is reasonable. Since the determination of salvage value is a matter of estimation, minimal adjustments will not be made. The salvage value established by the taxpayer will be deemed to be reasonable unless there is sufficient basis in the facts and circumstances existing at the close

of the taxable year in which the account is established for a determination of an amount of salvage value for the account which exceeds the salvage value established by the taxpayer for the account by an amount greater than 10 percent of the unadjusted basis of the account at the close of the taxable year in which the account is established. If the salvage value established by the taxpayer for the account is not within the 10 percent range, or if the taxpayer follows the practice of understating his estimates of gross salvage value to take advantage of this subdivision, and if there is a determination of an amount of salvage value for the account which exceeds the salvage value established by the taxpayer for the account, an adjustment will be made by increasing the salvage value established by the taxpayer for the account by an amount equal to the difference between the salvage value as determined and the salvage value established by the taxpayer for the account. For the purposes of this subdivision, a determination of salvage value shall include all determinations at all levels of audit and appellate proceedings, and as well as all final determinations within the meaning of section 1313(a)(1). This subdivision shall apply to each such determination. (See example (3) of subdivision (vi) of this subparagraph.)

(vi) *Examples.*—The principles of this subparagraph may be illustrated by the following examples in which it is assumed that the taxpayer has not followed a practice of understating his estimates of gross salvage value:

Example (1).—Taxpayer B elects to apply this section to assets Y and Z, which are placed in a multiple asset vintage account of 1971 for which the taxpayer selects an asset depreciation period of 8 years. The unadjusted basis of asset Y is \$50,000 and the unadjusted basis of asset Z is \$30,000. B estimates a gross salvage value of \$55,000. The property qualifies under section 167(f)(2) and B reduces the amount of salvage taken into account by \$8,000 (that is, 10 percent of \$80,000 under section 167(f)). Thus, B establishes a salvage value of \$47,000 for the account. Assume that there is not sufficient basis for determining a salvage value for the account greater than \$52,000 (that is, \$60,000 minus the \$8,000 reduction under section 167(f)). Since the salvage value of \$47,000 established by B for the account is within the 10 percent range, it is reasonable. Salvage value for the account will not be redetermined.

Example (2).—The facts are the same as in example (1) except that C estimates a gross salvage value of \$50,000 and establishes a salvage value of \$42,000 for the account (that is, \$50,000 minus the \$8,000 reduction under section 167(f)). There is sufficient basis for determining an amount of salvage value greater than \$50,000 (that is, \$58,000 minus the \$8,000 reduction under section 167(f)). The salvage value of \$42,000 established by B for the account can be redetermined without regard to the limitation in subdivision (v) of this subparagraph, since it is not within the 10 percent range. Upon audit of B's tax return for a taxable year for which the determination would affect the amount of depreciation allowable for the account, salvage value is determined to be \$52,000 after taking into account the reduction under section 167(f). Salvage value for the account will be adjusted to \$52,000.

Example (3).—The facts are the same as in example (1) except that upon audit of B's tax return for a taxable year the examining officer determines the salvage value to be \$58,000 (that is, \$66,000 minus the \$8,000 reduction under section 167(f)), and proposes to adjust salvage value for the vintage account to \$58,000 which will result in disallowing an amount of depreciation for the taxable year. B does not agree with the finding of the examining officer. After receipt of a "30-day letter", B waives a district conference and initiates proceedings before the Appellate Division. In consideration of the case by the Appellate Division it is concluded that there is not sufficient basis for determining an amount of salvage value for the account in excess of \$55,000 (that is \$63,000 minus the \$8,000 reduction under section 167(f)). Since the salvage of \$47,000 established by B for the account is within the 10 percent range, it is reasonable. Salvage value for the account will not be redetermined.

Example (4).—Taxpayer C elects to apply this section to factory building X which is placed in an item vintage account of 1971. The unadjusted basis of factory building X is \$90,000. C estimates a gross salvage value for the account of \$10,000. The property does not qualify under section 167(f)(2). C establishes a salvage value of \$10,000 for the account. Assume that there is not sufficient basis for determining a salvage value for the account greater than \$18,000. Since the salvage value of \$10,000 established by B for the account is within the 10 percent range, it is reasonable. Salvage value for the account will not be redetermined.

(2) *Treatment of repairs.*—(1) *In general.*—(a) Sections 162, 212, and 263 provide general rules for the treatment of certain expenditures for the repair, maintenance, rehabilitation or improvement of property. In general, under those sections, expenditures which substantially prolong the life of an asset, or are made to increase its value or adapt it to a different use are capital expenditures. If an expenditure is treated as a capital expenditure under section 162, 212, or 263, it is subject to the allowance for depreciation. On the other hand, in general, expenditures which do not substantially prolong the life of an asset or materially increase its value or adapt it for a substantially different use may be deducted as an expense in the taxable year in which paid or incurred. Expenditures, or a series of expenditures, may have characteristics both of deductible expenses and capital expenditures. Other expenditures may have the characteristics of capital expenditures, as in the case of an "excluded addition" (as defined in subdivision (vi) of this subparagraph). This subparagraph provides a simplified procedure for determining whether expenditures with respect to certain property are to be treated as deductible expenses or capital expenditures.

(b) [Reserved]

(ii) *Election of repair allowance.*—In the case of an asset guideline class which consists of "repair allowance property" as defined in subdivision (iii) of this subparagraph, subject to the provisions of subdivision (v) of this subparagraph, the taxpayer may elect to apply the asset guideline class repair allowance described in subdivision (iii) of this subparagraph for any taxable year ending after De-

ember 31, 1970, for which the taxpayer elects to apply this section.

(iii) *Repair allowance for an asset guideline class.*—For a taxable year for which the taxpayer elects to apply this section, the "repair allowance" for an asset guideline class which consists of "repair allowance property" is an amount equal to—

(a) The average of (1) the unadjusted basis of all "repair allowance property" in the asset guideline class at the beginning of the taxable year, less in the case of such property in a vintage account the unadjusted basis of all such property retired in an ordinary retirement (as described in subparagraph (3)(ii) of this paragraph) in prior taxable years, and (2) the unadjusted basis of all "repair allowance property" in the asset guideline class at the end of the taxable year, less in the case of such property in a vintage account the unadjusted basis of all such property retired in an ordinary retirement (including ordinary retirements during the taxable year), multiplied by—

(b) The repair allowance percentage in effect for the asset guideline class for the taxable year.

In applying the asset guideline class repair allowance to buildings which are section 1250 property, for the purpose of this subparagraph each building shall be treated as in a separate asset guideline class. If two or more buildings are in the same asset guideline class determined without regard to the preceding sentence and are operated as an integrated unit (as evidenced by their actual operation, management, financing and accounting), they shall be treated as a single building for this purpose. The "repair allowance percentages" in effect for taxable years ending before the effective date of the first supplemental repair allowance percentages established pursuant to this section are set forth in Revenue Procedure 72-10. Repair allowance percentages will from time to time be established, supplemented and revised with express reference to this section. These repair allowance percentages will be published in the Internal Revenue Bulletin. The repair allowance percentages in effect on the last day of the taxable year shall apply for the taxable year, except that the repair allowance percentage for a particular taxable year shall not be less than the repair allowance percentage in effect on the first day of such taxable year (or as of such later time in such year as a repair allowance percentage first established during such year becomes effective). Generally, the repair allowance percentages for a taxable year shall not be changed to reflect any supplement or revision of the repair allowance percentages after the end of such taxable year. However, if expressly provided in such a supplement or revision of the repair allowance percentages, the taxpayer may, at his option in the manner specified therein, apply the revised or supplemented repair allowance percentages for such taxable year and succeeding taxable years. For the purposes of this section, "repair allowance property" means eligible property de-

terminated without regard to paragraph (b) (2) (ii) of this section (that is, without regard to whether such property was first placed in service by the taxpayer before or after December 31, 1970) in an asset guideline class for which a repair allowance percentage is in effect for the taxable year. The determination whether property is repair allowance property shall be made without regard to whether such property is excluded, under paragraph (b) (5) of this section, from an election to apply this section. Property in an asset guideline class for which the taxpayer elects to apply the asset guideline class repair allowance described in this subdivision, which results from expenditures in the taxable year of election for the repair, maintenance, rehabilitation, or improvement of property in an asset guideline class shall not be "repair allowance property" for such taxable year but shall be for each succeeding taxable year provided such property is a property improvement as described in subdivision (vii) (a) of this subparagraph and is in an asset guideline class for which a repair allowance percentage is in effect for such succeeding taxable year.

(iv) *Application of asset guideline class repair allowance.*—In accordance with the principles of sections 162, 212, and 263, if the taxpayer pays or incurs any expenditures during the taxable year for the repair, maintenance, rehabilitation or improvement of eligible property (determined without regard to paragraph (b) (2) (ii) of this section), the taxpayer must either—

(a) If such property is repair allowance property and if the taxpayer elects to apply the repair allowance for the asset guideline class, treat an amount of all such expenditures in such taxable year with respect to all such property in the asset guideline class which does not exceed in total the repair allowance for that asset guideline class as deductible repairs, and treat the excess of all such expenditures with respect to all such property in the asset guideline class in the manner described for a property improvement in subdivision (viii) of this subparagraph, or

(b) If such property is not repair allowance property or if the taxpayer does not elect to apply the repair allowance for the asset guideline class, treat each of such expenditures in such taxable year with respect to all such property in the asset guideline class as either a capital expenditure or as a deductible repair in accordance with the principles of sections 162, 212, and 263 (without regard to (a) of this subdivision), and treat the expenditures which are required to be capitalized under sections 162, 212, and 263 (without regard to (a) of this subdivision) in the manner described for a property improvement in subdivision (viii) of this subparagraph.

For the purposes of (a) of this subdivision, expenditures for the repair, maintenance, rehabilitation or improvement of property do not include expenditures for an excluded addition or for which a deduction is allowed under

section 167(k). (See subdivision (viii) of this subparagraph for treatment of an excluded addition.) The taxpayer shall elect each taxable year whether to apply the repair allowance and treat expenditures under (a) of this subdivision, or to treat expenditures under (b) of this subdivision. The treatment of expenditures under this subdivision for a taxable year for all asset guideline classes shall be specified in the tax return filed for the taxable year. The taxpayer may treat expenditures under (a) of this subdivision with respect to property in one asset guideline class and treat expenditures under (b) of this subdivision with respect to property in some other asset guideline class. In addition, the taxpayer may treat expenditures with respect to property in an asset guideline class under (a) of this subdivision in one taxable year, and treat expenditures with respect to property in that asset guideline class under (b) of this subdivision in another taxable year.

(v) *Special rules for repair allowance.*—(a) The asset guideline class repair allowance described in subdivision (iii) of this subparagraph shall apply only to expenditures for the repair, maintenance, rehabilitation or improvement of repair allowance property (as described in subdivision (iii) of this subparagraph). The taxpayer may apply the asset guideline class repair allowance for the taxable year only if he maintains books and records reasonably sufficient to determine:

(1) The amount of expenditures paid or incurred during the taxable year for the repair, maintenance, rehabilitation or improvement of repair allowance property in the asset guideline class, and

(2) The expenditures (and the amount thereof) with respect to such property which are for excluded additions (such as whether the expenditure is for an additional identifiable unit of property, or substantially increases the productivity or capacity of an existing identifiable unit of property or adapts it for a substantially different use).

In general, such books and records shall be sufficient to identify the amount and nature of expenditures with respect to specific items of repair allowance property or groups of similar properties in the same asset guideline class. However, in the case of such expenditures with respect to property, part of which is in one asset guideline class and part in another, or part of which is repair allowance property and part of which is not, and in comparable circumstances involving property in the same asset guideline class, to the extent books and records are not maintained identifying such expenditures with specific items of property or groups of similar properties and it is not practicable to do so, the total amount of such expenditures which is not specifically identified may be allocated by any reasonable method consistently applied. In any case, the cost of repair, maintenance, rehabilitation or improvement of property performed by produc-

tion personnel may be allocated by any reasonable method consistently applied and if performed incidental to production and not substantial in amount, no allocation to repair, maintenance, rehabilitation or improvement need be made. The types of expenditures for which specific identification would ordinarily be made include: Substantial expenditures such as for major parts or major structural materials for which a work order is or would customarily be written; expenditures for work performed by an outside contractor; or expenditures under a specific down time program. Types of expenditures for which specific identification would ordinarily be impractical include: General maintenance costs of machinery, equipment, and plant in the case of a taxpayer having assets in more than one class (or different types of assets in the same class) which are located together and generally maintained by the same work crew; small supplies which are used with respect to various classes or types of property; labor costs of personnel who work on property in different classes, or different types of property in the same class, if the work is performed on a routine, as needed, basis and the only identification of the property repaired is by the personnel. Factors which will be taken into account in determining the reasonableness of the taxpayer's allocation of expenditures include prior experience of the taxpayer; relative bases of the assets in the guideline class; types of assets involved; and relationship to specifically identified expenditures.

(b) If for the taxable year the taxpayer elects to deduct under section 263(e) expenditures with respect to repair allowance property consisting of railroad rolling stock (other than a locomotive) in a particular asset guideline class, the taxpayer may not, for such taxable year, use the asset guideline class repair allowance described in subdivision (ii) of this subparagraph for any property in such asset guideline class.

(c) (1) If the taxpayer repairs, rehabilitates or improves property for sale or resale to customers, the asset guideline class repair allowance described in subdivision (iii) of this subparagraph shall not apply to expenditures for the repair, maintenance, rehabilitation or improvement of such property, or (2) if a taxpayer follows the practice of acquiring for his own use property (in need of repair, rehabilitation or improvement to be suitable for the use intended by the taxpayer) and of making expenditures to repair, rehabilitate or improve such property in order to take advantage of this subparagraph, the asset guideline class repair allowance described in subdivision (iii) of this subparagraph shall not apply to such expenditures. In either event, such property shall not be "repair allowance property" as described in subdivision (iii) of this subparagraph.

(vi) *Definition of excluded addition.*—The term "excluded addition" means—

(a) An expenditure which substantially increases the productivity of an

existing identifiable unit of property over its productivity when first acquired by the taxpayer;

(b) An expenditure which substantially increases the capacity of an existing identifiable unit of property over its capacity when first acquired by the taxpayer;

(c) An expenditure which modifies an existing identifiable unit of property for a substantially different use;

(d) An expenditure for an identifiable unit of property if (1) such expenditure is for an additional identifiable unit of property or (2) such expenditure (other than an expenditure described in (e) of this subdivision) is for replacement of an identifiable unit of property which was retired;

(e) An expenditure for replacement of a part in or a component or portion of an existing identifiable unit of property (whether or not such part, component or portion is also an identifiable unit of property) if such part, component or portion is for replacement of a part, component or portion which was retired in a retirement upon which gain or loss is recognized (or would be recognized but for a special nonrecognition provision of the Code or § 1.1502-13).

(f) In the case of a building or other structure (in addition to (b), (c), (d), and (e) of this subdivision which also apply to such property), an expenditure for additional cubic or linear space; and

(g) In the case of those units of property of pipelines, electric utilities, telephone companies, and telegraph companies consisting of lines, cables and poles (in addition to (a) through (e) of this subdivision which also apply to such property), an expenditure for replacement of a material portion of the unit of property.

Except as provided in (d) and (e) of this subdivision, notwithstanding any other provision of this subdivision, the term "excluded addition" does not include any expenditure in connection with the repair, maintenance, rehabilitation or improvement of an identifiable unit of property which does not exceed \$100. For this purpose all related expenditures with respect to the unit of property shall be treated as a single expenditure. For the purposes of (a), and (b) of this subdivision, an increase in productivity or capacity is substantial only if the increase is more than 25 percent. An expenditure which merely extends the productive life of an identifiable unit of property is not an increase in productivity within the meaning of (a) of this subdivision. Under (g) of this subdivision a replacement is material only if the portion replaced exceeds 5 percent of the unit of property with respect to which the replacement is made. For the purposes of this subdivision, a unit of property generally consists of each operating unit (that is, each separate machine or piece of equipment) which performs a discrete function and which the taxpayer customarily acquires for original installation and retires as a unit. The taxpayer's accounting classification of units of property will gen-

erally be accepted for purposes of this subdivision provided the classifications are reasonably consistent with the preceding sentence and are consistently applied. In the case of a building the unit of property generally consists of the building as well as its structural components; except that each building service system (such as an elevator, an escalator, the electrical system, or the heating and cooling system) is an identifiable unit for the purpose of (a), (b), (c), and (d) of this subdivision. However, both in the case of machinery and equipment and in the case of a building, for the purpose of applying (d) (1) of this subdivision a unit of property may consist of a part in or a component or portion of a larger unit of property. In the case of property described in (g) of this subdivision (such as a pipeline), a unit of property generally consists of each segment which performs a discrete function either as to capacity, service, transmission or distribution between identifiable points. Thus, for example, under this subdivision in the case of a vintage account of five automobiles each automobile is an identifiable unit of property (which is not merely a part in or a component or portion of larger unit of property within the meaning of (e) of this subdivision). Accordingly, the replacement of one of the automobiles (which is retired) with another automobile is an excluded addition under (d) (2) of this subdivision. Also the purchase of a sixth automobile is an expenditure for an additional identifiable unit of property and is an excluded addition under (d) (1) of this subdivision. An automobile air conditioner is also an identifiable unit of property for the purposes of (d) (1) of this subdivision, but not for the purposes of (d) (2) of this subdivision. Accordingly, the addition of an air conditioner to an automobile is an excluded addition under (d) (1) of this subdivision, but the replacement of an existing air conditioner in an automobile is not an excluded addition under (d) (2) of this subdivision (since it is merely the replacement of a part in an existing identifiable unit of property). The replacement of the air conditioner may, however, be an excluded addition under (e) of this subdivision, if the air conditioner replaced was retired in a retirement upon which gain or loss was recognized. The principles of this subdivision may be further illustrated by the following examples in which it is assumed (unless otherwise stated) that (e) of this subdivision does not apply:

Example (1).—For the taxable year, B pays or incurs only the following expenditures: (1) \$5,000 for general maintenance of repair allowance property (as described in subdivision (iii) of this subparagraph) such as inspection, oiling, machine adjustments, cleaning, and painting; (2) \$175 for replacement of bearings and gears in an existing lathe; (3) \$125 for replacement of an electric starter (of the same capacity) and certain electrical wiring in an automatic drill press; (4) \$300 for modification of a metal fabricating machine (including replacement of certain parts) which substantially increases its capacity; (5) \$175 for repair of the same metal fabricating machine which does not substantially increase its capacity; (6) \$800 for the

replacement of an existing lathe with a new lathe; and (7) \$65 for the repair of a drill press. Expenditures (1) through (3) are expenditures for the repair, maintenance, rehabilitation or improvement of property to which B can elect to apply the asset guideline class repair allowance described in subdivision (iii) of this subparagraph. Expenditure (4) is an excluded addition under (b) of this subdivision. Expenditure (5) is not an excluded addition. Expenditure (6) is an excluded addition under (d) (2) of this subdivision. Without regard to (a), (b), and (c) of this subdivision, expenditure (7) is not an excluded addition since the expenditure does not exceed \$100.

Example (2).—Corporation M operates a steel plant which produces rolls, blooms, billets, special bar sections, reinforcing bars, and large diameter line pipe. During the taxable year, corporation M: (1) relines an open-hearth furnace; (2) places in service 20 new ingot molds; (3) replaces one reversing roll in the blooming mill; (4) overhauls the rail and billet mill with no increase in capacity; (5) replaces a roll stand in the 20-inch bar mill; and (6) overhauls the 11-inch bar mill and reducing stands increasing billet speed from 1,800 feet per minute to 2,300 feet per minute. Assume that each expenditure exceeds \$100. Expenditure (1) is not an excluded addition. Expenditure (2) is an excluded addition under (d) (1) of this subdivision. Expenditure (3) is not an excluded addition since the expenditure for the reversing roll merely replaces a part in an existing identifiable unit of property. Expenditure (4) is not an excluded addition. Expenditure (5) is an excluded addition under (d) (2) of this subdivision since the roll stand is not merely a part of an existing identifiable unit of property. Expenditure (6) is an excluded addition under (a) of this subdivision since it increases the billet speed by more than 25 percent.

Example (3).—For the taxable year, corporation X pays or incurs the following expenditures: (1) \$1,000 for two new temporary partition walls in the company's office; (2) \$1,400 for repainting the exterior of a terminal building; (3) \$300 for repair of the roof of a warehouse; (4) \$150 for replacement of two window frames and panes in the warehouse; and (5) \$100 for plumbing repair. Expenditure (1) is an excluded addition under (d) (1) of this subdivision. None of the other expenditures are excluded additions.

Example (4).—For the taxable year, corporation Y pays or incurs the following expenditures: (1) \$10,000 for expansion of a loading dock from 600 square feet to 750 square feet; (2) \$600 for replacement of two roof girders in a factory building; and (3) \$9,500 for replacement of columns and girders supporting the floor of a second story loft storage area within the factory building in order to permit storage of supplies with a gross weight 50 percent greater than the previous capacity of the loft. Expenditure (1) is an excluded addition under (f) of this subdivision. Expenditure (2) is not an excluded addition. Expenditure (3) is an excluded addition under (b) of this subdivision.

Example (5).—Corporation A has an office building with an unadjusted basis of \$10 million. The building has 10 elevators, five of which are manually operated and five of which are automatic. During 1971, corporation A:

(1) Replaces the five manually operated elevators with highspeed automatic elevators at a cost of \$400,000;

(2) Replaces the cable in one of the existing automatic elevators at a cost of \$1,700. The replacements of the elevators are excluded additions under (d) (2) of this sub-

division. The replacement of the cable is not an excluded addition.

Example (6).—Taxpayer W, a cement manufacturer, engages in the following modification and maintenance activities during the taxable year: (1) replaces eccentric-bearing, spindle, and wearing surface in a gyratory crusher; (2) places in service a new apron feeder and hammer mill; (3) replaces four buckets on a chain bucket elevator; (4) retines refractory surface in the burning zone of a rotary kiln; (5) installs additional new dust collectors; and (6) replaces two 16-inch x 90-foot bolts on his conveyer system. Assume that there is no increase in productivity or capacity and that each expenditure exceeds \$100. Expenditure (1) is not an excluded addition. Expenditure (2) is an excluded addition under (d)(1) of this subdivision. Expenditures (3) and (4) are not excluded additions. Expenditures (5) is an excluded addition under (d)(1) of this subdivision. Expenditure (6) is not an excluded addition.

Example (7).—Corporation X, a gas pipeline company, has, in addition to others, the following units of property: (1) A gathering pipeline for a field consisting of 25 gas wells; (2) the main transmission line between compressor stations (that is, in the case of a 500-mile main transmission line with a compressor station every 100 miles, each one hundred miles section between compressor stations is a separate unit of property); (3) a lateral transmission line from the main transmission line to a city border station; (4) a medium pressure distribution line to the northern portion of the city; and (5) a low pressure distribution line serving a group of approximately 200 residential customers off the medium pressure distribution line. In 1971, corporation X pays or incurs the following expenditures in connection with the repair, maintenance, rehabilitation or improvement of repair allowance property: (1) replaces a meter on a gas well; (2) in connection with the repair and rehabilitation of a unit of property consisting of a 2-mile gathering pipeline, replaces a 3,000-foot section of the gathering line; (3) in connection with the repair of leaks in a unit of property consisting of a 100-mile gas transmission line (that is, the 100 miles between compressor stations), replaces a 2,000-foot section of pipeline at one point; and (4) at another point replaces a 7-mile section of the same 100-mile gas transmission line. Assume that none of these expenditures substantially increases capacity and that each expenditure exceeds \$100. Expenditure (1) is an excluded addition under (d) of this subdivision. Expenditure (2) is an excluded addition under (g) of this subdivision since the portion replaced is more than 5 percent of the unit of property. Expenditure (3) is not an excluded addition. Expenditure (4) is an excluded addition under (g) of this subdivision.

Example (8).—Taxpayer Y, an electric utility company, has in addition to others, the following units of property: (1) a high voltage transmission circuit from the switching station (at the generating station) to the transmission station; (2) a series of 100 poles (fully dressed) supporting the circuit in (1); (3) a high voltage circuit from the transmission station to the distribution substation; (4) a high voltage distribution circuit (either radial or looped) from the distribution substation; (5) a transformer on a distribution pole; (6) a circuit breaker on a distribution pole; and (7) all 220 (and lower) volt circuit (including customer service connections) off the distribution circuit in (4). In 1971, taxpayer Y pays or incurs the following expenditures for the repair, maintenance, rehabilitation or improvement of repair allowance property: (1) replaces 25

adjacent poles in a unit of property consisting of the 300 poles supporting a radial distribution circuit from a distribution substation; (2) replaces a transformer on one of the poles in (1); (3) replaces a cross-arm on one of the poles in (1); (4) replaces a 200-foot section of a 2-mile radial distribution circuit serving 100 residential customers; and (5) replaces a 2,000-foot section on a 10-mile high voltage circuit from a transmission station to a distribution substation which was destroyed by a casualty which taxpayer Y treated as an extraordinary retirement under paragraph (d) (3) (ii) of this section. Expenditure (1) is an excluded addition under (g) of this subdivision. Expenditure (2) is an excluded addition under (d) (2) of this subdivision. Expenditures (3) and (4) are not excluded additions. Expenditure (5) is an excluded addition under (e) of this subdivision.

Example (9).—Corporation Z, a telephone company, has in addition to others, the following units of property: (1) A buried feeder cable 3 miles in length off a local switching station; (2) a buried subfeeder cable 1 mile in length off the feeder cable in (1); (3) all the distribution cable (and customer service drops) off the subfeeder cable in (2); (4) the 300 poles (fully dressed) supporting the distribution cable in (3); (5) a 10-mile local trunk cable which interconnects two local tandem switching stations; (6) a toll connecting trunk cable from a local tandem switching station to a long distance tandem switching station; (7) a toll trunk cable 50 miles in length from the access point at one city to the access point at another city. In 1971, corporation Z pays or incurs the following expenditures in connection with the repair, maintenance, rehabilitation or improvement of repair allowance property: (1) replaces 100 feet of distribution cable in a unit of property consisting of 8 miles of local distribution cable (plus customer service drops); (2) replaces an amplifier in the distribution system; and (3) replaces 10 miles of a unit of property consisting of a toll trunk cable 50 miles in length. Expenditure (1) is not an excluded addition. Expenditure (2) is an excluded addition under (d) (2) of this subdivision. Expenditure (3) is an excluded addition under (g) of this subdivision.

(vii) *Definition of property improvement.* The term "property improvement" means—

(a) If the taxpayer treats expenditures for the asset guideline class under subdivision (iv) (a) of this subparagraph, the amount of all expenditures paid or incurred during the taxable year for the repair, maintenance, rehabilitation or improvement of repair allowance property in the asset guideline class, which exceeds the asset guideline class repair allowance for the taxable year; and

(b) If the taxpayer treats expenditures for the asset guideline class under subdivision (iv) (b) of this subparagraph, the amount of each expenditure paid or incurred during the taxable year for the repair, maintenance, rehabilitation or improvement of property which is treated under sections 162, 212, and 263 as a capital expenditure.

The term "property improvement" does not include any expenditure for an excluded addition.

(viii) *Treatment of property improvements and excluded additions.* If for the taxable year there is a property improvement as described in subdivision (vii) of this subparagraph or an excluded ad-

dition as described in subdivision (vi) of this subparagraph, the following rules shall apply—

(a) The total amount of any property improvement for the asset guideline class determined under subdivision (vii) (a) of this subparagraph shall be capitalized in a single "special basis vintage account" of the taxable year in accordance with the taxpayer's election to apply this section for the taxable year (applied without regard to paragraph (b) (5) (v) (a) of this section). See subparagraph (3) (vi) of this paragraph for definition and treatment of a "special basis vintage account".

(b) Each property improvement determined under subdivision (vii) (b) of this subparagraph, if it is eligible property, shall be capitalized in a vintage account of the taxable year in accordance with the taxpayer's election to apply this section for the taxable year (applied without regard to paragraph (b) (5) (v) (a) of this section).

(c) Each excluded addition, if it is eligible property, shall be capitalized in a vintage account of the taxable year in accordance with the taxpayer's election to apply this section for the taxable year.

For rule as to date on which a property improvement or an excluded addition is first placed in service, see paragraph (e) (1) (iii) and (iv) of this section.

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

Example (1). For the taxable year 1972, B elects to apply this section. B has repair allowance property (as described in subdivision (iii) of this subparagraph) in asset guideline class 20.2 under Revenue Procedure 72-10 with an average unadjusted basis determined as provided in subdivision (ii) (a) of this subparagraph of \$100,000 and repair allowance property in asset guideline class 24.4 with an average unadjusted basis of \$300,000. The repair allowance percentage for asset guideline class 20.2 is 4.5 percent and for asset guideline class 24.4 is 6.5 percent. The two asset guideline class repair allowances for 1972 are \$4,500 and \$19,500, respectively, determined as follows:

ASSET GUIDELINE CLASS 20.2	
\$100,000 average unadjusted basis	
multiplied by 4.5 percent.....	\$4,500

ASSET GUIDELINE CLASS 24.4	
\$300,000 average unadjusted basis	
multiplied by 6.5 percent.....	\$19,500

Example (2). The facts are the same as in example (1). During the taxable year 1972, B pays or incurs the following expenditures for the repair, maintenance, rehabilitation or improvement of repair allowance property in asset guideline class 20.2.

General maintenance (including primarily labor costs).....	\$3,000
Replacement of parts in several machines (including labor costs of \$1,650).....	4,000
	7,000

In addition, in connection with the rehabilitation and improvement of two other machines B pays or incurs \$6,000 (including labor costs of \$2,000) which is treated as an excluded addition because the capacity of the machines was substantially increased.

For 1972, B elects to apply this section and to apply the asset guideline class repair allowance to asset guideline class 20.2. Since the asset guideline class repair allowance is \$4,500, B can deduct \$4,500 in accordance with subdivision (iv) (a) of this subparagraph. B must capitalize \$2,500 in a special basis vintage account in accordance with subdivisions (vii) (a) and (viii) (a) of this subparagraph. Since the excluded addition is a capital item and is eligible property, B must also capitalize \$6,000 in a vintage account in accordance with subdivision (viii) (c) of this subparagraph. B selects from the asset depreciation range an asset depreciation period of 17 years for the special basis vintage account. B includes the excluded addition in a vintage account of 1972 for which he also selects an asset depreciation period of 17 years.

(3) *Treatment of retirements*—(i) *In general.* The rules of this subparagraph specify the treatment of all retirements from vintage accounts. The rules of § 1.167(a)-8 shall not apply to any retirement from a vintage account. An asset in a vintage account is retired when such asset is permanently withdrawn from use in a trade or business or in the production of income by the taxpayer. A retirement may occur as a result of a sale or exchange, by other act of the taxpayer amounting to a permanent disposition of an asset, or by physical abandonment of an asset. A retirement may also occur by transfer of an asset to supplies or scrap.

(ii) *Definitions of ordinary and extraordinary retirements.* The term "ordinary retirement" means any retirement of section 1245 property from a vintage account which is not treated as an "extraordinary retirement" under this subparagraph. The retirement of an asset from a vintage account in a taxable year is an "extraordinary retirement" if—

(a) The asset is section 1250 property;

(b) The asset is section 1245 property which is retired as the direct result of fire, storm, shipwreck, or other casualty and the taxpayer, at his option consistently applied (taking into account type, frequency, and the size of such casualties) treats such retirements as extraordinary; or

(c) (1) The asset is section 1245 property which is retired (other than by transfer to supplies or scrap) in a taxable year as the direct result of a cessation, termination, curtailment, or disposition of a business, manufacturing, or other income producing process, operation, facility or unit, and (2) the unadjusted basis (determined without regard to subdivision (vi) of this subparagraph) of all such assets so retired in such taxable year from such account as a direct result of the event described in (c) (1) of this subdivision exceeds 20 percent of the unadjusted basis of such account immediately prior to such event.

For the purposes of (c) of this subdivision, all accounts (other than a special basis vintage account as described in subdivision (vi) of this subparagraph containing section 1245 property of the same vintage in the same asset guideline class, and from which a retirement as a

direct result of such event occurs within the taxable year, shall be treated as a single vintage account. See subdivision (xi) of this subparagraph for special rule for item accounts. The principles of this subdivision may be illustrated by the following examples:

Example (1). Taxpayer A is a processor and distributor of dairy products. Part of taxpayer A's operation is a bottle washing facility consisting of machines X, Y, and Z, each of which is in an item vintage account of 1971. Each item vintage account has an unadjusted basis of \$1,000. Taxpayer A also has a 1971 multiple asset vintage account consisting of machines E, S, and C. Machines E and S, used in processing butter, each has an unadjusted basis of \$10,000. Machine C used in capping bottles has an unadjusted basis of \$1,000. In 1975, taxpayer A changes to the use of paper milk cartons and disposes of all bottle washing machines (X, Y, and Z) as well as machine C which was used in capping bottles. The sales of machine C, X, Y, and Z are the direct result of the termination of a manufacturing process. However, since the total unadjusted basis of the eligible section 1245 property retired as a direct result of such event is only \$4,000 (which is less than 20 percent of the total unadjusted basis of machines E, S, C, X, Y, and Z, \$24,000) the sales are ordinary retirements. All the assets are in the same asset guideline class and are of the same vintage. Accordingly, machines E, S, C, X, Y, and Z are for this purpose treated as being in a single vintage account.

Example (2). The facts are the same as in example (1) except that in 1976, taxpayer A sells six of his 12 milk delivery trucks as a direct result of eliminating home deliveries to customers in the suburbs. Deliveries within the city require only six trucks. Each of the trucks has an unadjusted basis of \$3,000. Six of the taxpayer's delivery trucks are in a multiple asset vintage account of 1974 and six are in a multiple asset vintage account of 1972. Neither account contains any other property. Four trucks are retired from the 1972 vintage account and two trucks are retired from the 1974 vintage account. The sales result from the curtailment of taxpayer A's home delivery operation. The unadjusted basis of the four trucks retired from the 1972 vintage exceeds 20 percent of the total unadjusted basis of the affected account. The same is true for the two trucks retired from the 1974 vintage account. The sales of the trucks are extraordinary retirements.

(iii) *Treatment of ordinary retirements.* No loss shall be recognized upon an ordinary retirement. Gain shall be recognized only to the extent specified in this subparagraph. All proceeds from ordinary retirements shall be added to the depreciation reserve of the vintage account from which the retirement occurs. See subdivision (vi) of this subparagraph for optional allocation of basis in the case of a special basis vintage account. See subdivision (ix) of this subparagraph for recognition of gain when the depreciation reserve exceeds the unadjusted basis of the vintage account. The amount of salvage value for a vintage account shall be reduced (but not below zero) as of the beginning of the taxable year by the excess of (a) the depreciation reserve for the account, after adjustment for depreciation allowance for such taxable year and all other adjustments prescribed by this section

(other than the adjustment prescribed by subdivision (ix) of this subparagraph), over (b) the unadjusted basis of the account less the amount of salvage value for the account before such reduction. Thus, in the case of a vintage account with an unadjusted basis of \$1,000 and a salvage value of \$100, to the extent that proceeds from ordinary retirements increase the depreciation reserve above \$900, the salvage value is reduced. If the proceeds increase the depreciation reserve for the account to \$1,000, the salvage value is reduced to zero. The unadjusted basis of the asset retired in an ordinary retirement is not removed from the account and the depreciation reserve for the account is not reduced by the depreciation allowance for the retired asset. The previously unrecovered basis of the retired asset will be recovered through the allowance for depreciation with respect to the vintage account. See subdivision (v) (a) of this subparagraph for treatment of retirements on which gain or loss is not recognized in whole or in part. See subdivision (v) (b) of this subparagraph for treatment of retirements by disposition to a member of an affiliated group as defined in section 1504(a). See subdivision (v) (c) of this subparagraph for treatment of transfers between members of an affiliated group of corporations or other related parties as extraordinary retirements.

(iv) *Treatment of extraordinary retirements.* (a) Unless the transaction is governed by a special nonrecognition section of the Code such as 1031 or 337 or is one to which subdivision (v) (b) of this subparagraph applies, gain or loss shall be recognized upon an extraordinary retirement in the taxable year in which such retirement occurs subject to section 1231, section 165, and all other applicable provisions of law such as sections 1245 and 1250. If the asset which is retired in an extraordinary retirement is the only or last asset in the account, the account shall terminate and no longer be an account to which this section applies. In all other cases, the unadjusted basis of the retired asset shall be removed from the unadjusted basis of the vintage account, and the depreciation reserve established for the account shall be reduced by the depreciation allowance for the retired asset computed in the manner prescribed in paragraph (c) (1) (v) (b) of this section for determination of the adjusted basis of the asset. See subdivision (ix) of this subparagraph for recognition of gain in the case of an account containing section 1245 property when the depreciation reserve exceeds the unadjusted basis of the vintage account. See subdivision (iii) of this subparagraph for reduction of salvage value for such an account when the depreciation reserve exceeds the unadjusted basis of the account minus salvage value. See subdivision (v) (b) of this subparagraph for treatment of retirements by disposition to a member of an affiliated group as defined in section 1504(a).

(b) The principles of this subdivision may be illustrated by the following examples:

Example (1). Corporation X has a multiple asset vintage account of 1971 consisting of assets K, R, A, and P all of which are section 1245 property. The unadjusted basis of the account is \$40,000. The unadjusted basis of asset A is \$10,000. When the reserve for depreciation for the account is \$30,000, asset A is sold in an extraordinary retirement for \$8,000 in cash. The \$10,000 unadjusted basis of asset A is removed from the account and the \$5,000 depreciation allowable for asset A is removed from the reserve for depreciation. Gain in the amount of \$3,000 (to which section 1245 applies) is recognized upon the sale of asset A.

Example (2). Corporation X has an item vintage account of 1972 consisting of residential apartment unit A. Unit A is section 1250 property. It is residential rental property and meets the requirements of section 167(j)(2). Corporation X adopts the declining balance method of depreciation using a rate twice the straight line rate. The asset depreciation period is 40 years. Unit A has an unadjusted basis of \$200,000. On June 30, 1974, when the reserve for depreciation for the account is \$19,500, unit A is sold for \$220,000. Since unit A is section 1250 property, the sale is an extraordinary retirement in accordance with subdivision (ii)(a) of this subparagraph (without regard to subdivision (ii)(b) or (c) of this subparagraph). The adjusted basis of unit A is \$180,500. Gain in the amount of \$39,500 is recognized. The "additional depreciation" (as defined in section 1250(b)) for unit A is \$9,500. Accordingly, \$9,500 is in accordance with section 1250 treated as gain from the sale or exchange of an asset which is neither a capital asset nor property described in section 1231. The \$30,000 balance of the gain from the sale of unit A may be gain to which section 1231 applies.

(v) *Special rule for certain retirements.* (a) In the case of an ordinary retirement on which gain or loss is in whole or in part not recognized because of a special nonrecognition section of the Code, such as 1031 or 337, no part of the proceeds from such retirement shall be added to the depreciation reserve of the vintage account in accordance with subdivision (iii) of this subparagraph. Instead, such retirement shall for all purposes of this section be treated as an extraordinary retirement.

(b) The provisions of § 1.1502-13 shall apply to a retirement which results in "deferred gain or loss" within the meaning of paragraph (c) of § 1.1502-13. In the case of an ordinary retirement to which the provisions of § 1.1502-13 apply, no part of the proceeds from such retirement shall be added to the depreciation reserve of the vintage account in accordance with subdivision (iii) of this subparagraph. Instead, such retirement shall for all purposes of this section be treated as an extraordinary retirement.

(c) In a case in which property is transferred, in a transaction which would without regard to this subdivision be treated as an ordinary retirement, during the taxable year in which first placed in service to a person who bears a relationship described in section 179 (d)(2)(A) or (B), such transfer shall for all purposes of this section be treated as an extraordinary retirement.

(d) (1) If, in the case of mass assets, it is impracticable for the taxpayer to maintain records from which he can establish the vintage of such assets as re-

tirements occur, and if he adopts other reasonable recordkeeping practices, then the vintage of mass asset retirements may be determined by use of an appropriate mortality dispersion table. Such a mortality dispersion table may be based upon an acceptable sampling of the taxpayer's actual experience or other acceptable statistical or engineering techniques. Alternatively, the taxpayer may use a standard mortality dispersion table prescribed by the Commissioner for this purpose. If the taxpayer uses such standard mortality dispersion table for any taxable year of election, it must be used for all subsequent taxable years of election unless the taxpayer obtains the consent of the Commissioner to change to another dispersion table or to actual identification of retirements. For information requirements regarding mass assets, see paragraph (f)(5) of this section.

(2) For purposes of this section, the term "mass assets" has the same meaning as when used in paragraph (e)(4) of § 1.47-1.

(e) The principles of this subdivision may be illustrated by the following examples:

Example (1). Corporation X has a vintage account of 1971 consisting of machines A, B, and C, each with an unadjusted basis of \$1,000. The unadjusted basis of the account is \$3,000 and at the end of 1977 the reserve for depreciation is \$2,100. On January 1, 1978, machine A is transferred to corporation Y solely for stock in the amount of \$1,400 in a transaction to which section 351 applies. Since the adjusted basis of machine A is \$300, a gain of \$1,100 is realized, but no gain is recognized under section 351. Even though machine A was transferred in an ordinary retirement in accordance with (a) of this subdivision the rules for an extraordinary retirement are applied. The proceeds are not added to the reserve for depreciation for the account. Machine A is removed from the account, the unadjusted basis of the account is reduced by \$1,000, and the reserve for depreciation for the account is reduced by \$700.

Example (2). The facts are the same as in example (1) except that the consideration received for machine A is stock of corporation Y in the amount of \$1,200 and cash in the amount of \$200. The result is the same as in example (1) except that gain is recognized in the amount of \$200 all of which is gain to which section 1245 applies.

Example (3). The facts are the same as in example (1) except that machine A is sold for \$1,400 cash in an ordinary retirement and corporation X and corporation Y are includible corporations in an affiliated group as defined in section 1504(a) which files a consolidated return for 1978. The affiliated group has not elected under paragraph (c)(3) of § 1.1502-13 not to defer gain or loss. Accordingly, (b) of this subdivision applies. The retirement is treated as an extraordinary retirement. Machine A is removed from the account, the unadjusted basis of the account is reduced by \$1,000, and the reserve for depreciation for the account is reduced by \$700. The gain of \$1,100 is deferred gain to which § 1.1502-13 applies.

(vi) *Treatment of special basis vintage accounts.* A "special basis vintage account" is a vintage account for an amount of property improvement determined under subparagraph (2)(vii)(a) of this paragraph. In general, reference in this section to a "vintage account" shall include a special basis vintage ac-

count. The unadjusted basis of a special basis vintage account shall be recovered through the allowance for depreciation in accordance with this section over the asset depreciation period for the account. Except as provided in this subdivision, the unadjusted basis, adjusted basis and reserve for depreciation of such account shall not be allocated to any specific asset in the asset guideline class, and the provisions of this subparagraph shall not apply to such account. However, in the event of a sale, exchange or other disposition of "repair allowance property" (as described in subparagraph (2)(iii) of this paragraph) in an extraordinary retirement as described in subdivision (ii) of this subparagraph (or if the asset is not in a vintage account, in an abnormal retirement as described in § 1.167(a)-8), the taxpayer may, if consistently applied to all such retirements in the taxable year and adequately identified in the taxpayer's books and records, elect to allocate the adjusted basis (as of the end of the taxable year) of all special basis vintage accounts for the asset guideline class to each such retired asset in the proportion that the adjusted basis of the retired asset (as of the beginning of the taxable year) bears to the adjusted basis of all repair allowance property in the asset guideline class at the beginning of the taxable year. The election to allocate basis in accordance with this subdivision shall be made on the tax return filed for the taxable year. The principles of this subdivision may be illustrated by the following example:

Example. In addition to other property, the taxpayer has machines A, B, and C all in the same asset guideline class and each with an adjusted basis on January 1, 1977, of \$10,000. The adjusted basis on January 1, 1977, of all repair allowance property (as described in subparagraph (2)(iii) of this paragraph) in the asset guideline class is \$90,000. The machines are sold in an extraordinary retirement in 1977. The taxpayer is entitled to and does elect to allocate basis in accordance with this subdivision. There is also a 1972 special basis vintage account for the asset guideline class, as follows:

	Unad-justed basis	Reserve for de-preciation	Dec. 31, 1977, ad-justed basis
1972 special basis vintage account, for which the taxpayer selected an asset depreciation period of 10 years, adopted the straight line method, and used the half-year convention.....	\$2,000	\$1,100	\$900

By application of this subdivision, the adjusted basis of machines A, B, and C is increased to \$10,100 each (that is, \$10,000 \times \$900 = \$100). The unadjusted basis, \$90,000 reserve for depreciation and adjusted basis of the special basis vintage account are reduced, respectively, by one-third (that is, \$300 = $\frac{1}{3}$) in order to reflect the allocation of \$900 basis from the special basis vintage account.

(vii) *Reduction in the salvage value of a vintage account.* (a) A taxpayer may apply this section without reducing the

salvage value for a vintage account in accordance with this subdivision or in accordance with subdivision (viii) of this subparagraph (relating to transfers to supplies or scrap). See subdivision (iii) of this subparagraph for reduction of salvage value in certain circumstances in the amount of proceeds from ordinary retirements.

(b) However, the taxpayer may, at his option, follow the consistent practice of reducing, as retirements occur, the salvage value for a vintage account by the amount of salvage value attributable to the retired asset, or the taxpayer may consistently follow the practice of so reducing the salvage value for a vintage account as extraordinary retirements occur while not reducing the salvage value for the account as ordinary retirements occur. If the taxpayer does not reduce the salvage value for a vintage account as ordinary retirements occur, the taxpayer may be entitled to a deduction in the taxable year in which the last asset is retired from the account in accordance with subdivision (ix) (b) of this subparagraph.

(c) For purposes of this subdivision, the portion of the salvage value for a vintage account attributable to a retired asset may be determined by multiplying the salvage value for the account by a fraction, the numerator of which is the unadjusted basis of the retired asset and the denominator of which is the unadjusted basis of the account, or any other method consistently applied which reasonably reflects that portion of the salvage value for the account originally attributable to the retired asset.

(d) In the case of ordinary retirements the taxpayer may—

(1) In the case of retirements (other than by transfer to supplies or scrap) follow the consistent practice of reducing the salvage value for the account by the amount of salvage value attributable to the retired asset and not adding the same amount to the depreciation reserve for the account, and

(2) In the case of retirements by transfer to supplies or scrap, follow the consistent practice of reducing the salvage value for the account by the amount of salvage value attributable to the retired asset and not adding the same amount to the depreciation reserve for the account (in which case the basis in the supplies or scrap account of the retired asset will be zero) or follow the consistent practice of reducing the salvage value for the account by the amount of salvage value attributable to the retired asset and adding the same amount to the depreciation reserve for the account (up to an amount which does not increase the depreciation reserve to an amount in excess of the unadjusted basis of the account) in which case the basis in the supplies or scrap account of the retired asset will be the amount added to the depreciation reserve for the account.

Thus, for example, in the case of an ordinary retirement by transfer of an asset to supplies or scrap, the basis of the asset in the supplies or scrap account would

either be zero or the amount added to the depreciation reserve of the vintage account from which the retirement occurred. When the depreciation reserve for the account equals the unadjusted basis of the account no further adjustment to salvage value for the account will be made. See subdivision (viii) of this subparagraph for special optional rule for reduction of salvage value in the case of an ordinary retirement by transfer of an asset to supplies or scrap.

(e) In the event of a removal of property from a vintage account in accordance with paragraph (b) (4) (iii) (e), (5) (v) (b) or (6) (iii) of this section the salvage value for the account may be reduced by the amount of salvage value attributable to the asset removed determined as provided in (c) of this subdivision.

(viii) *Special optional adjustments for transfers to supplies or scrap.* If the taxpayer does not follow the consistent practice of reducing, as ordinary retirements occur, the salvage value for a vintage account in accordance with subdivision (vii) of this subparagraph, the taxpayer may (in lieu of the method described in subdivision (vii) (c) and (d) of this subparagraph) follow the consistent practice of reducing salvage value as ordinary retirements occur by transfer of assets to supplies or scrap and of determining the basis (in the supplies or scrap account) as assets retired in an ordinary retirement by transfer to supplies or scrap, in the following manner—

(a) The taxpayer may determine the value of the asset (not to exceed its unadjusted basis) by any reasonable method consistently applied (such as average cost, conditioned cost, or fair market value) if such method is adequately identified in the taxpayer's books and records.

(b) The value attributable to the asset determined in accordance with (a) of this subdivision shall be subtracted from the salvage value for the account (to the extent thereof) and the greater of (1) the amount subtracted from the salvage value for the vintage account and (2) the value of the asset determined in accordance with (a) of this subdivision, shall be added to the reserve for depreciation of the vintage account.

(c) The amount added to the reserve for depreciation of the vintage account in accordance with (b) of this subdivision shall be treated as the basis of the retired asset in the supplies or scrap account.

If the taxpayer makes the adjustments in accordance with this subdivision, the reserve for depreciation of the vintage account may exceed the unadjusted basis of the account, and in that event gain will be recognized in accordance with subdivision (ix) of this subparagraph.

(ix) *Recognition of gain or loss in certain situations.* (a) In the case of a vintage account for section 1245 property, if at the end of any taxable year after adjustment for depreciation allowable for such taxable year and all other adjustments prescribed by this section, the depreciation reserve established for such

account exceeds the unadjusted basis of the account, the entire amount of such excess shall be recognized as gain in such taxable year. Such gain—

(1) Shall constitute gain to which section 1245 applies to the extent that it does not exceed the total amount of depreciation allowances in the depreciation reserve at the end of such taxable year, reduced by gain recognized pursuant to this subdivision with respect to the account previously treated as gain to which section 1245 applies, and

(2) May constitute gain to which section 1231 applies to the extent that it exceeds such total amount as so reduced.

In such event, the depreciation reserve shall be reduced by the amount of gain recognized, so that after such reduction the amount of the depreciation reserve is equal to the unadjusted basis of the account.

(b) In the case of an account for section 1245 property, if at the time the last asset in the vintage account is retired the unadjusted basis of the account exceeds the depreciation reserve for the account (after all adjustments prescribed by this section), the entire amount of such excess shall be recognized in such taxable year as a loss under section 165 or as a deduction for depreciation under section 167. If the retirement of such asset occurs by sale or exchange on which gain or loss is recognized, the amount of such excess may constitute a loss subject to section 1231. Upon retirement of the last asset in a vintage account, the account shall terminate and no longer be an account to which this section applies. See subdivision (xi) of this subparagraph for treatment of certain multiple asset and item accounts.

(c) The principles of this subdivision may be illustrated by the following example:

Example. The taxpayer has a vintage account for section 1245 property with an unadjusted basis of \$1,000 and a depreciation reserve of \$700 (of which \$600 represents depreciation allowances and \$100 represents the proceeds of ordinary retirements from the account). If \$500 is realized during the taxable year from ordinary retirements of assets from the account, the reserve is increased to \$1,200, gain is recognized to the extent of \$200 (the amount by which the depreciation reserve before further adjustment exceeds \$1,000) and the depreciation reserve is then decreased to \$1,000. The \$200 of gain constitutes gain to which section 1245 applies. If the amount realized from ordinary retirements during the year had been \$1,100 instead of \$500, the gain of \$800 would have consisted of \$600 of gain to which section 1245 applies and \$200 of gain to which section 1231 may apply.

(x) *Dismantling cost.* The cost of dismantling, demolishing, or removing an asset in the process of a retirement from the vintage account shall be treated as an expense deductible in the year paid or incurred, and such cost shall not be subtracted from the depreciation reserve for the account.

(xi) *Special rule for treatment of multiple asset and item accounts.* For the purposes of subdivision (ix) (b) of this subparagraph, all accounts (other

than a special basis vintage account as described in subdivision (vi) of this subparagraph) of the same vintage in the same asset guideline class for which the taxpayer has selected the same asset depreciation period and adopted the same method of depreciation, and which contain only section 1245 property permitted by paragraph (b) (3) (ii) of this section to be included in the same vintage account, shall be treated as a single multiple asset vintage account.

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

Example (1). (a) Taxpayer A has a multiple asset vintage account for section 1245 property with an unadjusted basis of \$1,000. All the assets were first placed in service by A on January 15, 1971. This account contains all of A's assets in a single asset guideline class. A elects to apply this section for 1971 and adopts the modified half-year convention. A estimates a salvage value for the account of \$100 and this estimate is determined to be reasonable. (See subparagraph (1) (v) of this paragraph for limitation on adjustment of reasonable salvage value.) A adopts the straight line method of depreciation with respect to the account and selects a 10-year asset depreciation period. A does not follow a practice of reducing the salvage value for the account in the amount of salvage value attributable to each retired asset in accordance with subparagraph (3) (vii) of this paragraph. The depreciation allowance for each of the first 4 years is \$100, that is $\frac{1}{10}$ multiplied by the unadjusted basis of \$1,000, without reduction for salvage.

(b) In the fifth year of the asset depreciation period, three assets are sold in an ordinary retirement for \$300. Under paragraph (c) (1) (ii) of this section and subparagraph (3) (iii) of this paragraph, the proceeds of the retirement are added to the depreciation reserve as of the beginning of the fifth year. Accordingly, the reserve as of the beginning of the fifth year is \$700, that is, \$400 of depreciation as of the beginning of the year plus \$300 proceeds from ordinary retirements. The depreciation allowance for the fifth year is \$100, that is $\frac{1}{10}$ multiplied by the unadjusted basis of \$1,000, without reduction for salvage. Accordingly, the depreciation reserve at the end of the fifth year is \$800.

(c) In the sixth year, asset X is sold in an extraordinary retirement for \$30 and gain or loss is recognized. Under the first-year convention used by the taxpayer, the unadjusted basis of X, \$300, is removed from the unadjusted basis of the vintage account as of the beginning of the sixth year and the depreciation reserve as of the beginning of such year is reduced to \$650 by removing the depreciation applicable to asset X, \$150 (see subparagraph (3) (iv) of this paragraph). Since the depreciation reserve (\$650) exceeds the unadjusted basis of the account (\$700) minus salvage value (\$100) by \$50, under subparagraph (3) (iii) of this paragraph, salvage value is reduced by \$50. No depreciation is allowable for the sixth year.

(d) In the seventh year, an asset is sold in an ordinary retirement for \$110. This would increase the reserve as of the beginning of the seventh year to \$760 and under subparagraph (3) (iii) of this paragraph the salvage value is reduced to zero. Under subparagraph (3) (ix) (a) of this paragraph the depreciation reserve is then decreased to \$700 (the unadjusted basis of the account) and \$60 is reported as gain, without regard to the adjusted basis of the asset. No depreciation is allowable for the seventh year since the depreciation reserve (\$700) equals the unadjusted basis of the account (\$700).

(e) (1) In the eighth year, A elects to apply this section and to treat expenditures during the year for repair, maintenance, rehabilitation or improvement under subparagraph (2) (iii) and (iv) (a) of this paragraph (the "guideline class repair allowance"). This results in the treatment of \$300 as a property improvement for the asset guideline class. (See subparagraph (2) (vii) of this paragraph for definition of a property improvement.) The property improvement is capitalized in a special basis vintage account of the eighth taxable year (see subparagraph (2) (viii) (a) of this paragraph). A selects an asset depreciation period of 10 years and adopts the straight line method for the special basis vintage account. A adopts the modified half-year convention for the eighth year.

(2) In the eighth year, A sells asset Y in an ordinary retirement for \$175. Under paragraph (c) (1) (ii) of this section and subparagraph (3) (iii) of this paragraph, \$175 is added to the depreciation reserve for the account as of the beginning of the taxable year. Since the depreciation reserve for the account (\$875) exceeds the unadjusted basis of the account (\$700) by \$175, that amount of gain is recognized under subparagraph (3) (ix) of this paragraph. Upon recognition of gain in the amount of \$175, the depreciation reserve for the account is reduced to \$700.

(3) No depreciation is allowable in the eighth year for the vintage account since the depreciation reserve (\$700) equals the unadjusted basis of the account (\$700). The depreciation allowable in the eighth year for the special basis vintage account is \$15, that is, unadjusted basis of \$300, multiplied by $\frac{1}{10}$, the asset depreciation period selected for the special basis vintage account, but limited to \$15 under the modified half-year convention. (See paragraph (e) (1) (iv) of this section for treatment of \$150 of the property improvement as first placed in service in the first half of the taxable year and \$150 of the property improvement as first placed in service in the last half of the taxable year.)

Example (2). Taxpayer B has a 1971 multiple asset vintage account for section 1245 property with an unadjusted basis of \$100,000. B selects from the asset depreciation range an asset depreciation period of 10 years and adopts the straight line method of depreciation and the modified half-year convention. B establishes a salvage value for the account of \$10,000. All the assets in the account are first placed in service on January 15, 1971. B follows the practice of reducing salvage value for the account as ordinary retirements occur in accordance with subparagraph (3) (vii) of this paragraph, but does not follow the optional practice of determining the basis of assets transferred to supplies or scrap in accordance with subparagraph (3) (viii) of this paragraph. No retirements occur during the first five years. The depreciation reserve at the beginning of the sixth year is \$50,000. In the sixth year an asset with an unadjusted basis of \$20,000 is transferred to supplies in an ordinary retirement. By application of subparagraph (3) (vii) (c) and (d) (2) of this paragraph B determines the reduction in salvage value for the account attributable to such asset to be

$$\frac{\$20,000}{\$100,000} \times \$10,000 = \$2,000.$$

B reduces the salvage value for the account by \$2,000 and adds \$2,000 to the depreciation reserve for the account. The basis of the retired asset in the supplies account is \$2,000. The depreciation allowable for the account for the sixth year is \$10,000. The depreciation reserve for the account at the beginning of the seventh year is \$62,000.

At the mid-point of the seventh year all the remaining assets in the account are sold in an ordinary retirement for \$20,000, which is added to the depreciation reserve as of the beginning of the seventh year, thus increasing the reserve to \$82,000. The \$5,000 depreciation allowable for the account for the seventh year (one-half of a full-year's depreciation of \$10,000) increases the depreciation reserve to \$87,000. Under subparagraph (3) (ix) (b) of this paragraph, a loss of \$13,000 subject to section 1231 is realized in the seventh year (that is, the excess of the unadjusted basis of \$100,000 over the depreciation reserve of \$87,000). No depreciation is allowable for the account after the mid-point of the seventh year since all the assets are retired and the account has terminated.

(e) *Accounting for eligible property—*
(1) *Definition of first placed in service—*

(i) *In general.* The term "first placed in service" refers to the time the property is first placed in service by the taxpayer, not to the first time the property is placed in service. Property is first placed in service when first placed in a condition or state of readiness and availability for a specifically assigned function, whether in a trade or business, in the production of income, in a tax-exempt activity, or in a personal activity. In general, the provisions of paragraph (d) (1) (ii) and (d) (2) of § 1.46-3 shall apply for the purpose of determining the date on which property is placed in service, but see subdivision (ii) of this subparagraph for special rule for certain replacement parts. In the case of a building which is intended to house machinery and equipment and which is constructed, reconstructed, or erected by or for the taxpayer and for the taxpayer's use, the building will ordinarily be placed in service on the date such construction, reconstruction, or erection is substantially complete and the building is in a condition or state of readiness and availability. Thus, for example, in the case of a factory building, such readiness and availability shall be determined without regard to whether the machinery or equipment which the building houses, or is intended to house, has been placed in service. However, in an appropriate case, as for example where the building is essentially an item of machinery or equipment, or the use of the building is so closely related to the use of the machinery or equipment that it clearly can be expected to be replaced or retired when the property it initially houses is replaced or retired, the determination of readiness or availability of the building shall be made by taking into account the readiness and availability of such machinery or equipment. The date on which depreciation begins under a convention used by the taxpayer or under a particular method of depreciation, such as the unit of production method or the retirement method, shall not determine the date on which the property is first placed in service. See paragraph (c) (2) of this section for application of a first-year convention to determine the allowance for depreciation of property in a vintage account.

(ii) *Certain replacement parts.* Property (such as replacement parts) the cost or other basis of which is deducted as a repair expense in accordance with the asset guideline repair allowance described in paragraph (d) (2) (iii) of this section shall not be treated as placed in service.

(iii) *Property improvements and excluded additions.* (a) Except as provided in (b) of this subdivision, a property improvement determined under paragraph (d) (2) (vii) (b) of this section, and an excluded addition (other than an excluded addition referred to in the succeeding sentence) is first placed in service when its cost is paid or incurred. The general rule in subdivision (i) of this subparagraph applies to an excluded addition described in paragraph (d) (2) (vi) (d), (e), (f), or (g) of this section.

(b) If a property improvement or an excluded addition to which the first sentence of (a) of this subdivision applies is paid or incurred in part in one taxable year and in part in the succeeding taxable year (or in part in the first half of a taxable year and in part in the last half of the taxable year) the taxpayer may at his option consistently treat such property improvements and excluded additions under the general rule in subdivision (i) of this subparagraph.

(iv) *Certain property improvements.* In the case of an amount of property improvement determined under paragraph (d) (2) (vii) (a) of this section, one-half of such amount is first placed in service in the first half of the taxable year in which the cost is paid or incurred and one-half is first placed in service in the last half of such taxable year.

(v) *Special rules for clearing accounts.* In the case of public utilities which consistently account for certain property through "clearing accounts," the date on which such property is first placed in service shall be determined in accordance with rules to be prescribed by the Commissioner.

(2) *Special rules for transferred property.* If eligible property is first placed in service by the taxpayer during a taxable year of election, and the property is disposed of before the end of the taxable year, the election for such taxable year shall include such property unless such property is excluded in accordance with paragraph (b) (5) (iii), (iv), (v), (vi), or (vii) of this section.

(3) *Special rules in the case of certain transfers—(i) Transaction to which section 381(a) applies.* (a) In general the acquiring corporation in a transaction to which section 381(a) applies is for the purposes of this section treated as if it were the distributor or transferor corporation.

(b) If the distributor or transferor corporation (including any distributor or transferor corporation of any distributor or transferor corporation) has made an election to apply this section to eligible property transferred in a transaction to which section 381(a) applies, the acquiring corporation must segregate such eligible property (to which the distributor or transferor corporation elected to apply

this section) into vintage accounts as nearly coextensive as possible with the vintage accounts created by the distributor or transferor corporation identified by reference to the year the property was first placed in service by the distributor or transferor corporation. The asset depreciation period for the vintage account in the hands of the distributor or transferor corporation must be used by the acquiring corporation. The method of depreciation adopted by the distributor or transferor corporation, shall be used by the acquiring corporation unless such corporation obtains the consent of the Commissioner to use another method of depreciation in accordance with paragraph (e) of § 1.446-1 or changes the method of depreciation under paragraph (c) (1) (iii) of this section.

(c) The acquiring corporation may apply this section to the property so acquired only if the distributor or transferor corporation elected to apply this section to such property.

(d) See paragraph (b) (7) of this section for special rule for certain property where there is a mere change in the form of conducting a trade or business.

(ii) *Partnerships, trusts, estates, donees, and corporations.* Except as provided in subdivision (i) of this subparagraph with respect to transactions to which section 381(a) applies and subdivision (iv) of this subparagraph with respect to certain transfers between members of an affiliated group of corporations or other related parties, if eligible property is placed in service by an individual, trust, estate, partnership or corporation, the election to apply this section shall be made by the individual, trust, estate, partnership or corporation placing such property in service. For example, if a partnership places in service property contributed to the partnership by a partner, the partnership may elect to apply this section to such property. If the partnership does not make the election, this section will not apply to such property. See paragraph (b) (7) of this section for special rule for certain property where there is mere change in the form of conducting a trade or business.

(iii) *Leased property.* The asset depreciation range and the asset depreciation period for eligible property subject to a lease shall be determined without regard to the period for which such property is leased, including any extensions or renewals of such period. See paragraph (b) (5) (v) of this section for exclusion of property amortized under paragraph (b) of § 1.162-11 from an election to apply this section. In the case of a lessor of property, unless there is an asset guideline class in effect for lessors of such property, the asset guideline class for such property shall be determined as if the property were owned by the lessee. However, in the case of an asset guideline class based upon the type of property (such as trucks or railroad cars) as distinguished from the activity in which used, the property shall be classified without regard to the activity of the lessee. Notwithstanding the preceding sentence, if a lease with respect to prop-

erty, which would be includible in an asset guideline class based upon the type of property under the preceding sentence (such as trucks or railroad cars), is entered into after March 12, 1971, and before April 23, 1973, or a written contract to execute such a lease is entered into during such period and such contract is binding on April 23, 1973, and at all times thereafter, and if the rent or rate of return is based on a classification of such property as if it were owned by the lessee, then such property shall be classified as if it were owned by the lessee. However, the preceding sentence shall not apply if pursuant to the terms or conditions of the lease or binding contract the rent or rate of return may be adjusted to take account of a change in the period for depreciation with respect to the property resulting from inclusion of the property in an asset guideline class based upon the type of property rather than in an asset guideline class based upon the activity of the lessee. Similarly, where the terms of such a lease or contract provide that the obligation of the taxpayer to enter into the lease is subject to a condition that the property be included in an asset guideline class based upon the activity of the lessee, the contract or lease will not be considered as binding upon the taxpayer, for purposes of this subdivision. See paragraph (b) (4) (iii) (b) of this section for general rule for classification of property according to primary use.

(iv) *Treatment of certain transfers between members of affiliated groups or other related persons.*—If section 38 property in an asset guideline class (determined without regard to whether the taxpayer elects to apply this section) is transferred by the taxpayer to a person who bears a relationship described in section 179(d) (2) (A) or (B), such property is in the same asset guideline class in the hands of transferee, and the transfer is neither described in section 381(a) nor treated as a disposition or cessation within the meaning of section 47, then the asset guideline period for such property selected by the taxpayer under this section shall not be shorter than the period used for computing the qualified investment with respect to the property under section 46(c). In a case in which the asset depreciation range for the asset guideline class which includes such property does not include the period for depreciation used by the transferor in computing the qualified investment with respect to such property, the transferee will not be permitted to include such property in an election under this section. However, in such a case, the transferor of the property may recompute the qualified investment for the year the property was placed in service using a period for depreciation which falls within the asset depreciation range.

(f) *Election with respect to eligible property—(1) Time and manner of election—(i) In general.* An election to apply this section to eligible property shall be made with the income tax return filed for the taxable year in which the property is first placed in service (see paragraph (e)

(1) of this section) by the taxpayer. In the case of an affiliated group of corporations (as defined in section 1504(a) which makes a consolidated return with respect to income tax in accordance with section 1502 and the regulations thereunder, each corporation which joins in the making of such return may elect to apply this section for a taxable year. An election to compute the allowance for depreciation under this section is a method of accounting but the consent of the Commissioner will be deemed granted to make an annual election. For election by a partnership see section 703 (b) and paragraph (e) (3) (ii) of this section. If the taxpayer does not file a timely return (taking into account extensions of the time for filing) for the taxable year in which the property is first placed in service, the election shall be filed at the time the taxpayer files his first return for that year. The election may be made with an amended return only if such amended return is filed no later than the later of (a) the time prescribed by law (including extensions thereof) for filing the return for the taxable year of election, or (b) September 23, 1973. If an election is not made within the time and in the manner prescribed in this paragraph, no election may be made for such taxable year (by the filing of an amended return or in any other manner) with respect to any eligible property placed in service in the taxable year.

(ii) *Other elections under this section.* All other elections under this section may be made only within the time and in the manner prescribed by subdivision (i) of this subparagraph with respect to an election to apply this section.

(iii) *Election for taxable years beginning before January 1, 1973.*—With respect to a taxable year beginning before January 1, 1973, a taxpayer will be permitted to make, amend, or revoke an election within 150 days after the later of:

(a) The time the taxpayer files his first return for such year.

(b) April 23, 1973.

(c) The time prescribed by law (including extensions thereof) for filing the income tax return for such year.

An election filed before such date will be regarded as a valid election if it conforms to the provisions of this section and is not amended or revoked by the taxpayer. An election which does not conform to the provisions of this section must be amended by the taxpayer to so conform or the tax liability for such taxable year shall be computed without regard to this section. (See § 12.4 of the temporary regulations prescribed by T.D. 7159 approved January 27, 1972.)

(2) *Information required.* The election under this section must specify:

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

(ii) The asset guideline class for each vintage account of the taxable year;

(iii) The asset depreciation period selected by the taxpayer for each vintage account;

(iv) The first-year convention adopted by the taxpayer for the taxable year of election and (if the taxpayer applies the modified half-year convention), the total cost or other basis of all eligible property first placed in service in the first half of the taxable year and the total cost or other basis of all eligible property first placed in service in the last half of the taxable year;

(v) The unadjusted basis and salvage value for each vintage account, and the amount, if any, by which gross salvage value was decreased under section 167(f).

(vi) Whether the special 10 percent used property rule described in paragraph (b) (5) (iii) of this section has been applied to exclude used property from the election;

(vii) Each asset guideline class for which the taxpayer elects to apply the asset guideline class repair allowance described in paragraph (d) (2) (iii) of this section, the amount of property improvement for each such class determined under paragraph (d) (2) (vii) (a) of this section, and whether or not the taxpayer elects for the taxable year to allocate the unadjusted basis of a special basis vintage account for the taxable year in accordance with paragraph (d) (3) (vi) of this section;

(viii) Whether any eligible property for which the taxpayer was not required or permitted to make an election because of the special rules of paragraph (b) (5) (v), (vi), or (vii) or (6), or paragraph (e) (3) (i) or (iv) of this section;

(ix) Whether any "section 38 property" excluded under paragraph (b) (5) (iv) of this section from the election to apply this section; and

(x) Such other information as may reasonably be required. (See paragraph (b) (4) (iii) (a) of this section for special election by certain public utilities.)

The information required under this subparagraph may be provided in accordance with rules prescribed by the Commissioner for reasonable grouping of assets or accounts. Records providing a reasonable description of the property excluded from an election and showing the basis for the exclusion shall be maintained by the taxpayer for purposes of subdivisions (viii) and (ix) of this subparagraph. Form 4832 is provided for making an election and for submission of the information required. An election may be made and the information submitted only in accordance with form 4832. An election to apply this section will not otherwise be rendered invalid under this subparagraph so long as there is substantial compliance, in good faith, with the requirements of this subparagraph.

(3) *Irrevocable election.* An election to apply this section to eligible property for any taxable year may not be revoked or changed after the time for filing the election prescribed under subparagraph (1) of this paragraph has expired. No other election under this section may be revoked or changed after such time unless expressly provided for under this section. (See paragraph (b) (5) (v) (b) of this section for special rule.)

(4) *Special condition to election to apply this section.*—(i) *In general.* The taxpayer may not elect to apply this section for a taxable year unless he maintains the books and records required under this section and files, within the time prescribed in subparagraph (1) (i) of this paragraph for an election to apply this section, the information required by subdivision (ii) of this subparagraph, in the form and manner prescribed by the Commissioner.

(ii) *Special information required.* The taxpayer shall file the following information with respect to each asset guideline class for the taxable year for which the taxpayer elects to apply this section—

(a) The total unadjusted basis of all assets retired during the taxable year from each asset guideline class, and the proceeds realized during the taxable year from such retirements;

(b) The vintage (that is, the taxable year in which established) of the assets retired during the year;

(c) Such reasonable information with respect to expenditures for the repair, maintenance, rehabilitation or improvement of assets as shall be prescribed by the Commissioner; and

(d) Such other information required by subparagraph (2) of this paragraph as may be prescribed by the Commissioner.

For purposes of (a) and (b) of this subdivision all accounts of the same vintage and asset guideline class may be treated as a single account. A retirement of an asset by transfer to a supplies account for reuse shall not be included in the information required by this subparagraph. Form 4832 will be provided for submission of the information required. The information may be submitted only in accordance with such form 4832. An election to apply this section will not otherwise be rendered invalid under this subparagraph so long as there is substantial compliance, in good faith, with the requirements of this subparagraph.

(5) *Mass assets.*—In the case of mass assets, if the taxpayer assigns retirements to vintage accounts in the manner provided in paragraph (d) (3) (v) (c) of this section, the following information must be supplied with form 4832:

(i) Whether the taxpayer used the standard mortality dispersion curve or a curve based upon his own experience, and

(ii) Such other reasonable information as may be required by the Commissioner.

(g) *Relationship to other provisions.*—

(1) *Useful life.*—(i) *In general.* Except as provided in subdivision (ii) of this subparagraph, an election to apply this section to eligible property constitutes an agreement under section 167(d) and this section to treat the asset depreciation period for each vintage account as the useful life of the property in such account for all purposes of the Code, including sections 46, 47, 48, 57, 163(d), 167(c), 167(f) (2), 179, 312(m), 514(a), and 4940(c). For example, since section 167(c) requires a useful life of at least 3 years and the asset

depreciation period selected is treated as the useful life for purposes of section 167(c), the taxpayer may adopt a method of depreciation described in section 167(b) (2) or (3) for an account only if the asset depreciation period selected for the account is at least 3 years.

(ii) *Special rules.* (a) For the purposes of paragraph (d) of this section, the anticipated period of use (estimated at the close of the taxable year in which the asset is first placed in service) on the basis of which salvage value is estimated, shall be determined without regard to the asset depreciation period for the property.

(b) For the purposes of sections 162 and 263 and the regulations thereunder, whether an expenditure prolongs the life of an asset shall be determined on the basis of the anticipated period of use of the asset (estimated at the close of the taxable year in which the asset is first placed in service) without regard to the asset depreciation period for such asset.

(c) The determination whether a transaction with respect to qualified property constitutes a sale or a lease of such property shall be made without regard to the asset depreciation period for the property.

(d) The principles of this subdivision may be illustrated by the following example:

Example. Corporation X has assets in asset guideline class 323 which are used in the manufacture of stone and clay products. The asset depreciation range for assets in asset guideline class 323 is from 12 to 18 years. Assume that corporation X selects 14 years as the asset depreciation period for all assets in asset guideline class 323. Under paragraph (d) (1) (i) of this section, corporation X must estimate salvage value on the basis of the anticipated period of use of the property (determined as of the close of the taxable year in which the property is first placed in service). The anticipated period of use must also be used for purposes of sections 162 and 263 in determining whether an expenditure materially prolongs the useful life of an asset. The anticipated period of use of an asset is determined without regard to the asset depreciation period of 14 years. Corporation X has, among other assets in the asset guideline class, machines A, B, and C. Corporation X estimates the anticipated period of use of machines A, B, and C as 8 years, 14 years, and 22 years, respectively. These estimates are reasonable and will be used for estimating salvage value and for purposes of sections 162 and 263.

(2) *Section 167(d) agreements.* If the taxpayer has, prior to January 1, 1971, entered into a section 167(d) agreement which applies to any eligible property, the taxpayer will be permitted to withdraw the eligible property from the agreement provided that an election is made to apply this section to such property. The statement of intent to withdraw eligible property from such an agreement must be made in an election filed for the taxable year in which the property is first placed in service. The withdrawal, in accordance with this subparagraph, of any eligible property from a section 167(d) agreement shall not affect any other property covered by such an agreement.

(3) *Relationship to the straight line method—(i) In general.* For purposes of determining the amount of depreciation which would be allowable under the straight line method of depreciation, such amount shall be computed with respect to any property in a vintage account using the straight line method in the manner described in paragraph (c) (1) (i) of this section and a rate based upon the period for the vintage account selected from the asset depreciation range. Thus, for example, section 57(a) (3) requires a taxpayer to compute an amount using the straight line method of depreciation if the taxpayer uses an accelerated method of depreciation. For purposes of section 57(a) (3), the amount for property in a vintage account shall be computed using the asset depreciation period for the vintage account selected from the asset depreciation range. In the case of property to which the taxpayer does not elect to apply this section, such amount computed by using the straight line method shall be determined under § 1.167(b)-1 without regard to this section.

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

Example. (a) Corporation X places a new asset in service to which it elects to apply this section. The cost of the asset is \$200,000 and the estimated salvage value is zero. The taxpayer selects 9 years from the applicable asset depreciation range of 8 to 12 years. Corporation X adopts the double declining balance method of depreciation and thus the rate of depreciation is 22.2 percent (twice the applicable straight line rate). The depreciation allowance in the first year would be \$44,400, that is, 22.2 percent of \$200,000.

(b) Assume that the provisions of section 57(a) (3) apply to the property. The amount of the tax preference would be \$22,200, that is, the excess of the depreciation allowed under this section (\$44,400) over the depreciation which would have been allowable if the taxpayer had used the period selected from the asset depreciation range and the straight line rate (\$22,200).

PAR. 60. The following new sections are added immediately before § 1.168 to read as follows:

§ 1.167(m) Statutory provisions; depreciation; class lives.

Sec. 167. *Depreciation.* * * *
(m) *Class lives—(1) In general.* In the case of a taxpayer who has made an election under this subsection for the taxable year, the term "reasonable allowance" as used in subsection (a) means (with respect to property which is placed in service during the taxable year and which is included in any class for which a class life has been prescribed) only an allowance based on the class life prescribed by the Secretary or his delegate which reasonably reflects the anticipated useful life of that class of property to the industry or other group. The allowance so prescribed may (under regulations prescribed by the Secretary or his delegate) permit a variance from any class life by not more than 20 percent (rounded to the nearest half year) of such life.

(2) *Certain first-year conventions not permitted.* No convention with respect to the time at which assets are deemed placed in service shall be permitted under this section which generally would provide greater depre-

ciation allowances during the taxable year in which the assets are placed in service than would be permitted if all assets were placed in service ratably throughout the year and if depreciation allowances were computed without regard to any convention.

(3) *Making of election.* An election under this subsection for any taxable year shall be made at such time, in such manner, and subject to such conditions as may be prescribed by the Secretary or his delegate by regulations.

[Sec. 167(m), as added by sec. 109, Revenue Act of 1971 (85 Stat. 508)]

§ 1.167(m)-1 Class lives.

(a) For rules regarding the election to use the class life system authorized by section 167(m), see the provisions of § 1.167(a)-11.

PAR. 61. The following new sections are added immediately before § 1.264, to read as follows:

§ 1.263(f) Statutory provisions; capital expenditures; reasonable repair allowance.

Sec. 263. *Capital expenditures.* * * *

(f) *Reasonable repair allowance.* The Secretary or his delegate may by regulations provide that the taxpayer may make an election under which amounts representing either repair expenses or specified repair, rehabilitation, or improvement expenditures for any class of depreciable property—

(1) Are allowable as a deduction under section 162 or 212 (whichever is appropriate) to the extent of the repair allowance for that class, and

(2) To the extent such amounts exceed for the taxable year such repair allowance, are chargeable to capital account.

Any allowance prescribed under this subsection shall reasonably reflect the anticipated repair experience of the class of property in the industry or other group.

[Sec. 263(f), as added by sec. 109, Revenue Act of 1971 (85 Stat. 508)]

§ 1.263(f)-1 Reasonable repair allowance.

(a) For rules regarding the election of the repair allowance authorized by section 263(f), the definition of repair allowance property, and the conditions under which an election may be made, see paragraphs (d) (2) and (f) (5) (e) of § 1.167(a)-11. An election may be made under this section for a taxable year only if the taxpayer makes an election under § 1.167(a)-11 for such taxable year.

[FR Doc. 73-7620 Filed 4-20-73; 8:45 am]

**Title 5—Administrative Personnel
CHAPTER I—CIVIL SERVICE
COMMISSION
PART 213—EXCEPTED SERVICE
Department of Transportation**

Section 213.3394 is amended to show that the following two positions are excepted under schedule C: One Secretary to the Assistant Secretary for Congressional and Intergovernmental Relations and one Secretary to the Deputy Assistant Secretary for Congressional and Intergovernmental Relations.

Effective on April 23, 1973, paragraphs (a) (39) and (a) (40) are added to § 213.3394 as set out below.

§ 213.3394 Department of Transportation.

(a) Office of the Secretary.

(39) One Secretary to the Assistant Secretary for Congressional and Intergovernmental Relations.

(40) One Secretary to the Deputy Assistant Secretary for Congressional and Intergovernmental Relations.

(5 U.S.C. secs. 3301, 3302, Executive Order 10577; 3 CFR 1954-58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,

Executive Assistant to the Commissioners.

[FR Doc. 73-7867 Filed 4-20-73; 9:14 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Regulation 426, Amendment 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation increases the quantity of California-Arizona valencia oranges that may be shipped to fresh market during the weekly regulation period April 13-19, 1973. The quantity that may be shipped is increased due to improved market conditions for California-Arizona valencia oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908.

(a) Findings.—(1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR part 908), regulating the handling of valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674) and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Valencia Orange Regulation 426 (38 FR 9220). The marketing picture now indicates that there is a greater demand for valencia oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity

for handlers to handle a sufficient volume of valencia oranges to fill the current demand thereby making a greater quantity of valencia oranges available to meet such increased demand, the regulation should be amended, 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 rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of valencia oranges grown in Arizona and designated part of California.

(b) Order, as amended.—The provisions in paragraph (b)(1) (i), (ii), and (iii) of § 908.726 (Valencia Orange Regulation 426 (38 FR 9220)) are hereby amended to read as follows:

"(i) District 1: 168,373 cartons;

"(ii) District 2: 254,666 cartons;

"(iii) District 3: 326,961 cartons."

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

Dated April 18, 1973.

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

[FR Doc. 73-7828 Filed 4-20-73; 8:45 am]

PART 981—HANDLING OF ALMONDS GROWN IN CALIFORNIA

Credit for Paid Advertising of Almond Products

Notice was published in the March 9, 1973, issue of the FEDERAL REGISTER (38 FR 6395), regarding a proposal to amend § 981.441 of Subpart—Administrative Rules and Regulations (7 CFR 981.450-981.481; 37 FR 13790; 16930) to permit crediting handlers' assessment obligations for advertising almond products. The proposal was unanimously recommended by the Almond Control Board. The subpart is operative pursuant to the provisions of the marketing agreement, as amended, and Order No. 981, as amended (7 CFR part 981; 37 FR 3983), regulating the handling of almonds grown in California (hereinafter collectively referred to as the "order"). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The notice afforded interested persons opportunity to file written data, views, or arguments with respect to the proposal, the period for receipt of such comments expiring March 15, 1973. That period was extended until April 2, 1973, in a notice published in the FEDERAL REGISTER March 21, 1973 (38 FR 7395). One written comment was received within the prescribed time.

Section 981.41 of the order provides, in part, that the Almond Control Board may prove for crediting the pro rata expense assessment obligations of a handler with such portion of his direct expenditure for such marketing promotion including paid advertising as may be authorized. Section 981.441 of the administrative rules and regulations currently provides that a handler may receive such credit for advertising almonds, either separately or in conjunction with a complementary commodity or product. The purpose of these provisions is to promote the sale, consumption, or use of California almonds.

Sections 981.41 and 981.441 apply only to those persons regulated as handlers by the order. The term "handler" is defined in § 981.13. The term "to handle" is defined in § 981.16. Assessments are paid by handlers in accordance with § 981.81. Section 981.322 (b) of Subpart—Budget of Expenses and Rate of Assessment (7 CFR 981.322; 37 FR 18443) provides that the rate of assessment for the 1972-73 crop year, payable by each handler in accordance with § 981.81, less any amount credited pursuant to § 981.41 but not to exceed 1 cent per pound of almonds (kernel weight basis), is fixed at 1.160 cents per pound of almonds (kernel weight basis).

It was proposed in said notice that § 981.441 (d) be amended by the addition of a subparagraph (4) permitting crediting for paid advertising of almond products by handlers. Consistent with § 981.441 (c) with respect to promoting the sale, consumption, or use of California almonds, almond products would have to contain at least 50 percent raw shelled almonds, by weight, to be creditable. In addition, to be eligible for credit, an almond product could not contain any other nuts. While some products contain less than 50 percent raw shelled almonds, by weight, these would not be deemed almond products and thus not eligible for credit. Since an almond product is not composed solely of almonds, only 50 percent of the allowable expenses for promoting an almond product would be credited to a handler's assessment obligation. Furthermore, since the objective of the subparagraph is to permit crediting a handler's assessment obligation for allowable expenses incurred by the handler in advertising almond products, the handler's brand would have to be displayed on the product.

In the written comment, it was contended that permitting crediting for advertising will discriminate among handlers in that some handlers will benefit whereas others, paying an equal assessment rate, will not receive any benefits. It was also contended that the statutory authority for market promotion, including paid advertising of almonds (7 U.S.C. 608c(6)(I)) is permissive, and that nothing in this authority requires giving handlers a credit allowance, or that such authority prohibits the pooling of all handlers' assessments into a fund for an advertising program benefiting all users of almonds.

Crediting handlers' assessment obligations for paid advertising of almonds and almond products is authorized by the act and the order. Pursuant to the act, the order also authorizes the Almond Control Board to conduct other forms of marketing promotion programs, including generic advertising of almonds. The expense of such promotion programs is paid from assessments paid by handler. It is recognized that some handlers will advertise almonds and almond products more than others. Assessments paid by handlers receiving little or no credit are pooled by the Board and may be used for marketing promotion, including generic advertising, to promote the sale, consumption, or use of California almonds.

After consideration of all relevant matter presented, including that in the notice, the written comment received pursuant to the notice, the information and recommendation submitted by the Board, and other available information, it is found that to amend the administrative rules and regulations to permit crediting handlers' assessment obligations for almond products will tend to effectuate the declared policy of the act.

It is therefore ordered, That paragraph (d) of § 981.441 of Subpart—Administrative Rules and Regulations (7 CFR part 981.450-981.481; 37 FR 13790; 16930) be amended by adding a subparagraph (4) reading as follows:

§ 981.441 Crediting for paid advertising.

(d) * * *

(4) When almond products are advertised, the allowance shall be 50 percent of the total allowance payment to the advertising medium or the handlers' allowable payment thereof, whichever is less: *Provided*, That (i) the almond product does not contain nuts other than almonds, (ii) the almond product contains at least 50 percent raw shelled almonds, by weight, and (iii) the almond product displays the handler's brand.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) and for making it effective at the time hereinafter provided in that: (1) This action provides for crediting handlers' assessment obligations for advertising almond products and imposes no restrictions on handlers; (2) handlers are aware of this action and require no advance preparation to comply therewith; and (3) no useful purpose would be served by postponing its effective time beyond that hereinafter provided.

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

Dated April 18, 1973, to become effective May 1, 1973.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[FR Doc. 73-7829 Filed 4-20-73; 8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1434—HONEY

Subpart—1973 Crop Honey Loan and Purchase Program

On January 24, 1973, notice of proposed rulemaking regarding loan and purchase rates for 1973 crop honey, and detailed operating provisions to carry out the 1973 honey loan program were published in the FEDERAL REGISTER (38 FR 2334). Nine responses were received from interested individual honey producers and marketing associations. Most responses recommended an increase in loan and purchase rates. After consideration of all responses, it has been determined that the loan and purchase rates will be increased. Other operating procedures will remain the same as for the 1972 program. The Honey Price Support Regulations for 1970 and Subsequent Crops (35 FR 11773), as amended, which contain regulations of a general nature with respect to loan and purchase operations, are supplemented for the 1973 crop of honey as herein stated. The material previously appearing in this subpart in §§ 1434.40 through 1434.44 remains in full force and effect as to the crops to which it was applicable.

Subpart—1973 Crop Honey Loan and Purchase Program

Sec.	Purpose.
1434.40	Purpose.
1434.41	Availability.
1434.42	Maturity of loans.
1434.43	Loan and purchase rates.
1434.44	Discounts.

Authority.—Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 201, 401, 63 Stat. 1052, 1054; 15 U.S.C. 714c, U.S.C. 1446, 1421.

§ 1434.40 Purpose.

This subpart contains program provisions which, together with (a) the Honey Price Support Regulations for 1970 and Subsequent Crops, (b) the Cooperative Marketing Association—Eligibility Requirements for Price Support in part 1425 of this chapter, and (c) any amendments to such regulations, set forth the requirements with respect to loans and purchases for 1973 crop honey.

§ 1434.41 Availability.

(a) *Loans*.—Producers must request a loan on 1973 crop eligible honey on or before March 31, 1974.

(b) *Purchases*.—Producers desiring to offer eligible honey not under loan for purchase must complete a purchase agreement at the county ASCS office on or before June 30, 1974.

§ 1434.42 Maturity of loans.

Unless demand is made earlier, loans on honey will mature on June 30, 1974.

§ 1434.43 Loan and purchase rates.

(a) *Table and nontable honey*.—The rate for the quantity of 1973 crop honey

placed under loan or acquired under loan or purchase shall be the rate for the respective class and color set forth below:

<i>Class and color:</i>	<i>Cents per pound</i>
<i>Table honey:</i>	
1. White and lighter.....	16.9
2. Extra light amber.....	15.9
3. Light amber.....	14.9
4. Other table honey.....	12.9
Nontable honey.....	12.9

(b) *Objectionable flavor, fermentation, or caramelization*.—The settlement value for a lot of honey delivered under loan or for purchase which grades substandard on account of objectionable flavor, fermentation, or caramelization shall be the lower of its market value as determined by CCC or a value determined on the basis of the loan and purchase rate for nontable honey.

(c) *Grade not certified*.—The settlement value for a lot of honey, delivered under loan or for purchase, on which the grade cannot be certified shall be the lower of its market value as determined by CCC or a value as determined on the basis of the loan and purchase rate for nontable honey.

(d) *Substandard*.—The rate for a lot of honey delivered under a loan or for purchase which grades substandard on account of defects or moisture or a combination of defects and moisture shall be adjusted by the discounts in § 1434.44.

§ 1434.44 Discounts.

(a) *Defects*.—The loan and purchase rate for a lot of honey delivered under a loan or for purchase which grades substandard on account of defects shall be adjusted by the following discount:

	<i>Discount (cents per pound)</i>
Substandard account of:	
Defects	2

(b) *Moisture*.—The loan and purchase rate for a lot of honey delivered under a loan or for purchase which contains moisture in excess of 18.5 percent shall be adjusted by the following discounts which shall be in addition to the discount for defects:

	<i>Discount (cents per pound)</i>
Moisture (percent):	
18.5	0.0
19.0	0.5
19.5	1.0
20.0	1.5
20.5	2.0
21.0	2.5
21.5	3.0
22.0	3.5
22.5	4.0
23.0	4.5
23.5	5.0
24.0	5.5
24.5	6.0

(c) *Commingled storage*.—The loan and purchase rate for a lot of honey tendered for loan or purchase by CCC while stored commingled in a warehouse, or delivered to a warehouse in bulk in

satisfaction of a farm storage loan, shall be adjusted by the following discount:

Discount
(cents per
pound)

Bulk commingled..... 1.5

Effective date.—May 23, 1973.

Signed at Washington, D.C. on April 16, 1973.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.73-7831 Filed 4-20-73;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 INTERSTATE
ACTIVITIES

PART 78—BRUCELLOSIS

Subpart D—Designation of Modified Certified
Brucellosis Areas, Public Stockyards,
Specifically Approved Stockyards,
and Slaughtering Establishments

Modified Certified Brucellosis Areas

These amendments delete the following areas from the list of areas designated as modified certified brucellosis areas because it has been determined that such areas no longer come within the definition of § 78.1(d) Nuckolls County in Nebraska and Garvin County in Oklahoma.

The following counties were deleted from the list of modified certified brucellosis areas on the specified dates: Clarke County in Iowa on March 7, 1973; Holt and Phelps Counties in Nebraska on October 11, 1972; and Lubbock County in Texas on March 7, 1973. Since said dates, it has been determined that these counties again come within the definition of § 78.1(d); and, therefore, they have been redesignated as modified certified brucellosis areas.

Therefore, pursuant to § 78.16 of the regulations in part 78, as amended, Title 9, Code of Federal Regulations, containing restrictions on the interstate movement of animals because of brucellosis, under sections 4, 5, and 13 of the act of May 29, 1884, as amended; sections 1 and 2 of the act of February 2, 1903, as amended; and section 3 of the act of March 3, 1905, as amended (21 U.S.C. 111-113, 114a-1, 120, 121, 125), § 78.13 of said regulations designating modified certified brucellosis areas is hereby amended to read as follows:

§ 78.13 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as modified certified brucellosis areas:

- Alabama: the entire State.
- Alaska: the entire State.
- Arizona: the entire State.
- Arkansas: the entire State.
- California: the entire State.

- Colorado: the entire State.
- Connecticut: the entire State.
- Delaware: the entire State.
- Florida: the entire State.
- Georgia: the entire State.
- Hawaii: the entire State.
- Idaho: the entire State.
- Illinois: the entire State.
- Indiana: the entire State.
- Iowa: the entire State.
- Kansas: the entire State.
- Kentucky: the entire State.
- Louisiana: the entire State.
- Maine: the entire State.
- Maryland: the entire State.
- Massachusetts: the entire State.
- Michigan: the entire State.
- Minnesota: the entire State.
- Mississippi: the entire State.
- Missouri: the entire State.
- Montana: the entire State.
- Nebraska: Adams, Antelope, Arthur, Banner, Blaine, Boone, Box Butte, Boyd, Brown, Buffalo, Burt, Butler, Cass, Cedar, Chase, Cherry, Cheyenne, Clay, Colfax, Cuming, Custer, Dakota, Dawes, Dawson, Deuel, Dixon, Dodge, Douglas, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Holt, Hooker, Howard, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lancaster, Lincoln, Logan, Loup, Madison, McPherson, Merrick, Morrill, Nance, Otoe, Pawnee, Perkins, Phelps, Pierce, Platte, Polk, Red Willow, Richardson, Rock, Saline, Sarpy, Saunders, Scotts Bluff, Seward, Sheridan, Sherman, Sloux, Stanton, Thayer, Thomas, Thurston, Valley, Washington, Wayne, Webster, Wheeler, and York Counties.

- Nevada: the entire State.
- New Hampshire: the entire State.
- New Jersey: the entire State.
- New Mexico: the entire State.
- New York: the entire State.
- North Carolina: the entire State.
- North Dakota: the entire State.
- Ohio: the entire State.
- Oklahoma: Adair, Alfalfa, Atoka, Beaver, Beckham, Blaine, Bryan, Caddo, Canadian, Carter, Cherokee, Choctaw, Cimarron, Cleveland, Coal, Comanche, Cotton, Craig, Creek, Custer, Delaware, Dewey, Ellis, Garfield, Grady, Grant, Greer, Harmon, Harper, Haskell, Hughes, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Latimer, Le Flore, Lincoln, Logan, Love, Major, Marshall, Mayes, McClain, McCurtain, McIntosh, Murray, Muskogee, Noble, Nowata, Okfuskee, Oklahoma, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Roger Mills, Rogers, Seminole, Sequoyah, Stephens, Texas, Tillman, Wagoner, Washington, Washita, Woods, and Woodward Counties.

- Oregon: the entire State.
- Pennsylvania: the entire State.
- Rhode Island: the entire State.
- South Carolina: the entire State.
- South Dakota: the entire State.
- Tennessee: the entire State.
- Texas: Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Childress, Clay Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dallas Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd,

- Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hardin, Harris, Harrison, Hartley, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Irion, Jack, Jackson, Jasper, Jeff Davis, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, Madison, Marion, Martin, Mason, Matagorda, Maverick, McCulloch, McLennan, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Newton, Nolan, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Farmer, Pecos, Polk, Potter, Presidio, Rains, Randall, Reagan, Real, Red River, Reeves, Refugio, Roberts, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Val Verde, Van Zandt, Victoria, Walker, Waller, Ward, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Winkler, Wise, Wood, Yoakum, Young, Zapata, and Zavala Counties.

- Utah: the entire State.
- Vermont: the entire State.
- Virginia: the entire State.
- Washington: the entire State.
- West Virginia: the entire State.
- Wisconsin: the entire State.
- Wyoming: the entire State.
- Puerto Rico: the entire area.
- Virgin Islands of the United States: the entire area.

(Secs. 4, 5, 23 Stat. 32, as amended; secs. 1, 2, 32 Stat. 791-792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; 21 U.S.C. 111-113, 114a-1, 120, 121, 125; 37 FR 28464, 28477, 9 CFR 78.16(a).)

Effective date.—The foregoing amendments shall become effective April 23, 1973.

These amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. It should be made effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to these amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making these amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 17th day of April 1973.

J. M. HIGH,
Acting Deputy Administrator,
Veterinary Services, Animal
and Plant Health Inspection
Service.

[FR Doc.73-7779 Filed 4-20-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73-CE-4-AD, Amdt. 39-1623]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Model 500 Airplanes

An Airworthiness Directive (AD) was adopted on April 2, 1973, and made effective immediately as to all known owners of Cessna Model 500 airplanes. This AD was issued as a result of the manufacturer's notification that some under-strength elevator torque tube in-board hinge end cap-pivot studs (P/N 5534120-8) have been installed on some of these model airplanes. Failure of this end cap and stud results in the inboard hinge being free with elevator support at only the outboard and middle hinges which affects the primary control system and the rigidity of the elevator and could create a flutter situation during critical phases of flight. In order to alleviate this condition the directive requires that the aircraft not exceed a maximum operation speed of .69 mach. It also requires, prior to each flight, a preflight check and within 5 hours' time in service after the effective date of the AD an inspection of the suspect part for thickness in accordance with Cessna Service Bulletin SB 55-2 and replacement thereof if not within acceptable tolerances.

Since it was found that immediate action was required, notice and public procedure hereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately to the owners of Cessna model 500 airplanes by individual airmail letters dated April 2, 1973. These conditions may still exist and the AD is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations to make it effective as to all persons.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (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 500 (serials Nos. 500-0001 through 500-0072) airplanes.

Compliance: Required as indicated, unless already accomplished.

To prevent failure of the elevator torque tube inboard hinge end cap-pivot stud (P/N 5534120-8) accomplish the following:

(A) Do not exceed a maximum operation speed (Mo) of 0.69 mach.

(B) Prior to each flight perform the following preflight check:

(1) Place control lock off.

(2) Put elevator in down position.

(3) Hold elevator trailing edge stationary while exerting upward pressure on the inboard end of the elevator at approximate position of the most inboard pivot point.

(4) If inboard end of elevator shakes or moves, prior to further flight, remove access panels and inspect in accordance with paragraph C.

(C) Within 5 hours' time in service after the effective date of this AD, inspect the elevator torque tube end cap-pivot stud

(P/N 5534120-8) for thickness in accordance with Cessna Service Bulletin SB 55-2 or subsequent revision, and subject to the following limitations:

(1) 0.085 and greater—The aircraft is acceptable for flight.

(2) 0.084 to 0.060—The aircraft can continue to be flown without limitations, however the torque tube must be replaced within the next 200 flight hours or 90 calendar days, whichever comes first.

(3) Less than 0.060—The aircraft is grounded until the torque tube is replaced.

(D) To accomplish the inspection required by paragraph C of this AD, except for condition found in paragraph B(4), the aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a base where the inspection may be performed.

This amendment becomes effective April 25, 1973, to all persons except those to whom it was made effective by letter dated April 2, 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 April 10, 1973.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc. 73-7765 Filed 4-20-73; 8:45 am]

[Docket No. 73-NW-6-AD, Amdt. 39-1627]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing 707, 727-100, and 737 Series Airplanes

A proposal to amend part 39 of Federal Aviation regulations to include an airworthiness directive requiring inspections and interim modification of the forward entry door upper hinge assembly spigot, P/N 65-29996-1, on all affected Boeing model 707, 727-100, and 737 series airplanes, after the accumulation of 8,000 or more landing cycles, was published in 37 FR 15170.

Interested persons have been afforded an opportunity to participate in the making of the amendment. One commentator objected to the proposed threshold times and intervals.

The FAA agrees that as a result of the low number of spigot failures found to date, more lenient inspection times are warranted. In addition, the rule as adopted permits terminating action.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of the Federal Aviation regulations is amended by adding the following new airworthiness directive.

Boeing. Applies to all model 707, 727-100, and 737 series airplanes incorporating spigot P/N 65-29996-1 in the forward entry door upper hinge assembly. Compliance required as indicated.

To detect failures or cracks in the forward entry door upper spigot, accomplish the following:

(a) All aircraft which have accumulated 8,000 landing cycles on the effective date of this AD and have bushings installed on the upper spigot, inspect per paragraph (1) and (2) below:

(1) Within the next 500 landings after the effective date of this AD, perform a visual inspection of the spigot tab for failure and

displacement by inserting a .010 to .020 thick feeler gage in the gap between the upper hinge assembly upper link and guide plate bushing. If the gage can be passed through the area, the spigot tab has separated from the spigot, and the spigot must be either replaced or modified per (b) below, prior to further flight.

(2) Within the next 2,500 landings after the initial inspection per (a) (1) above, unless already accomplished within the last 3,000 landings, and thereafter at intervals not to exceed 3,000 landings since the last inspection, perform an X-ray inspection of the spigot in the area of the spigot tab for evidence of cracking. The X-ray inspection is to be in accordance with the Boeing service bulletins noted in paragraph (b) (2) below. Spigots with failed tabs must be either replaced or modified per (b) below, prior to further flight.

(b) Modifications per paragraphs (2), (3), or (4) below are considered terminating action.

(1) Replace the spigot with a new or serviceable part and re-enter the inspection program at the 8000 landing cycle per (a) above, or

(2) Insert steel shot into the upper spigot tab grease cavity in accordance with the following Boeing service bulletins or their later FAA-approved revisions:

3105, dated December 11, 1972 (707 Model); 727-52-83 dated December 12, 1972; 737-52-1044 dated December 6, 1972; or

(3) Remove the guide arm upper link, in accordance with the appropriate service bulletins or their later FAA-approved revisions referred to in paragraph (2) above, or

(4) Make such other modification as is approved by the chief, engineering and manufacturing branch, FAA northwest region.

(c) Aircraft may be ferried to a base for maintenance per §§ 21.197 and 21.199 of the Federal Aviation Regulations.

(d) For the purpose of this AD, when conclusive records are not available to show the number of landings accumulated by a particular spigot, the number of landings may be computed by dividing the airplane time in service since the spigot was installed in the airplane by the operators' fleet average time per flight for his airplanes of each model (707, 727-100, or 737).

(e) Inspections prescribed by this AD do not apply to new replacement spigots of an improved design approved by the chief, engineering and manufacturing branch, FAA northwest region.

This amendment becomes effective on publication.

(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 Seattle, Wash., on April 13, 1973.

C. B. WALK, JR.,
Director,
FAA Northwest Region.

[FR Doc. 73-7764 Filed 4-20-73; 8:45 am]

[Docket No. 72-SO 79, Amdt. 39-1626]

PART 39—AIRWORTHINESS DIRECTIVES
Piper Model PA-34 Series Airplanes

Amendment 39-1500 (37 FR 16475), AD 72-17-1, requires an inspection of the induction air boxes for cracks and excessive wearing on the PA-34-200 airplanes. After issuing Amendment 39-1500, the agency determined that installation of a redesigned induction air box obviates the 100 hour periodic inspection. There-

fore, the AD is being amended to provide relief from the inspection requirement when the redesigned induction air box is installed.

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 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of part 39 of the Federal Aviation Regulations, amendment 39-1500 (37 FR 16475), AD 72-17-1, is amended as follows:

1. By amending the effectivity to read: Piper: Applies to PA-34-200 airplanes, serial Nos. 34-E4 and 34-7250001 through 34-7350074.

2. By amending paragraph (d) to read: If valve assemblies are found to contain worn, loose, or cracked parts, replace the affected parts with serviceable parts of the same part numbers or incorporate Piper Kit No. 760 722V before further flight.

3. By adding the following paragraph:

(f) The requirements of this AD do not apply when Piper Kit No. 760 722V is incorporated. Piper Service Bulletin No. 374 dated February 16, 1973, pertains to this subject.

This amendment becomes effective April 26, 1973.

(Sec. 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 East Point, Ga., on April 12, 1973.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.73-7766 Filed 4-20-73;8:45 am]

[Airspace Docket No. 73-GL-1]

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

Designation of Control Zone and Alteration of Transition Area

On page 4349 of the FEDERAL REGISTER dated February 13, 1973, the Federal Aviation Administration published a notice of proposed rulemaking which would amend §§ 71.171 and 71.181 of part 71 of the Federal Aviation Regulations so as to designate a control zone and alter the transition area at Anderson, Ind.

Interested persons were given 30 days to submit written comments, suggestions, or objections regarding the proposed amendments.

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

These amendments shall be effective 0901 G.m.t., June 21, 1973.

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

Issued in Des Plaines, Ill., on April 5, 1973.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

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

ANDERSON, IND.

Within a 5-mile radius of Anderson Municipal Airport (lat. 40°06'30" N., long. 85°36'55" W.) and within 3.5 miles either side of the 298° bearing from Anderson Municipal Airport, extending from the 5-mile radius to 7.5 miles northwest of the airport. 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.

In § 71.181 (38 FR 435), the following transition area is amended to read:

ANDERSON, IND.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Anderson Municipal Airport (lat. 40°06'30" N., long. 85°36'55" W.) and within 4 miles each side of the 298° bearing from the airport, extending from the 8.5-mile radius to 12 miles northwest of the airport; excluding the airspace that overlies the Muncie transition area.

[FR Doc.73-7767 Filed 4-20-73;8:45 am]

[Airspace Docket No. 72-GL-82]

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

Alteration of Control Zone and Transition Area

On page 4350 of the FEDERAL REGISTER dated February 13, 1973, the Federal Aviation Administration published a notice of proposed rulemaking which would amend §§ 71.171 and 71.181 of part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Mankato, Minn.

Interested persons were given 30 days to submit written comments, suggestions, or objections regarding the proposed amendments.

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

These amendments shall be effective 0901 G.m.t., June 21, 1973.

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

Issued in Des Plaines, Ill., on April 5, 1973.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

In § 71.171 (38 FR 351), the following control zone is amended to read:

MANKATO, MINN.

Within a 5-mile radius of Mankato Municipal Airport (lat. 44°13'25" N., long. 93°55'06" W.); within 2 miles each side of the Mankato VOR 166° radial, extending

from the 5-mile-radius zone to 8 miles south of the VOR; within 3 miles each side of the Mankato VOR 329° radial, extending from the 5-mile-radius zone to 8 miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the airman's information manual.

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

MANKATO, MINN.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Mankato Municipal Airport (lat. 44°13'25" N., long. 93°55'06" W.)

[FR Doc.73-7768 Filed 4-20-73;8:45 am]

[Airspace Docket No. 73-80-15]

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

Alteration of Control Zone

The purpose of this amendment to part 71 of the Federal Aviation Regulations is to alter the New Bern, N.C., control zone.

The New Bern control zone is described in § 71.171 (38 FR 351). In the description, an extension is predicated on the New Bern VOR 221° radial, which was designated to provide controlled airspace protection for IFR aircraft executing the VOR-1 instrument approach procedure. Effective May 24, 1973, the final approach radial for this approach procedure will be changed to New Bern VOR 210°. It is necessary to alter the description to reflect this change. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., May 24, 1973, as hereinafter set forth.

In § 71.171 (38 FR 351), the New Bern, N.C., control zone is amended as follows:

*** 221° *** is deleted and *** 210° *** 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 April 9, 1973.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.73-7769 Filed 4-20-73;8:45 am]

[Airspace Docket No. 73-WE-5]

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

Designation of Control Zone and Alteration of Transition Area

On February 12, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 4270) stating that the Federal Aviation Administration was considering amendments to part 71 of the Federal Aviation Regulations that would designate a new control

zone and alter the transition area at Grand Canyon National Park Airport, Ariz.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendments are hereby adopted without change.

Effective date.—This amendment shall be effective 0901 G.m.t., June 1, 1973.

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

Issued in Los Angeles, Calif., on April 10, 1973.

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

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

GRAND CANYON, ARIZ. (GRAND CANYON NATIONAL PARK AIRPORT)

Within a 5-mile radius of Grand Canyon National Airport (lat. 35°57'16" N., long. of the Grand Canyon VOR 211° radial, extending from the 5-mile radius zone to 6 miles southwest of the VOR. This control zone is effective during the specific dates and times established in advance by a notice to airmen.

The effective date and time will thereafter be continuously published in the airman's information manual.

In § 71.181 (38 FR 435), the description of the Grand Canyon (Grand Canyon National Park Airport) transition area is amended as follows.

Delete all of the 700-foot portion of the transition area and substitute the following therefor:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Grand Canyon National Park Airport (lat. 35°57'16" N., long. 112°08'37" W.) and within 3.5 miles each side of the Grand Canyon VOR 211° radial, extending from the 5-mile radius area to 8 miles southwest of the VOR; * * *

[FR Doc. 73-7770 Filed 4-20-73; 8:45 am]

SUBCHAPTER E—AIRSPACE

[Airspace docket No. 73-RM-2]

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

Alteration of Transition Area *Correction*

In FR Doc. 73-6225 appearing on page 8428 in the issue of Monday, April 2, 1973, in the 12th line of the description of the Jamestown, N. Dak., transition area, the figure "326" should read "328".

CHAPTER II—CIVIL AERONAUTICS BOARD

[Reg. OR-72, Amdt. 33]

SUBCHAPTER E—ORGANIZATION REGULATIONS

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NON-HEARING MATTERS

Delegation of Authority to Director, Bureau of Operating Rights, To Grant or Deny Requests of Foreign Charter Air Carriers for Advance Approval of Charter Flights

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of April 1973.

The outstanding permits of all foreign charter air carriers presently contain a standard condition which provides that " * * the Board, by order or regulation and without hearing, may require advance approval of individual charter trips conducted by the holder pursuant to the authority granted by this permit, if it finds such action to be required in the public interest."¹ The Board has recently issued an order invoking this condition.² This amendment formally delegates to the Director, Bureau of Operating Rights, the function of granting or denying requests for approval of individual charter flights subject to such orders.

Since the amendment being adopted herein is a rule of agency organization, the Board finds that notice and public procedure thereon are not required, and the rule may be made effective immediately.

In consideration of the foregoing, the Board hereby amends § 385.13 of the organization regulations (14 CFR part 385), effective April 17, 1973, by adding a new paragraph (gg), the section as amended to read in part as follows:

§ 385.13 Delegation to the Director, Bureau of Operating Rights.

(gg) Grant or deny requests of foreign charter air carriers for approval of charter flights for which prior approval is required pursuant to an order of the Board.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324. Reorganization plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; 49 U.S.C. 1324 (note).)

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc. 73-7820 Filed 4-20-73; 8:45 am]

¹ This condition is imposed under section 402(e) of the act, which empowers the Board to attach to foreign air carrier permits such reasonable terms, conditions, or limitations as, in its judgment, the public interest may require.

² See Order 72-6-59, June 14, 1972, invoking said condition in the foreign air carrier permits of British Midland Airways Limited, Dan-Air Services, LTD. and Lloyd International Airways Limited.

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER A—GENERAL RULES

[Docket No. R-460; Order No. 480]

PART 1—RULES OF PRACTICE AND PROCEDURE

Appearances and Practice Before the Commission

APRIL 11, 1973.

On November 29, 1972, we noticed (37 FR 25730, Dec. 2, 1972), a proposed revision of § 1.4(c) of the Commission's rules of practice and procedure, 18 CFR 1.4(c), to eliminate a discretionary exception to the statutory prohibition contained in 18 U.S.C. 207 regarding the disqualification of former officers and employees in matters connected with their former duties or official responsibilities.

There we noted that the prohibition against former employees practicing before the Commission was essentially the same in our regulation and in 18 U.S.C. 207. However, our regulation authorized a discretionary exception which was too sweeping in light of the prohibition contained in the statute.

Additionally, the statute prohibits a former employee from participating, within 1 year after his employment has ceased, in matters which were under his official responsibility as an employee. The only exception is that a former employee with outstanding scientific or technological qualifications may act as attorney or agent or appear personally in a matter in a scientific or technological field after his employment has ceased, notwithstanding his prior participation, provided the head of the agency concerned therewith certifies that the national interest would be served by such action or appearance.

Interested persons were invited to submit comments or suggestions in writing regarding the proposed revision and to indicate whether they request a conference. Pursuant to that invitation four responses were received, the Institute for Public Interest Representation of Georgetown University Law Center (Institute), and the Federal Power Bar Association, submitted comments and suggested changes.¹

The Institute expressed the view that although the proposed revision attempts to narrow the discretionary exception contained in section 207 of 18 CFR, the proposal does not go far enough. By contrast, the bar association believes the

¹ In addition, Northern States Power Co. responded but merely concurred with the proposed rulemaking, and Tennessee Gas Pipeline Co. offered no comments or suggestions but requested notice if a conference were held. After reviewing the comments submitted, the staff recommended that no conference be held.

proposed revisions may have gone too far in restricting activities of former employees of the Commission.

The Institute believes that the purpose underlying the scientific and technological exception may be thwarted under the statute and the proposed regulation because the terms "outstanding scientific or technological qualifications" and "national interest" are too vague. It suggested that the exception should be narrowed to permit former employees to testify only at the behest of the Commission after approval by a majority of the Commission (instead of the Chairman) on notice with opportunity for hearing. As an alternative, the Institute suggested that the certification of the Chairman allowing such appearance or action should contain the reasons upon which it is based and be published in the FEDERAL REGISTER. The Institute also proposed adoption of a provision similar to 18 U.S.C. 207(c) regarding activities by a partner of a former employee.

The bar association noted that the proposed changes prohibit conduct permissible under the statute which does not preclude postemployment activities in several areas: (1) Aiding or assisting another person in a Commission proceeding, (2) engaging in rulemaking proceedings in which the former employee participated while employed by the Commission, and (3) in personally appearing before the Commission after the lapse of 1 year from termination of his employment where his activities as an employee have been in a purely ministerial or collateral capacity. As an alternative it proposed the adoption of the statutory language of 18 U.S.C. 207 as the Commission's regulation, retaining the discretion to grant waivers incorporated in the present text of the regulation but precluding activities violative of 18 U.S.C. 207.

We have considered both the comments and suggestions submitted by these participants and do not consider them sufficiently meritorious to warrant modification of the revision of § 1.4 that we have proposed. Our modification does impose more restrictive barriers on the activities of former employees in matters requiring Commission action. But, as both commenting parties acknowledge, the Commission has regulative authority to impose requirements on the participation of its former employees more restrictive than those required by statute, provided the intent and purposes of such regulations are consistent with the broad purposes of the statute and are not arbitrary or otherwise unlawful.

Terms like "outstanding scientific or technological qualifications" and "national interest" are not readily subject to exact definition and the Institute, which is critical of them, offers none. Moreover, we have had no difficulty in meaningfully applying the standard of "public interest" since the passage of the Federal Water Power Act in 1920. We do not perceive difficulties in ascertaining whether a former employee in a proceeding before us has the highly specialized expertise sufficient to justify the exemp-

tion authorized by the statute. In conferring the authority on the Commission's Chairman to make such determination, we have merely incorporated the provisions of the statute.

Nor do we think the Institute's proposal to open up the Chairman's determination regarding the exemptive provisions of revised § 1.4(c)(3) to a collateral hearing is either practicable or desirable. A party's right to challenge a final determination in a proceeding in which such power had been exercised would be adequately preserved for Commission review and appeal to the Federal court.

We have not adopted the Institute's suggestion regarding the adoption of a paragraph similar to the statutory prohibition in 18 U.S.C. 207(c) regarding the participation of partners of former employees since the statute adequately covers the subject and it was not our purpose in modifying the regulation to mechanically adopt the language of the statute. Moreover, as the Attorney General has pointed out in his Memorandum of January 28, 1963, 28 FR 985, February 1, 1963, regarding the conflict-of-interest provisions of Public Law 87-849 (18 U.S.C. 207), the first paragraph of the subsection, although included in a section dealing with postemployment activities, was not directed to the postemployment situation. That paragraph pertains to an individual outside of the Government who is in a business or professional partnership with someone serving in the executive branch, an independent agency or the District of Columbia. It was intended to prevent the outside partner from participating in a proceeding (other than as attorney or agent for the United States) in which the Government employee is or has participated or which is or was his official responsibility.

Furthermore, the last paragraph of the subsection, as the Attorney General ruled, "sets forth no prohibition against an attorney in private practice solely because he has a partner who is or has been a government employee". Thus there is a legislative basis for not incorporating the statutory language of the subsection in a regulation governing the conduct of former employees of the Commission.

The bar association's comments concerning the broadening of the restrictions against participation of former employees are neither valid nor well taken. The revised prohibition against a former employee's practicing before the Commission or acting as attorney, expert witness, or representative in a matter before the Commission which such person as an employee has handled etc. does not, as the Attorney General has ruled, preclude activities that may "fairly be characterized as no more than aiding or assisting another."

Admittedly, we have broadened the restriction regarding participation of a former employee in rulemaking and investigatory proceedings because we deem the existence of a conflict of interest in those areas an appropriate reason for barring his participation in the same

areas after he leaves Commission employment.

We do not agree with the bar association's view that a former employee who had engaged in activities "purely ministerial" would be prohibited from subsequent participation in a proceeding involving the same matter by the regulatory language of "handled, investigated, advised or participated in the consideration" of such matter while employed by the Commission. Whether the prohibition would extend to matters which the employee participated in a "collateral manner" (which the bar association comments did not further explain) would, of course, depend on the character of those activities.

Our principal purpose in proposing the revised regulation was to provide a more definitive standard to govern the activities of former employees of the Commission in proceedings before it subsequent to the termination of their employment. To retain the broad exemptive provisions of section 1.4(c) of the regulations with, as the bar association proposes, the added proviso that "in no event shall activity by an ex-employee be permitted hereunder which would be in violation of the provisions of 18 U.S.C. 207" would not only be self-defeating but would render subject to doubt the effect of any waiver the Commission might grant under such proviso.

The Commission finds

(1) The notice and opportunity to participate in this rulemaking proceeding through the submission in writing of data, views, comments or suggestions in the manner described above are consistent and in accordance with the procedural requirements prescribed by 5 U.S.C. 553.

(2) The amendment of section 1.4(c) of the Commission's rules of practice and procedure, herein prescribed, are necessary and appropriate for the administration of the Federal Power Act and the Natural Gas Act.

(3) Good cause exists for making the amendment to the Commission's rules of practice and procedure adopted herein effective upon issuance of this order.

The Commission, acting pursuant to the provisions of 5 U.S.C. 533 and the provisions of the Federal Power Act, as amended, particularly sections 308 and 309 (49 Stat. 858, 859; 16 U.S.C. 825g, 825h) and the provisions of the Natural Gas Act, as amended, particularly sections 15 and 16 (52 Stat. 829, 830; 15 U.S.C. 717n, 717o), orders:

(A) Paragraph (c) of § 1.4 of part 1, subchapter A, chapter I, title 18 of the Code of Federal Regulations, is amended to read as follows:

§ 1.4 Appearances and practice before the Commission.

(c) Appearances of former employees.—(1) No person having served as a member, officer, expert, administrative law judge, attorney, accountant, engineer, or other employee of the Federal Power Commission may practice before

or act as attorney, expert witness, or representative in connection with any proceeding or matter before the Commission which such person has handled, investigated, advised or participated in the consideration of while in the service of the Commission.

(2) No person having been so employed may, within 1 year after his employment has ceased, practice before or act as attorney, expert witness, or representative in connection with any proceeding or matter before the Commission which was under the official responsibility of such person, as defined in 18 U.S.C. 202, while in the service of the Commission.

(3) Nothing in paragraphs (c) (1) and (2) of this section shall prevent a former member, officer, expert, administrative law judge, attorney, accountant, engineer, or other employee of the Federal Power Commission with outstanding scientific or technological qualifications from practicing before or acting as an attorney or representative in connection with a particular matter in a scientific or technological field if the Chairman of the Commission shall make a certification in writing, published in the FEDERAL REGISTER, that the national interest would be served by such action or representation.

(b) The amendment herein ordered shall be effective as of the date of issuance of this order.

(c) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission,

[SEAL] KENNETH F. PLUMB,
Secretary.
[FR Doc. 73-7727 Filed 4-20-73; 8:45 am]

SUBCHAPTER A—GENERAL RULES

[Docket No. R-458; Order No. 481]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Policy Regarding Sales Where Reduced Pressures, Need for Reconditioning, Deeper Drilling, or Other Factors Make Further Production Uneconomical at Existing Prices

APRIL 12, 1973.

On November 8, 1972, the Commission issued a notice of proposed rulemaking in this proceeding to amend the general rules of practice and procedure by adding a new § 2.76,¹ to provide for examination of applications by independent producers for special relief from area rates with respect to sales of natural gas from reservoirs where reduced pressures, the need for reconditioning, or deeper drilling make further production uneconomical at existing prices. Notice of the proposed rulemaking was published in the FEDERAL REGISTER on November 14, 1972.² Specific regulations were proposed in the original

notice and comments were solicited. The 38 parties submitting comments in response to the proposed rulemaking are listed in appendix A.³

A number of comments expressed the view that the scope of the proposed rulemaking is too limited and should include other remedies which would optimize gas recovery as alternatives to abandonment in addition to compression, reconditioning, and deeper drilling. For example, new drilling on closer spacing to improve drainage was proposed as an additional remedy which might be included in the proposed policy. We agree. Our policy shall also cover any other viable alternatives to imminent abandonment.

The Independent Natural Gas Association of America (INGAA) and several producers urge that the proposed policy be made applicable to reservoirs which are experiencing a decline, but which have not declined to the point that abandonment is imminent. The proposal is beyond the scope of this rulemaking proceeding which is limited to situations where abandonment is imminent. However, a producer in the above situation may seek special relief under the provisions relating thereto in area rate opinions.

Humble Oil & Refining Co. (Humble) and a number of other producers suggest the adoption of a procedure analogous to that provided by opinion No. 567.⁴ Humble comments that the procedures proposed by the Commission contemplate formal regulatory activity and that individual cases of marginal operation cannot justify the expenditure of time and money inherent in following the proposed procedure. The Commission notes that shortened application procedures are available, when appropriate, in noncontested proceedings.⁵ But, the fact that the producer and purchaser have agreed upon a price for the natural gas, the work proposed to be done, the cost of that work, and the additional volumes of recoverable gas, does not mean necessarily that the agreed upon price is in the public interest. There must be an opportunity for interested persons to intervene in connection with these applications under § 2.76.

INGAA and West Virginia Gas Co. urge us to clarify proposed § 2.76 and provide the same type of special relief for producing affiliates of pipelines. Clarification is necessary and § 2.76 is hereby amended to also include pipeline production from leases acquired after October 7, 1969.

INGAA and Public Service Commission for the State of New York (PSCNY) note that in some cases the pipeline company may be motivated to install compression or other facilities which will extend the life of a reservoir. INGAA also proposes that the pipeline company be allowed

¹ Filed as part of the original document.

² 42 F.P.C. 726 (1969). Opinion No. 567 allowed a producer to use the date of discovery of a new reservoir on previously committed acreage, in lieu of the contract date, in determining the applicable area ceiling rate.

³ 18 CFR 1.32, 157.7.

to recover the cost relating thereto over a period of time which may be considerably shorter than the average transmission depreciation life. We do not accept this proposal inasmuch as it is far beyond the scope of this proceeding.

Only one party, American Public Gas Association (APGA), opposes issuance of the proposed rule. APGA urges that the new rule affords producers an escape from prevailing area rates for gas already dedicated to interstate commerce and that producers will apply for contract rates in excess of area rates for flowing gas based on the flimsiest of excuses. APGA urges that if the proposed rule is promulgated the applicant be required to submit detailed cost data demonstrating that the new higher contract rate will not result in a rate of return to the producer greater than that provided under the applicable area rate. The applicant in each case is required to establish the economic justification for its request. Thereafter, we shall review the justification in each case to determine whether the relief requested is warranted. We do not believe, however, that a producer necessarily is precluded from receiving relief, where such action is otherwise appropriate, because its expected return may be above that used in the applicable area rate opinion. We therefore reject the condition proposed by APGA.

The Commission finds

(1) The notice and opportunity to participate in this proceeding with respect to the matters presently before the Commission through the submission, in writing, of data, views, comments, and suggestions in the manner as described above were consistent and in accordance with all procedural requirements therefor as prescribed in section 553, title 5 of the United States Code. Since the amendments prescribed here do not prescribe an added duty or restriction, compliance with the effective date requirements of 5 U.S.C. 553(d) is unnecessary.

(2) It is in the public interest and appropriate to the administration of the Natural Gas Act⁶ that the proposed § 2.76 be adopted as amended. The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly sections 4, 5, 7, and 16 thereof (52 Stat. 822, 823, 824, 825, and 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72, 15 U.S.C. 717c, 717d, 717f, and 717o) orders:

(A) The Commission's general rules of practice and procedure (part 2, subchapter A of chapter I, title 18 of the Code of Federal Regulations) are amended to read as follows:

§ 2.76 Policy with respect to sales where reduced pressures, need for reconditioning, deeper drilling, or other factors make further production uneconomical at existing prices.

(a) With respect to reservoirs where reduced pressures, need for reconditioning of the wells, deeper drilling, or other

⁶ 15 U.S.C. 717, et seq.

¹ 18 CFR 2.76, ch. 1, subchapter A, part 2.

² 37 FR 24123.

factors make further production uneconomic at existing rates, it will be the general policy of the Commission, in order to promote the optimum recovery of gas reserves, to accept for consideration applications by independent producers seeking special relief in the form of contractually authorized rate increases, or rate increases where the contract term has expired, in excess of the applicable area ceiling rate.

(b) This policy is also applicable to pipeline production from leases acquired after October 7, 1969.

(c) For sales that would otherwise be abandoned, applicants shall establish the economic justification for their request, including, information on additional costs, the unit price which if applied to the sale of the additional reserves, would justify the additional expenditure, and the amount of gas to be recovered and sold to the interstate market.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 73-7802 Filed 4-20-73; 8:45 am]

[Docket No. R-459; Order No. 482]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Policy Regarding Relief To Encourage Recovery of Natural Gas Would Otherwise be Flared or Vented.

APRIL 12, 1973.

On November 9, 1972, the Commission issued a notice of proposed rulemaking in this proceeding to amend the general rules of practice and procedure by adding a new § 2.77¹ to provide that special relief under the provisions of § 157.29² of the regulations under the Natural Gas Act, § 2.70³ and § 2.75⁴ of the Commission's statements of general policy and interpretations, and the special relief provisions of the area rate opinions would be available to producers to encourage the recovery of natural gas presently flared or vented for sale in interstate commerce. Specific regulations were proposed in the original notice, and comments were solicited. Those parties making comments are listed in appendix A.⁵

We now propose to amend and adopt proposed § 2.77 of the general rules of practice and procedure to provide for the recover of natural gas which would otherwise be flared or vented. The comments filed with the Commission are discussed below.

Shell Oil Co. (Shell) has suggested that the proposed rulemaking be made broader to include gas "which would otherwise be flared or vented". We agree and so modify our proposed policy. The recovery of gas, which would otherwise be wasted and lost forever, should be encouraged so as to save as much of that gas as is economically feasible. There is no need for a producer to flare or vent the gas before seeking relief.

Humble Oil & Refining Co., Continental Oil Co. and Skelly Oil Co. suggested the adoption of a procedure analogous to that provided opinion No. 567.⁶ Others claimed that the proposed procedures were inappropriate in effecting the result desired. We disagree that specialized procedures are needed to induce the recovery of natural gas which would otherwise be flared or vented or that the proposed procedures are inappropriate. The proposed procedures are flexible enough to accomplish our goal; however, should experience demonstrate a need for specialized procedures, we shall adopt the same. The purpose of the specified procedures, including the special relief provisions of the area rate opinions, is to allow a producer to collect a price for his gas that is higher than the applicable area ceiling rate upon a showing of need for the higher rate. We note in this regard that shortened application procedures are available, when appropriate, in noncontested proceedings.⁷ But, the fact that the producer seeks relief with respect to natural gas that would otherwise be flared or vented does not necessarily mean that such relief is in the public interest. There must be an opportunity for interested parties to intervene in connection with these applications under § 2.77.

Salt River project urges us to insure that the gas recovered be of pipeline quality. We believe that this suggestion should be heeded; however, we further believe that the processing requirements should be considered on a case-by-case basis.

Phillips Petroleum Co. (Phillips) urges us to modify our proposed rulemaking so as to allow a processor purchasing any volumes of natural gas offered for sale under proposed § 2.77 the right to maintain the same differential between the purchase and resale prices of such gas as exists for other gas resold by the processor at its processing plant or in the general area. We agree and shall modify proposed § 2.77 to allow producer-purchasers of natural gas offered for sale under that section to file for higher rates, where contractually authorized, to maintain the same differential between purchase and resale price of other natural gas sold at the processing plant in question or in the same general area.

We recognize, as INGAA points out, that individual circumstances may be such that the pipeline purchaser can in-

stall facilities to recover natural gas that would otherwise be flared or vented. To facilitate these cases, we will provide that a pipeline purchaser may, if it desires, build such facilities under its regular gas purchase budget authorization (pursuant to § 157.7(b) of the regulations). Any pipeline purchaser authorized to build such facilities may file a petition requesting the Commission to permit it to use the appropriate accounting entries for depreciation of the facilities over the life of the additional reserves to be recovered citing the Commission's order in docket No. R-459 and the docket number of the Commission's certificate order authorizing such facilities. This treatment of the facilities would be accepted by the Commission in rate proceedings of the pipeline company.

Finally, we shall amend the proposed § 2.77 so as to delete the references to Commission orders and substitute therein the appropriate sections of title 18 of the Code of Federal Regulations.

The Commission finds

(1) Additional notice of the proposed amendment of our rules of practice and procedure to add a new section (18 CFR 2.77) is not required by the Administrative Procedure Act⁸ or the Natural Gas Act.⁹

(2) It is in the public interest and appropriate to the Administration of the Natural Gas Act that the proposed § 2.77 be adopted.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly sections 4, 5, 7, and 16 thereof (52 Stat. 822, 823, 824, 825, and 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72; 15 U.S.C. 717c, 717d, 717f, and 717o) orders:

(A) The Commission's general rules of practice and procedure (pt. 2, subch. A of ch. I, title 18, of the Code of Federal Regulations) are hereby amended to read as follows:

§ 2.77 Policy relating to the availability of special relief to encourage the recovery of natural gas which would otherwise be flared or vented for sale in interstate commerce.

(a) To induce the recovery of natural gas, which would otherwise be flared or vented, for sale in interstate commerce, producers may apply for special relief from area rates, or may seek to sell such gas pursuant to the provisions of 18 CFR 2.70, 2.75, and 157.29.

(b) A pipeline purchaser may, if it desires, build such facilities under its regular gas purchase budget authorization (pursuant to § 157.7(b) of the regulations). Any pipeline purchaser authorized to build such facilities may file a petition requesting the Commission to permit it to use the appropriate accounting entries for depreciation of the facilities over the life of the additional reserves to be recovered citing the Commission's order in docket No. R-459 and the docket number of the Commission's certificate order authorizing such facilities. This treatment will be accepted by

¹ 18 CFR 2.77, Ch. 1, subchapter A, part 2.

² 18 CFR 157.29; order No. 418, docket No. R-404, issued December 10, 1970.

³ 18 CFR 2.70; order Nos. 431 and 431-A, docket No. R-418, issued April 15, 1971, and July 31, 1972.

⁴ 18 CFR 2.75; order Nos. 455 and 455-A, docket No. R-441, issued August 3, 1972, and September 8, 1972.

⁵ Filed as part of the original document.

⁶ 42 F.P.C. 726 (1969). Opinion No. 567 allowed a producer to use the date of discovery of a new reservoir on previously committed acreage, in lieu of the contract date, in determining the applicable area ceiling rate.

⁷ 18 CFR 1.32, 157.7.

⁸ 5 U.S.C. section 551, et seq.

⁹ 15 U.S.C. section 717, et seq.

the Commission in rate proceedings of the pipeline company.

(c) A producer-purchaser of natural gas sold pursuant to the authority of this section will be allowed to file for higher rates for the resale of such gas, where contractually authorized, to maintain the same differential as exists between the purchase and resale price of other natural gas sold at the processing plant in question or in the same general area.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7803 Filed 4-20-73;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 19—CHEESES, PROCESSED CHEESES, CHEESE FOODS, CHEESE SPREADS, AND RELATED FOODS

Certain Cheese Products: Labeling Requirements and Confirmation of Effective Date

In the matter of amending the labeling requirements of the standards of identity for pasteurized process cheese, pasteurized process cheese food, pasteurized process cheese spread, cream cheese with other foods, pasteurized neufchatel cheese spread with other foods, cold-pack cheese, cold-pack cheese food, and grated American cheese food (21 CFR 19.750, 19.765, 19.775, 19.782, 19.783, 19.785, 19.787, and 19.790): An order in the above-identified matter was published in the FEDERAL REGISTER of July 7, 1972 (37 FR 13339).

Four letters have been received in response to the order published July 7, 1972. Two of the four responses contained objections to provisions of the order and requested a hearing. The other two responses also contained objections to provisions of the order, but did not request a hearing. These objections and the Commissioner's conclusions based on his evaluation of the objections are as follows:

1. Sections 19.750(f), 19.765(g), 19.775(h), 19.785(e), and 19.787(g) of the order prescribe labeling emphasizing the presence of smoke, smoke flavoring, spices, or other natural and artificial flavoring in immediate conjunction with the product names. These provisions are objected to as giving undue emphasis on labels to flavoring substances which may in some cases be present in amounts insufficient to characterize the finished food.

The Commissioner concludes that spices, wood smoke, smoke flavoring, or other flavorings used in cheese products should be declared in conjunction with food names on labels only when such spices or flavorings are used in amounts sufficient to characterize the foods as being distinctly different in taste from

their unsalted or unflavored counterparts. The amendment to the order set forth below, by cross-reference to 21 CFR 1.12 (38 FR 2139, January 19, 1973), provides that lesser amounts of spices or flavoring insufficient to characterize the product need not be declared on labels except in the ingredient statement.

2. The type size required for ingredient statements on the affected cheese products is objected to as being so large that it would crowd labels, and particularly labels of small packages the principal display panels of which are less than 5 square inches in area.

The requirements prescribed by 21 CFR 1.8d, as published in the FEDERAL REGISTER (38 FR 2124, January 19, 1973), will govern placement and prominence of required label information on all foods, including standardized foods. Section 1.8d requires ingredient statements on food labels to appear in letters not less than 1/16 inch high, but provision is made in paragraph (e) of that section for petitioning for an acceptable alternative letter size for small size packages of foods. Accordingly, the Commissioner concludes that the requirements of the July 7, 1972, order concerning prominence and placement of the ingredient statement is unnecessary and should be deleted. Like all standardized foods, the labeling requirements of part 1 are fully applicable to these products.

3. The amendments promulgated by the order published July 7, 1972, were to become effective 1 year later unless stayed by the filing of proper objections. This effective date was objected to because there were, in addition to the order, a number of forthcoming regulations which would involve significant changes in the labeling requirements for the same packaged foods, and a series of individual label changes may become necessary unless a common effective date is set for such regulations.

The Commissioner is aware that unnecessary costs would be incurred by the food industry in making a series of label changes in a relatively short period to meet the requirements of forthcoming regulations. Since such costs, in whole or in part, would likely be passed on to consumers in the form of unnecessary higher food prices, he concludes that it would be in the interest of the consumers and food industry alike to establish the same uniform effective date for this regulation, which would provide adequate time for bringing all affected products into compliance with such regulations.

4. It was pointed out that there is statutory authority in section 401 of the Federal Food, Drug, and Cosmetic Act for requiring declaration of optional, but not mandatory, ingredients on the labels of standardized foods. In the view of some respondents the order requires listing of mandatory, as well as optional, ingredients in an ingredient statement on pasteurized process cheese (§ 19.750) and cold-pack cheese (§ 19.785) labels.

Inasmuch as all ingredients, including cheese ingredients, permitted in pasteurized process cheese and cold-pack cheese are optional because even the cheese ingredients may be chosen from among a

number of cheese varieties, the Commissioner concludes that there is ample authority to require all ingredients to be declared except for coloring which is specifically exempted from label declaration when used in cheese by section 403 (k) of the act.

5. Exception was also taken to the requirement of the order that wherever any word or statement emphasizing the name of any ingredient appears on a standardized cheese product label (other than in the ingredient statement) the full name of the food shall immediately and conspicuously precede or follow such word or statement in type of at least the same size as the type used in such word or statement. It was requested that these provisions be made applicable to cheese ingredients only, rather than to all ingredients. However, the July 7, 1972, order was based on an industry proposal to correct acknowledged labeling abuses whereby the name of the food was subordinated to a word or phrase emphasizing the presence of certain ingredients, e.g., "American" or "pimento." The Commissioner is of the opinion that such practices were unlawful and that the name of the food on cheese product labels must be at least as prominent as any statements emphasizing ingredients contained therein. Thus, the provisions of the order to require prominent declaration of the food name are retained.

6. A provision of the July 7, 1972, order stated that cream cheese need not be listed in the ingredient statement on labels for cream cheese with other foods (§ 19.782) because cream cheese is a mandatory ingredient of that product, and statutory authority does not exist to require the declaration of mandatory ingredients on the labels of standardized foods. Subsequent to the publication of that order, an order was published to amend part 19 by listing xanthan gum as an optional ingredient of certain cheeses and cheese products (38 FR 6883, March 14, 1973). A provision of the March 14, 1973, order requires that all ingredients used in cream cheese (§ 19.515) and neufchatel cheese (§ 19.520) be declared on labels in an ingredient statement. Accordingly, the July 7, 1972, order has been amended as set forth below to require that all ingredients used in cream cheese with other foods, including all ingredients used in making the cream cheese which is the principal component of the food, be declared. A similar change in the order has been made to amend the identity standard for pasteurized process neufchatel cheese spread with other foods (§ 19.783) to require that all ingredients of the neufchatel cheese used in making the food be declared.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055-1056, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with authority delegated to the Commissioner (21 CFR 2.120):

It is ordered, That the amendment of part 19, as published in the FEDERAL REGISTER of July 17, 1972 (37 FR 13339), with the further revisions set forth below

to effect consistency with other recently promulgated orders affecting cheese product labeling, shall become effective as set forth below.

Part 19 is amended:

1. In § 19.750 by revising paragraphs (f) and (g) to read as follows:

§ 19.750 **Pasteurized process cheese; identity; label statement of optional ingredients.**

(f) The name of the food shall include a declaration of any flavoring, including smoke and substances prepared by condensing or precipitating wood smoke, that characterizes the product as specified in § 1.12 of this chapter and a declaration of any spice that characterizes the product.

(g) The common name of each of the ingredients used shall be declared on the label as required by the applicable sections of part 1 of this chapter except that:

(1) Artificial coloring need not be declared.

(2) If the cheese ingredient contains cheddar cheese, washed curd cheese, colby cheese, granular cheese, or any mixture of two or more of these, such cheese or such mixture may be designated as "American cheese."

2. In § 19.765 by revising paragraphs (g) and (h) to read as follows:

§ 19.765 **Pasteurized process cheese food; identity; label statement of optional ingredients.**

(g) The name of the food shall include a declaration of any flavoring, including smoke and substances prepared by condensing or precipitating wood smoke, that characterizes the product as specified in § 1.12 of this chapter and a declaration of any spice that characterizes the product.

(h) The common name of each of the ingredients used shall be declared on the label as required by the applicable sections of part 1 of this chapter, except that:

(1) Plastic cream and dried cream may be declared as "cream."

(2) Concentrated milk and dried milk may be declared as "milk."

(3) Concentrated skim milk and non-fat dry milk may be declared as "skim milk."

(4) Cheese whey, concentrated cheese whey, and dried cheese whey may be declared as "whey."

(5) If the cheese ingredient contains cheddar cheese, washed curd cheese, colby cheese, granular cheese, or any mixture of two or more of these, such cheese or such mixture may be designated as "American cheese."

3. In § 19.775 by revising paragraphs (h) and (i) to read as follows:

§ 19.775 **Pasteurized process cheese spread; identity; label statement of optional ingredients.**

(h) The name of the food shall include a declaration of any flavoring, includ-

ing smoke and substances prepared by condensing or precipitating wood smoke, that characterizes the product as specified in § 1.12 of this chapter and a declaration of any spice that characterizes the product.

(i) The common name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 1 of this chapter, except that:

(1) Plastic cream and dried cream may be declared as "cream."

(2) Concentrated milk and dried milk may be declared as "milk."

(3) Concentrated skim milk and non-fat dry milk may be declared as "skim milk."

(4) Cheese whey, concentrated cheese whey, and dried cheese whey may be declared as "whey."

(5) If the cheese ingredient contains cheddar cheese, washed curd cheese, colby cheese, granular cheese, or any mixture of two or more of these, such cheese or such mixture may be designated as "American cheese."

4. In § 19.782 by revising paragraph (d) to read as follows:

§ 19.782 **Cream cheese with other foods; identity; label statement of optional ingredients.**

(d) The common name of each of the ingredients used shall be declared on the label as required by the applicable sections of part 1 of this chapter.

5. In § 19.783 by revising paragraph (d) to read as follows:

§ 19.783 **Pasteurized neufchatel cheese spread with other foods; identity; label statement of optional ingredients.**

(d) The common name of each of the ingredients used shall be declared on the label as required by the applicable sections of part 1 of this chapter, except that:

(1) Plastic cream and dried cream may be declared as "cream."

(2) Concentrated milk and dried milk may be declared as "milk."

(3) Concentrated skim milk and non-fat dry milk may be declared as "skim milk."

6. In § 19.785 by revising paragraphs (e) and (f) to read as follows:

§ 19.785 **Cold-pack cheese, club cheese, comminuted cheese; identity; label statement of optional ingredients.**

(e) The name of the food shall include a declaration of any flavoring, including smoke and substances prepared by condensing or precipitating wood smoke, that characterizes the product as specified in § 1.12 of this chapter and a declaration of any spice that characterizes the product.

(f) The common name of each of the ingredients used shall be declared on the labels as required by the applicable sections of Part 1 of this chapter, except that:

(1) Artificial coloring need not be declared.

(2) If the cheese ingredient contains cheddar cheese, washed curd cheese, colby cheese, granular cheese, or any mixture of two or more of these, such cheese or such mixture may be designated as "American cheese."

7. In § 19.787 by revising paragraphs (g) and (h) to read as follows:

§ 19.787 **Cold-pack cheese food; identity; label statement of optional ingredients.**

(g) The name of the food shall include a declaration of any flavoring, including smoke and substances prepared by condensing or precipitating wood smoke, that characterizes the product as specified in § 1.12 of this chapter and a declaration of any spice that characterizes the product.

(h) The common name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 1 of this chapter, except that:

(1) Plastic cream and dried cream may be declared as "cream."

(2) Concentrated milk and dried milk may be declared as "milk."

(3) Concentrated skim milk and non-fat dry milk may be declared as "skim milk."

(4) Cheese whey, concentrated cheese whey, and dried cheese whey may be declared as "whey."

(5) If the cheese ingredient contains cheddar cheese, washed cheese, colby cheese, granular cheese, or any mixture of two or more of these, such cheese or such mixture may be designated as "American cheese."

8. In § 19.790 by revising paragraph (e) to read as follows:

§ 19.790 **Grated American cheese food; identity; label statement of optional ingredients.**

(e) The common name of each of the ingredients used shall be declared on the label as required by the applicable sections of part 1 of this chapter, except that cheddar cheese, washed curd cheese, colby cheese, granular cheese, or any mixture of two or more of these may be designated "American cheese."

Effective date.—Compliance with this order, which shall include any labeling changes required, may begin on or before May 23, 1973, and all labeling ordered after December 31, 1973, and all labeling used for products shipped in interstate commerce after December 31, 1974, shall comply with these regulations.

(Secs. 401, 701, 52 Stat. 1046, 1055-1056, as amended by 70 Stat. 919 and 948; 21 U.S.C. 341, 371)

Dated April 18, 1973.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc.73-7795 Filed 4-20-73;8:45 am]

CHAPTER II—BUREAU OF NARCOTICS,
DANGEROUS DRUGS, DEPARTMENT OF
JUSTICE

PART 308—SCHEDULES OF
CONTROLLED SUBSTANCES

Excluded Nonnarcotic Substances

Breon Laboratories, Inc., has informed the Bureau of Narcotics and Dangerous Drugs that the formulation of three of its products currently listed as excluded nonnarcotic substances in § 308.22 of title 21 of the Code of Federal Regulations have been changed. Bronkald no longer contains phenobarbital (or any other controlled substance) and no longer should be listed. Bronkolixir and Bronkotabs still contain phenobarbital but have had other ingredients deleted.

Therefore, under the authority vested in the Attorney General by section 201 (g) (1) of the Controlled Substances Act of 1970 (21 U.S.C. 811(g) (1)) and delegated to the Director, Bureau of Narcotics and Dangerous Drugs, by § 0.100 of title 23 of the Code of Federal Regulations, the Director hereby orders that:

1. Section 308.22 be amended by deleting the following:

Trade name or other designation	Composition	Manufacturer or supplier
Bronkald.....	Tablet: Phenobarbital, 8 mg, ephedrine sulfate, 24 mg, glyceryl guaiacolate, 100 mg, theophylline, 10 mg.	Drew Pharmaceutical Co., Inc.

2. Section 308.22 be amended by revising portions of it to read as follows:

Trade name or other designation	Composition	Manufacturer or supplier
Bronkolixir....	Elixir (per 5 ml): Phenobarbital, 4 mg; ephedrine sulfate, 12 mg; glyceryl guaiacolate, 50 mg; theophylline, 15 mg.	Breon Laboratories, Inc.
Bronkotabs....	Tablet: Phenobarbital, 8 mg; ephedrine sulfate, 24 mg; glyceryl guaiacolate, 100 mg; theophylline, 100 mg.	Do.

Effective date.—This order is effective on April 23, 1973. Any interested person may file written comments on or objections to the order within 60 days after the date of publication. If any such comments or objections raise significant issues regarding any finding of fact or conclusion of law upon which the order is based, the Director shall immediately suspend the effectiveness of the order until he may reconsider the application in light of the comments and objections filed. Thereafter, the Director shall reinstate, revoke or amend his original order as he determines appropriate.

Dated April 17, 1973.

JOHN E. INGERSOLL,
Director, Bureau of
Narcotics and Dangerous Drugs.
[FR Doc. 73-7784 Filed 4-20-73; 8:45 am]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS,
DEPARTMENT OF THE INTERIOR

SUBCHAPTER F—ENROLLMENT

PART 47—REVISION OF THE MEMBERSHIP ROLL OF THE EASTERN BAND OF CHEROKEE INDIANS, NORTH CAROLINA

Eliminating Time Limits for Filing Applications

The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Beginning on page 23274 of the FEDERAL REGISTER of November 1, 1972 (37 FR 23274), there was published a notice of proposed rulemaking to revise part 47 of title 25 of the Code of Federal Regulations relating to membership in the Eastern Band of Cherokee Indians, North Carolina. The regulations were proposed pursuant to resolution 110 passed by the Tribal Council of the Eastern Band of Cherokee Indians of North Carolina on February 16, 1972, and section 2 of the act of August 21, 1957 (71 Stat. 374).

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

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

The revised part 47 shall become effective May 23, 1973.

WILLIAM L. ROGERS,
Deputy Assistant, Secretary
of the Interior.

APRIL 16, 1973.

The table of contents for Part 47 of Chapter I, Title 25 of the Code of Federal Regulations is revised to read as follows:

Sec. 47.1	Definitions.
47.2	Purpose.
47.3	Announcement of revision of roll.
47.4	Basic membership roll.
47.5	Removal of deceased persons from the roll.
47.6	Additions to the roll.
47.7	Applications for enrollment.
47.8	Applications for minors and incompetents.
47.9	Application form.
47.10	Where application forms may be obtained.
47.11	Proof of relationship.
47.12	Enrollment Committee.
47.13	Tenure of Enrollment Committee.
47.14	Appeals.
47.15	Current membership roll.
47.16	Eligibility for enrollment of persons born after August 21, 1957.
47.17	Relinquishment of membership.

AUTHORITY: Sec. 2, 71 Stat. 374.

1. Section 47.1 (e), (f), and (g) are revised to read as follows:

§ 47.1 Definitions.

As used in this part:

(e) "Tribal Enrollment Office" means the Tribal Enrollment Clerk working in concert with the Enrollment Committee.

(f) "Tribal Enrollment Clerk" means the individual working in the Tribal Enrollment Office.

(g) "Enrollment Committee" means the three individuals appointed by the Tribal Council in accordance with Section 47.12.

2. Sections 47.5 and 47.6-47.15 are revised to read as follows:

§ 47.5 Removal of deceased persons from the roll.

The name of any person who was not alive as of midnight August 21, 1957, shall be stricken from the basic membership roll by the Tribal Enrollment Office upon receipt of a death certificate or other evidence of death acceptable to the Tribal Enrollment Office.

§ 47.7 Applications for enrollment.

Each adult person who believes he meets the requirements for enrollment established herein may submit to the Tribal Enrollment Office an application for enrollment as a member of the Eastern Band of Cherokee Indians.

§ 47.8 Applications for minors and incompetents.

Applications for enrollment of minors may be filed by the parent, next of kin, recognized guardian, or other person responsible for their care. Applications for enrollment of persons known to be in mental or penal institutions may be filed by the Principal Chief of the Eastern Band of Cherokee.

§ 47.9 Application form.

The form of application for enrollment will be prepared by the Tribal Enrollment Office and, in addition to whatever information the Enrollment Committee may deem necessary, shall contain the following:

(a) The name and address of the applicant. If the application is filed on behalf of a minor, the name and address of the person filing the application and his relationship to the minor.

(b) The name, relationship, tribe and roll number of the ancestor or ancestors through whom enrollment rights are claimed, and whether applicant is enrolled with another tribe.

(c) The date of death of such ancestor, if deceased.

§ 47.10 Where application forms may be obtained.

Application forms will be supplied by the Tribal Enrollment Office of the Eastern Band of Cherokee Indians, Council House, Cherokee, N.C. 28719, upon request, either in person or by mail.

§ 47.11 Proof of relationship.

If the applicant's parents or other Eastern Cherokee ancestors through whom the applicant claims enrollment rights are unknown to the Tribal Enrollment Office, the Tribal Enrollment Office may request the applicant to furnish such additional information and evidence as it may deem necessary to determine the applicant's eligibility for enrollment. Failure of the applicant to fur-

nish the information requested may be deemed sufficient cause for rejection.

§ 47.12 Enrollment Committee.

The Tribal Council shall appoint either from within or without the membership of the Council, but not from without the membership of the Band, a committee of three (3) persons to serve as the Enrollment Committee. The Enrollment Committee shall review all applications for enrollment filed in accordance with the existing regulations, and shall determine the qualifications of the applicant for enrollment with the Band. The Enrollment Committee may perform such other functions relating to the enrollment and membership in the Band as the Tribal Council may from time to time direct.

§ 47.13 Tenure of Enrollment Committee.

The members of the Enrollment Committee shall be appointed to serve a term of office of 2 years by each newly elected Tribal Council.

§ 47.14 Appeals.

Any person whose application for enrollment has been rejected by the Enrollment Committee shall have the right to appeal to the Tribal Council from the determination made by the Enrollment Committee: *Provided*, That such appeal shall be made in writing and shall be filed in the office of the Principal Chief for presentation to the Tribal Council within sixty (60) days from the date on which the Enrollment Committee issues notice to the applicant of his rejection. The applicant may submit with his appeal any additional data to support his claim to enrollment not previously furnished. The decision of the Tribal Council as to whether the applicant meets the requirements for enrollment set forth in this part shall be final. The Tribal Council shall review no applications for enrollment except in those cases where the rejected applicant appeals to the Council in writing from the determination made by the Enrollment Committee.

§ 47.15 Current membership roll.

The membership roll of the Eastern Band of Cherokee Indians shall be kept current by striking therefrom the names of persons who have relinquished their membership in the Band as provided in § 47.17 and of deceased persons upon receipt of a death certificate or other evidence of death acceptable to the Tribal Enrollment Office, and by adding thereto the names of individuals who meet the qualifications and are accepted for membership in the Band as set forth in this part.

3. Section 47.16 (a), (b), and (c) are revised to read as follows:

§ 47.16 Eligibility for enrollment of persons born after August 21, 1957.

(a) Persons possessing one-sixteenth or more degree Eastern Cherokee Indian blood and born after August 21, 1957, may be enrolled in either of the following manners:

(1) An application to have the person enrolled must be filed by or on behalf of the person by the parent or recognized guardian or person responsible for his care, which application shall be accompanied by the applicant's birth certificate or by other evidence of eligibility of the applicant for enrollment that the Tribal Enrollment Office may require.

(2) In the absence of such application within 6 months after a person's birth, the Tribal Enrollment Office shall be authorized and encouraged to obtain evidence relating to the eligibility of the person for enrollment in the Eastern Band, and present an application in his behalf to the Enrollment Committee which may proceed to enroll the person if the evidence submitted meets the criteria.

(b) A person adopted in accordance with applicable laws by either tribal members or nonmembers, shall be considered for enrollment as a tribal member if the person otherwise meets the requirements for enrollment.

(c) A person born to an enrolled member of the Band and an enrolled member of another Tribe, and said person is enrolled in the other Tribe, may be transferred from the rolls of the other and added to the rolls of the Eastern Band if he meets the general requirements for enrollment and, in addition:

(1) A death certificate or other acceptable evidence of the death of the parent enrolled in the other Tribe is received and the surviving parent who is a member of the Eastern Band makes application for enrollment by way of transfer.

(2) Upon receipt of divorce documents in the Tribal Enrollment Office, there is evidence of custody of the minors being awarded to the parent who is a member of the Band and the parent awarded custody makes application for enrollment of the minors with the Eastern Band by way of transfer.

No further changes are made in the text of Part 47.

[FR Doc.73-7741 Filed 4-20-73; 8:45 am]

SUBCHAPTER G—TRIBAL GOVERNMENT

PART 52—TRIBES ORGANIZED UNDER SECTION 16 OF THE INDIAN REORGANIZATION ACT

Voting by Tribal Members

The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Pursuant to the act of June 18, 1934 (48 Stat. 984), and the 26th amendment to the Federal Constitution, part 52, subchapter G, chapter I, title 25 of the Code of Federal Regulations is amended by revising paragraph (e) of § 52.1, paragraph (a) of §§ 52.10a, 52.11, and 52.17.

The 26th amendment to the Federal Constitution which lowered the voting

age to 18 years of age, applies to administrative actions and is self-executing. Accordingly, paragraph (e) of § 52.1, paragraph (a) of §§ 52.10a, 52.11, and 52.17 are being amended to reflect the lower voting age of 18 years. In addition, paragraph (a) of § 52.10a is being amended to eliminate the requirement that the election board request a return receipt when notifying each adult tribal member not living on the reservation that he must register in order to participate in elections called by the Secretary. This requirement is no longer necessary to prove delivery of the notice since information on delivery of certified mail is available from U.S. Postal Service records. Section 52.17 is also being amended to permit a voter to execute an absentee ballot without having two adults present to certify that proper procedures were followed. Certifications in connection with casting an absentee ballot are seldom required by States in State and Federal elections. Also, the inconvenience involved with certifications often discourages tribal members not living on the reservation from voting in tribal elections.

Advance notice and public procedure on these regulations would delay their alinement with the voting age guaranteed by the Federal Constitution and with existing election regulations governing both State and Federal elections in many of the States and would delay the removal of restrictions now placed upon certain tribal members in tribal elections. Therefore, advance notice and public procedure are deemed contrary to the public interest and are dispensed with under the exception provided in subsection (b) (B) of 5 U.S.C. 553 (1970).

Since delay in the effective date of the amendments would delay the time when the regulations reflect the civil rights of 18-, 19-, and 20-year-old individuals to vote as guaranteed by the Federal Constitution and would delay removal of restrictions on participants in tribal elections which are not customarily imposed in State and Federal elections, the 30-day deferred effective date is dispensed with under the exception provided in subsection (d) (3) of 5 U.S.C. 553 (1970). Accordingly, these amendments will become effective May 23, 1973.

Part 52 of subchapter G, chapter I, title 25 of the Code of Federal Regulations is amended as follows:

1. In § 52.1, paragraph (e) is revised. As amended, § 52.1 reads as follows:

§ 52.1 Definitions.

(e) "Adult Indian" means any Indian who has attained the age of 18 years.

2. In § 52.10a, paragraph (a) is revised. As amended § 52.10a reads as follows:

§ 52.10a Registration.

(a) The Election Board upon receipt of authorization to conduct an election shall notify by certified mail all adult Indians of the tribe who, to its knowledge, are not living on the reservation of

the need to register if they intend to vote. Notice of the need to register shall be sent by regular mail to all eligible voters who reside on the reservation. Any Indian who will become 18 years of age within 90 days from the date of authorization shall also be notified and shall be eligible to register: *Provided*, He shall not be entitled to vote should election day fall before his 18th birthday. Such notice shall be sent to an individual's last known address as it may appear on the records of the local unit of the Bureau of Indian Affairs having jurisdiction. Each notice addressed to a tribal member not residing on the reservation shall be accompanied by an appropriate preaddressed registration form which shall provide space for at least the name and address of the person desiring to register and for attesting that he or she is a tribal member either 18 years of age or over, or will be within 90 days from the date of authorization. Such nonresident who wishes to participate in the election must complete and return the registration form before or in conjunction with requesting an absentee ballot. Indians living on the reservation who desire to vote must register with the Election Board in the manner it determines in sufficient time to permit compliance with § 52.11.

3. Section 52.11 is revised to read as follows:

§ 52.11 Voting list.

The election board shall compile in alphabetical order an official list of registered voters, arranged by voting districts, if any, of the members of the tribe who are or will have attained the age of 18 years within 90 days from the date an election is authorized and who have duly registered to vote. A copy of this list shall be supplied to each district election board and also posted at the headquarters of the local administrative unit of the Bureau of Indian Affairs and at various public places designated by the election board throughout the reservation at least 20 days prior to the election.

4. Section 52.17 is revised to read as follows:

§ 52.17 Absentee voting.

Nonresident members who have registered may vote by absentee ballot except as prohibited by § 52.6(c). Also, whenever due to temporary absence from the reservation, illness, or physical disability, a registered eligible voter is not able to vote at the polls and duly causes the election board to be notified thereof, ballot. The election board shall give or mail ballots for absentee voting to registered voters upon request in sufficient time to permit the voter to execute and return the same on or before the date of the election or within the time allowed by the election board. Together with the ballot there shall be an inner envelope bearing on the outside the words "Absentee Ballot," a preaddressed outer envelope, and a certificate in form as follows:

I _____, hereby certify that I am a member of the _____ Tribe of Indians; that I will be 18 years of age or over at the election date and am entitled to vote in the election to be held on (date of election); and that I cannot appear at the polling place on the reservation on the date of the election because (indicate one of the following reasons) I expect to be absent from the reservation , or because of illness or physical disability . I further certify that I marked the enclosed ballot in secret.

Signed: _____
(Voter's signature)

The voter shall mark such ballot and the ballot shall then be folded so as to conceal the marking and be placed in the envelope marked "Absentee Ballot" and the envelope sealed. The voter shall then complete the certificate and place the sealed envelope marked "Absentee Ballot" together with the certificate in the outer envelope and mail it or have it delivered. The preaddressed outer envelope shall be directed to the election board at the reservation. Absentee Ballots must be received by the Election Board not later than the close of the polls on election day, except as covered by § 52.13. The election board shall make and keep a record of ballots mailed, to whom mailed, the date of mailing, the address on the envelope, the date of the return of such ballot, and from whom received, and shall count and register all such votes after all other ballots have been counted and include them in the result of the election.

WILLIAM L. ROGERS,
Deputy Assistant Secretary
of the Interior.

APRIL 16, 1973.

[FR Doc.73-7742 Filed 4-20-73; 8:45 am]

Title 30—Mineral Resources

CHAPTER II—GEOLOGICAL SURVEY, DEPARTMENT OF THE INTERIOR

Reorganization of the Conservation Division Geological Survey

The primary purpose of these amendments is to implement a recent revision of the organization of the Conservation Division of the Geological Survey. They also revoke various superseded regulations pertaining to coal mine health and safety and make several insubstantial changes that are essentially editorial in nature.

Departmental manual release No. 1459 of June 28, 1972, revised the organization of the Geological Survey. The manual release included in 120 DM 4 a revision of the organization of the Conservation Division of the Geological Survey, the principal effect of which was to transfer the line responsibility of the previous four branches of the Division to three regional offices in Washington, D.C., Denver, Colo., and Menlo Park, Calif., each headed by a regional conservation manager, and to a Gulf of Mexico Outer Continental Shelf Operations Office in Metairie, La., headed by a conservation manager.

As a result of the reorganization of the Conservation Division these amendments of the regulations are made:

(1) To reflect the change in titles of the "Regional Mining Supervisor" and the "Regional Oil and Gas Supervisor" to "Area Mining Supervisor" and "Area Oil and Gas Supervisor", respectively.

(2) To make it clear that the line of command in the Conservation Division is from the Division Chief to the Conservation Managers, and from the Conservation Managers to the Area Supervisors, and that the Area Supervisors shall be subject to the direction and supervisory authority of the Division Chief and the appropriate Conservation Manager, each of whom may exercise the jurisdiction of the Supervisors.

(3) To add a new part 290 to title 30 of the Code of Federal Regulations, containing the right of appeal and the procedures for appeals to the Director, Geological Survey (and the Commissioner of Indian Affairs as to Indian lands) from decisions or orders of officers of the Conservation Division involving mineral permits and leases on public domain, acquired, and Indian lands. Formerly in title 30 of the Code of Federal Regulations, the regulations pertaining to appeals were included in separate parts of that title. New part 290 consolidates in one part substantially the same appellate procedure as formerly provided in the separate parts of title 30.

A change effected by part 290 is to enlarge the time for taking an appeal from an order or decision of an Oil and Gas Supervisor from 20 days to 30 days from receipt of the order or decision. This change is made to obtain uniformity with other appeals procedures in the Department applicable to public land cases generally.

The former regulations in title 30 provided for appeals to the Director, Geological Survey, and the Commissioner of Indian Affairs only from decisions or orders of Oil and Gas Supervisors and Mining Supervisors. New part 290 expands the right of appeal also to include appeals from decisions or orders which may be issued by other officials of the Conservation Division under the revised organization of that Division. Since this change in the regulations enlarges rather than diminishes an existing right of appeal, it does not appear to be controversial.

These amendments revoke a number of sections in 30 CFR parts 211 and 216 pertaining to health and safety for coal mines on Federal and Indian lands since the responsibility for coal mine health and safety is now the responsibility of the Bureau of Mines. Departmental regulations governing coal mine health and safety are contained in subchapter 0 of chapter I of title 30 of the Code of Federal Regulations.

Since the changes effected by these amended regulations are insubstantial and are made primarily to reflect the effects of a reorganization of an organizational unit of the Department and to

revoke regulations superseded by other departmental regulations, it is determined that it is unnecessary to submit these regulations to the usual proposed rulemaking procedure. These amendments shall become effective on April 23, 1973.

Dated April 17, 1973.

STEPHEN A. WAKEFIELD,
Assistant Secretary of the Interior.

PART 211—COAL-MINING OPERATING REGULATIONS

Part 211 of title 30 of the Code of Federal Regulations is amended as set forth below:

1. The heading of part 211 is changed to read as set forth above.

2. The table of contents is amended by inserting the following new item:

Sec.
211.3a Jurisdiction.

3. Paragraph (a) is amended and paragraphs (b) and (c) of § 211.3 are revised to read as follows:

§ 211.3 Definitions.

(a) *Mining Supervisor*.—The Area Mining Supervisor, Conservation Division of the Geological Survey; a representative of the Secretary, subject to the direction and supervisory authority of the Director, the Chief, Conservation Division, Geological Survey, and the appropriate Regional Conservation Manager, Conservation Division, Geological Survey, authorized and empowered to regulate operations and to perform other duties prescribed in the regulations in this part, or any subordinate acting under his direction.

(b) *Secretary*.—The Secretary of the Interior.

(c) *Director*.—The Director of the Geological Survey, Washington, D.C.

4. A new § 211.3a is added to read as follows:

§ 211.3a Jurisdiction.

Subject to the supervisory authority of the Secretary and the Director, operations for the discovery, testing, development, mining, or preparation of coal, handling and measurement of production, determination and collection of rental and royalty, and in general, all operations conducted on a lease by or on behalf of a lessee are subject to the regulations in this part, and are under the jurisdiction of the Mining Supervisor for any area as delineated by the Director. In the exercise of this jurisdiction, the Mining Supervisor shall be subject to the direction and supervisory authority of the Chief, Conservation Division, Geological Survey, and the appropriate Regional Conservation Manager, Conservation Division, Geological Survey, each of whom may exercise the jurisdiction of the Mining Supervisor.

§ 211.4 [Amended]

5. The title of § 211.4 is changed to read as follows: § 211.4 *Powers and duties of supervisor*.

6. Section 211.4 is amended by deleting the words "District Mining Supervisors, and Deputy Mining Supervisors" in the first sentence; paragraph (f) is amended by substituting the words "Mining Supervisor" for the words "District Mining Supervisor or the Deputy Mining Supervisor" in the first sentence; and paragraph (g) is amended to read as follows:

(g) *Orders to insure compliance with regulations not in conflict with State laws; appeal, delay in execution of order or notice*.—The mining supervisor may issue such orders and notices in writing as may be appropriate to insure compliance with the regulations in this part, and may order the discontinuance or modification of any operation or method that is causing or likely to cause any endangerment of life or property or is in violation of the provisions of the lease or regulations: *Provided*, That such orders are not in conflict with the laws of the State in which the leased land is situated: *And further provided*, That if any such order or notice issued under the regulations in this part does not contain a statement that immediate danger of loss of life or property is involved, and if the lessee appeals therefrom as provided in part 290 of this chapter, execution of said order or notice may be delayed pending final disposition of the appeal.

7. Section 211.5 is amended to read as follows:

§ 211.5 *Observance of lease terms; lessee's liability for damage*.

The lessee shall observe and carry out the terms of the act of February 25, 1920 (41 Stat. 437), as amended (30 U.S.C. 181-263), his lease, the regulations in this part, and the orders and written notices of the Mining Supervisor issued in accordance with the regulations and terms of the lease that are not in conflict with the laws of the State in which the leased land is situated: *Provided*, That if any order or notice does not specify that immediate action must be taken for the protection of life or property, an appeal may be taken as provided in part 290 of this chapter. Upon failure of the lessee to take appropriate action to protect the deposits from damage or threatened damage by fire, water, oil, gas, or subsidence, and upon failure of the lessee properly to protect the property upon abandonment or cancellation of the lease, the lessee shall be liable for the expense of labor and supplies used by the Mining Supervisor for the protection of the property.

§ 211.7 [Amended]

8. Section 211.7 is amended by deleting the word "district".

§ 211.8 [Amended]

9. Section 211.8 is amended by deleting the word "district" in the first sentence.

§ 211.16 [Amended]

10. Paragraph (b) of § 211.16 is amended by deleting the word "district" in the first sentence.

§ 211.19 [Amended]

11. Section 211.19 is amended by deleting the word "district" in the first sentence.

§ 211.20 [Amended]

12. Section 211.20 is amended by deleting the word "district".

§ 211.22 [Amended]

13. Paragraph (b) of § 211.22 is amended by deleting the word "district" in the fourth sentence.

§ 211.23 [Amended]

14. Section 211.23 is amended by deleting the words "district mining supervisor or deputy".

§ 211.25 [Amended]

15. Paragraph (f) of § 211.25 is amended by deleting the word "district".

§ 211.26 [Amended]

16. Paragraphs (a) and (b) of § 211.26 are amended by deleting the words "or district mining supervisor" in paragraph (a) and by deleting the word "district" in paragraph (b).

§ 211.48 [Amended]

17. Paragraphs (a), (b), (c), and (d) of § 211.48 are amended by deleting the word "district" wherever it appears.

§ 211.50 [Amended]

18. Paragraph (b) of § 211.50 is amended by deleting the word "district" in the third sentence.

§ 211.51 [Amended]

19. Paragraph (a) of § 211.51 is amended by deleting the word "district" wherever it appears.

§§ 211.9 through 211.14 [Revoked], §§ 211.28 through 211.47 [Revoked], §§ 211.52 through 211.62 [Revoked], §§ 211.65 through 211.110 [Revoked].

20. The following sections are revoked: Sections 211.9, 211.10, 211.11, 211.12, 211.13, 211.14, 211.28, 211.29, 211.30, 211.31, 211.32, 211.33, 211.34, 211.35, 211.36, 211.37, 211.38, 211.39, 211.40, 211.41, 211.42, 211.43, 211.44, 211.45, 211.46, 211.47, 211.52, 211.53, 211.54, 211.55, 211.56, 211.57, 211.58, 211.59, 211.60, 211.61, 211.62, 211.65, 211.66, 211.67, 211.68, 211.69, 211.70, 211.71, 211.72, 211.73, 211.74, 211.75, 211.76, 211.77, 211.78, 211.79, 211.80, 211.81, 211.82, 211.83, 211.84, 211.85, 211.86, 211.87, 211.88, 211.89, 211.90, 211.91, 211.92, 211.93, 211.94, 211.95, 211.96, 211.97, 211.98, 211.99, 211.100, 211.101, 211.102, 211.103, 211.104, 211.105, 211.106, 211.107, 211.108, 211.109, 211.110.

PART 216—OPERATING REGULATIONS GOVERNING THE MINING OF COAL IN ALASKA

Part 216 of title 30 of the Code of Federal Regulations is amended as set forth below:

1. The heading of part 216 is amended to read as set forth above.

§ 216.2 [Amended]

2. Section 216.2 is amended by deleting the words "district mining supervisor, and deputy mining supervisor".

3. Section 216.3 is amended to read as follows:

§ 216.3 Orders to insure compliance with regulations not in conflict with laws of the State of Alaska; appeal.

The mining supervisor may issue such orders and notices in writing as may be appropriate to insure compliance with the regulations in this part, and may order the discontinuance or modification of any operation or method that is causing or is likely to cause any endangerment of life or property or is in violation of the provision of the lease or regulations: *Provided*, That such orders are not in conflict with the laws of the State of Alaska: *And further provided*, That if any such order or notice does not contain a statement that immediate danger of loss of life or property is involved, and if the lessee appeals therefrom as provided in part 290 of this chapter, execution of said order or notice may be delayed pending final disposition of the appeal.

§ 216.5 [Amended]

4. Section 216.5 is amended by deleting the word "district".

§ 216.11 [Amended]

5. Section 216.11 is amended by deleting the word "district".

§§ 216.6, 216.7, 216.8, 216.9, 216.10 [Revoked]

6. The following sections are revoked: Sections 216.6, 216.7, 216.8, 216.9, 216.10.

PART 221—OIL AND GAS OPERATING REGULATIONS

Part 221 of title 30 of the Code of Federal Regulations is amended as set forth below:

1. Paragraphs (b) and (c) of § 221.2 are amended to read as follows:

§ 221.2 Definitions.

(b) *Director*.—The Director of the Geological Survey, Washington, D.C., having direction of the enforcement of the regulations in this part.

(c) *Supervisor*.—The Area Oil and Gas Supervisor, Conservation Division of the Geological Survey; a representative of the Secretary, subject to the direction and supervisory authority of the Director, the Chief, Conservation Division, Geological Survey, and the appropriate Regional Conservation Manager, Conservation Division, Geological Survey, authorized and empowered to supervise and direct oil and gas operations and to perform other duties prescribed in the regulations in this part, or any subordinate acting under his direction.

2. Section 221.3 is amended to read as follows:

§ 221.3 Jurisdiction.

Subject to the supervisory authority of the Secretary and the Director, drilling and producing operations, handling and gaging of oil, and the measurement of gas or other products, determination of royalty liability, receipt and delivery to those entitled thereto of royalty accruing to the lessor and paid in amount of production, determination of amount and manner of payment of damages assessed under authority of the regulations in this part for defaults or noncompliance with duties by the lessee and, in general, all operations subject to the regulations in this part are under the jurisdiction of the supervisor for any area as delineated by the Director. As to producing leases of Indian lands, the officer in charge, and as to lands within naval petroleum reserves, the supervisor shall determine rental liability, record rentals, royalties, and other payments, and maintain lease accounts. Upon request, the supervisor will advise any person concerning the regulations in this part, and will furnish technical information and advice relative to oil and gas development and operation on lands subject hereto. In the exercise of his jurisdiction, the supervisor shall be subject to the direction and supervisory authority of the Chief, Conservation Division, Geological Survey and the appropriate Regional Conservation Manager, Conservation Division, Geological Survey, each of whom may exercise the jurisdiction of the supervisor.

§ 221.14 [Amended]

3. Section 221.14 is amended by substituting for the reference to "Sec. 221.66" the following: "Part 290 of this chapter."

4. Section 221.17 is revised to read as follows:

§ 221.17 Appeals action.

The supervisor shall receive and promptly render his decision on any matter presented for reconsideration under the regulations in this part and shall receive and promptly transmit for review all appeals filed pursuant to part 290 of this chapter.

5. Section 221.66 is revised to read as follows:

§ 221.66 Appeals.

Orders or decisions issued under the regulations in this part may be appealed from as provided in part 290 of this chapter. Compliance with any such order or decision shall not be suspended by reason of an appeal having been taken unless such suspension is authorized in writing by the Director or the Board of Land Appeals (depending upon the official before whom the appeal is pending) and then only upon a determination that such suspension will not be detrimental to the lessor or upon submission and acceptance of a bond deemed adequate to indemnify the lessor from loss or damage.

PART 223—APPROVAL OF SALES AGREEMENTS OR CONTRACTS COVERING THE DISPOSAL OF OIL AND GAS LEASE PRODUCTS (NOT APPLICABLE TO INDIAN OR NAVAL PETROLEUM RESERVE LANDS)

Part 223 of title 30 of the Code of Federal Regulations is amended as set forth below:

1. Section 223.7 is revised to read as follows:

§ 223.7 Appeals.

An appeal may be taken as provided in part 290 of this chapter from any order or decision issued under the regulations in this part.

PART 225—DISPOSAL OF GOVERNMENT ROYALTY OIL

Part 225 of title 30 of the Code of Federal Regulations is amended as set forth below:

1. Paragraphs (c), (d), and (e) of § 225.2 are amended to read as follows:

§ 225.2 Definitions.

(c) "Supervisor" shall be the Area Oil and Gas Supervisor, Conservation Division of the Geological Survey; a representative of the Secretary, subject to the direction and supervisory authority of the Director, Geological Survey, the Chief, Conservation Division, Geological Survey, and the appropriate Regional Conservation Manager, Conservation Division, Geological Survey, authorized and empowered to supervise and direct oil and gas operations and to perform other duties prescribed in the regulations in part 221 of this chapter.

(d) "Area" is the geographic area over which a supervisor is authorized to exercise supervisory jurisdiction.

(e) "Preference eligible refiners" shall be eligible refiners applying for purchase of royalty oil produced in a given Area for use in their refineries located within that area.

§ 225.5 [Amended]

2. Section 225.5 is amended by substituting the word "Area" for the word "Region" in the first sentence.

§ 225.6 [Amended]

3. Section 225.6 is amended by substituting the word "Area" for the word "Region" wherever it appears.

§ 225.7 [Amended]

4. Section 225.7 is amended by substituting the word "Area" for the word "Region" in the first sentence.

PART 225a—DISPOSAL OF OUTER CONTINENTAL SHELF ROYALTY OIL

Part 225a of title 30 of the Code of Federal Regulations is amended as set forth below:

1. Paragraphs (d) and (e) of § 225a.2 are amended to read as follows:

§ 225a.2 Definitions.

(d) "Supervisor" means the Area Oil and Gas Supervisor, Conservation Division of the Geological Survey; a representative of the Secretary, subject to the direction and supervisory authority of the Director, the Chief, Conservation Division, Geological Survey, and the appropriate Conservation Manager, Conservation Division, Geological Survey, authorized and empowered to supervise and direct oil and gas operations and to perform other duties prescribed in the regulations in part 250 of this chapter.

(e) "Area" means the geographic area over which a supervisor is authorized to exercise supervisory jurisdiction, unless the context in which the word is used indicates a different meaning is to apply.

§ 225a.6 [Amended]

2. Section 225a.6 is amended by substituting the word "Area" for the word "Region" in the first sentence.

§ 225a.7 [Amended]

3. Section 225a.7 is amended by substituting the word "Area" for the word "Region" in the third sentence.

§ 225a.8 [Amended]

4. Section 225a.8 is amended by substituting the word "Area" for the word "Region" in the first sentence.

PART 226—UNIT OR COOPERATIVE AGREEMENTS

Part 226 of title 30 of the Code of Federal Regulations is amended as set forth below:

1. The table of contents is amended by inserting the following item:

Sec.
226.2a Jurisdiction.

2. Paragraph (m) of § 226.2 is amended to read as follows:

§ 226.2 Definitions.

(m) *Supervisor*.—The Area Oil and Gas Supervisor, Conservation Division of the Geological Survey; a representative of the Secretary, subject to the direction and supervisory authority of the Director, the Chief, Conservation Division, Geological Survey, and the appropriate Conservation Manager, Conservation Division, Geological Survey, authorized and empowered to supervise and direct oil and gas operations and to perform other duties prescribed in the regulations in this part.

3. A new § 226.2a is added to read as follows:

§ 226.2a Jurisdiction.

Subject to the supervisory authority of the Secretary and the Director, the administration of the regulations in this part shall be under the jurisdiction of the supervisor. In the exercise of his jurisdiction, the supervisor shall be subject to the direction and supervisory authority of the Chief, Conservation Division, Geo-

logical Survey, and the appropriate Conservation Manager, Conservation Division, Geological Survey, each of whom may exercise the jurisdiction of the supervisor.

4. Paragraph (a) of § 226.9 is amended to read as follows:

§ 226.9 Filing of papers and number of counterparts.

(a) All papers, instruments, documents, and proposals submitted under this part should be filed in the office of the oil and gas supervisor for the geographic area in which the unit area is situated unless otherwise provided in this part.

5. Section 226.11 is revised to read as follows:

§ 226.11 Appeals.

An appeal may be taken as provided in part 290 of this chapter from any order or decision issued under the regulations in this part.

PART 231—OPERATING REGULATIONS FOR EXPLORATION, DEVELOPMENT AND PRODUCTION

Part 231 of title 30 of the Code of Federal Regulations is amended as set forth below:

1. Paragraph (c) of § 231.2 is amended to read as follows:

§ 231.2 Definitions.

(c) *Mining Supervisor*.—The Area Mining Supervisor, Conservation Division of the Geological Survey; a representative of the Secretary, subject to the direction and supervisory authority of the Director, the Chief, Conservation Division, Geological Survey, and the appropriate Regional Conservation Manager, Conservation Division, Geological Survey, authorized and empowered to regulate operations and to perform other duties prescribed in the regulations in this part, or any subordinate acting under his direction.

2. Paragraphs (c), (3) and (4) are revised and a new paragraph (g) is added to § 231.3 to read as follows:

§ 231.3 Responsibilities.

(c) * * *

(3) *Reports on condition of lands and manner of operations; recommendations for protection of property*.—Make reports to the Chief, Conservation Division through the Regional Conservation Manager, Conservation Division of Geological Survey, as to the general condition of lands under permit or lease and the manner in which operations are being conducted and orders or instructions are being complied with, and to submit information and recommendations for probing formations and the nonmineral tecting the minerals, the mineral-bearing resources.

(4) *Manner and form of records, and notices*.—Prescribe, subject to the con-

currence of the Regional Conservation Manager, Conservation Division, and the approval of the Chief, Conservation Division of the Geological Survey, the manner and form in which records of operations, reports, and notices shall be made.

(g) In the exercise of his jurisdiction under the regulations in this part, the mining supervisor shall be subject to the direction and supervisory authority of the Chief, Conservation Division, and the appropriate Regional Conservation Manager, Conservation Division of the Geological Survey, each of whom may exercise the jurisdiction of the mining supervisor.

3. Paragraph (b) of § 231.4 is revised to read as follows:

§ 231.4 General obligations of lessees and permittees.

(b) Lessees and permittees shall take such action as may be needed to avoid, minimize, or repair soil erosion; pollution of air; pollution of surface or ground water; damage to vegetative growth, crops, including privately owned forage, or timber; injury or destruction of fish and wildlife and their habitat; creation of unsafe or hazardous conditions; and damage to improvements, whether owned by United States, its permittees, licensees or lessees, or by others; and damage to recreational, scenic, historical, and ecological values of the land. The surface of leased or permit lands shall be reclaimed in accordance with the terms and conditions prescribed in the lease or permit and the provisions of the approved exploration or mining plan. Where any question arises as to the necessity for or the adequacy of an action to meet the requirements of this paragraph, the determination of the mining supervisor shall be final subject to the right of appeal as provided in part 290 of this chapter.

4. Section 231.74 is revised to read as follows:

§ 231.74 Appeals.

Orders or decisions issued under the regulations in this part may be appealed as provided in part 290 of this chapter.

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

Part 250 of title 30 of the Code of Federal Regulations is amended as set forth below:

1. Paragraphs (b) and (c) of § 250.2 are amended as follows:

§ 250.2 Definitions.

(b) *Director*.—The Director of the Geological Survey, Washington, D.C., having direction of the enforcement of the regulations in this part.

(c) *Supervisor*.—The Area Oil and Gas Supervisor, Conservation Division of the Geological Survey; a representative

of the Secretary, subject to the direction and supervisory authority of the Director, the Chief, Conservation Division, Geological Survey, and the appropriate Conservation Manager, Conservation Division, Geological Survey, authorized and empowered to regulate operations and to perform other duties prescribed in the regulations in this part or any subordinate of such representative acting under his direction.

2. Section 250.10 is amended to read as follows:

§ 250.10 Jurisdiction.

Subject to the supervisory authority of the Secretary and the Director, drilling and production operations, handling, and measurement of production, determination and collection of rental and royalty, and in general, all operations conducted on a lease by or on behalf of a lessee are subject to the regulations in this part, and are under the jurisdiction of the Supervisor for any area as delineated by the Director. In the exercise of this jurisdiction, the Supervisor shall be subject to the direction and supervisory authority of the Chief, Conservation Division and the appropriate Conservation Manager, Conservation Division, Geological Survey, each of whom may exercise the jurisdiction of the Supervisor.

§ 250.51 [Amended]

3. Section 250.51 is amended by substituting the words "geographic area" for the word "region" in the second sentence.

4. Section 250.81 is revised to read as follows:

§ 250.81 Appeals.

Orders or decisions issued under the regulations in this part may be appealed as provided in part 290 of this chapter. Compliance with any such order or decision shall not be suspended by reason of any appeal having been taken unless such suspension is authorized in writing by the Director or the Board of Land Appeals (depending upon the official before whom the appeal is pending) and then only upon a determination that such suspension will not be detrimental to the lessor or upon the submission and acceptance of a bond deemed adequate to indemnify the lessor from loss or damage.

PART 290—APPEALS PROCEDURES

Part 290 is added to chapter II of title 30 of the Code of Federal Regulations to read as follows:

- Sec.
290.1 Scope.
290.2 Who may appeal.
290.3 Appeals to Director.
290.4 Oral argument.
290.5 Time limitations.
290.6 Appeals to the Commissioner of Indian Affairs.
290.7 Appeals to the Board of Land Appeals.

AUTHORITY.—R.S. 463, 25 U.S.C. 2; R.S. 465, 25 U.S.C. 9; sec. 32, 41 Stat. 450, 30 U.S.C. 189; sec. 5, 44 Stat. 1058, 30 U.S.C. 285; sec. 10, 61 Stat. 915, 30 U.S.C. 359; sec. 5, 6, 67 Stat. 464, 465, 43 U.S.C. 1334, 1335; sec. 24, 84 Stat. 1573, 30 U.S.C. 1023.

§ 290.1 Scope.

The rules and procedures set forth herein apply to appeals to the Director, Geological Survey (and the Commissioner of Indian Affairs when Indian lands are involved) from final orders or decisions of officers of the Conservation Division, Geological Survey, issued under authority of the regulations in chapter II of this title, 43 CFR part 23, 43 CFR subtitle B, chapter II, and 25 CFR part 177. This part also provides for the further right of appeal to the Board of Land Appeals in the Office of Hearings and Appeals, Office of the Secretary, from adverse decisions of the Director (and the Commissioner of Indian Affairs when Indian lands are involved) rendered under this part.

§ 290.2 Who may appeal.

Any party to a case adversely affected by a final order or decision of an officer of the Conservation Division of the Geological Survey shall have a right to appeal to the Director, Geological Survey, unless the decision was approved by the Secretary or the Director prior to promulgation.

§ 290.3 Appeals to Director.

(a) An appeal to the Director, Geological Survey, may be taken by filing a notice of appeal in the office of the official issuing the order or decision within 30 days from service of the order or decision. The notice of appeal shall incorporate or be accompanied by such written showing and argument on the facts and laws as the appellant may deem adequate to justify reversal or modification of the order or decision. Within the same 30-day period, the appellant will be permitted to file in the office of the official issuing the order or decision additional statements of reasons and written arguments or briefs.

(b) The officer with whom the appeal is filed shall transmit the appeal and accompanying papers to the Director, Geological Survey, with a full report and his recommendation on the appeal.

(c) The Director will review the record and render a decision in the case.

§ 290.4 Oral argument.

Oral argument in any case pending before the Director, Geological Survey, will be allowed on motion in the discretion of such officer and at a time to be fixed by him.

§ 290.5 Time limitations.

With the exception of the time fixed for filing a notice of appeal, the time for filing any document in connection with an appeal may be extended by the Director, Geological Survey. A request for an extension of time must be filed within the time allowed for filing of the document and must be filed in the same office in which the document in connection with which the extension is requested must be filed.

§ 290.6 Appeals to the Commissioner of Indian Affairs.

The procedure for appeals under this part shall be followed for permits and

leases on Indian land except that with respect to such permits and leases, the Commissioner of Indian Affairs will exercise the functions vested in the Director, Geological Survey.

§ 290.7 Appeals to the Board of Land Appeals.

Any party to a case adversely affected by a final decision of the Director, Geological Survey, or the Commissioner of Indian Affairs under this part shall have a right of appeal to the Board of Land Appeals in the Office of Hearings and Appeals, Office of the Secretary, in accordance with the procedures provided in 43 CFR, "Part 4, Department Hearings and Appeals Procedures."

[FR Doc. 73-7729 Filed 4-20-73; 8:45 am]

Title 31—Money and Finance: Treasury
CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY
SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT
PART 306—GENERAL REGULATIONS GOVERNING U.S. SECURITIES

Correction

In FR Doc. 73-4897 appearing at page 7077, part II of the issue of Thursday, March 15, 1973, the following changes should be made:

1. In the third line of § 306.76, the word "nit", should read "unit".

2. In § 306.115:

a. The word "to" in the third line of paragraph (c) should read "the".

b. In the second line of paragraph (d), insert a comma between "note" and "certificate".

3. In Table I on page 7092:

a. The 17th entry appearing under the heading "Half-year of 183 days" reading ".558 060 109", should read ".058 060 109".

b. Under the heading "Half-year of 182 days", the 20th entry from the bottom reading ".099 021 978", should read ".099 587 912".

Title 37—Patents, Trademarks, and Copyrights

CHAPTER I—PATENT OFFICE, DEPARTMENT OF COMMERCE

PART 1—RULES OF PRACTICE IN PATENT CASES

PART 5—SECURITY OF CERTAIN INVENTIONS AND LICENSES TO FILE APPLICATIONS IN FOREIGN COUNTRIES

Interference Practice

These rule changes are intended to clarify the current practice before the Board of Patent Interferences and to correct several inconsistencies in rule language. The rule change: (1) Provides for a 30-day period in which the junior party may request a final hearing to review a decision granting a motion over his opposition, (2) changes several 10-day periods to be 20-day periods, (3) provides for consideration of a motion to add or remove names of inventors, filed after the time for taking testimony has been set, to be deferred to final hearing, (4) provides that documentary exhibits not be included in bound volumes of tes-

timony, (5) provides that in testimony papers, questions to a witness need not be consecutively numbered if paper with numbered lines is used, and (6) provides that a notice be placed in the file wrapper of a patent if claims therefrom are copied in an application under secrecy order.

On June 30, 1972, notice of proposed rulemaking regarding the amendment of §§ 1.225, 1.231, 1.251, 1.253, 1.272, 1.277, 1.281, and 5.3 of title 37, Code of Federal Regulations, dealing with interference practice, was published in the FEDERAL REGISTER (37 FR 12966). Interested persons were given until October 10, 1972, to submit written comments or suggestions regarding the proposed amendments. The changes in §§ 1.243 and 1.244 are made without publication of proposed rule change since it merely relieves a restriction.

Full consideration having been given to all comments received in response to the public notice, the amendments originally proposed have been somewhat modified and are hereby adopted as set forth below.

Effective date.—These amendments shall become effective June 25, 1973, and shall apply only to interferences declared after such effective date.

In consideration of the comments received and pursuant to the authority contained in section 6 of the act of July 19, 1952 (66 Stat. 793; 35 U.S.C. 6), as amended October 5, 1971 (85 Stat. 364), parts 1 and 5 of title 37, Code of Federal Regulations are hereby amended as follows:

1. Section 1.225 is revised to read as follows:

§ 1.225 Failure of junior party to file statements or to overcome filing date of senior party.

If a junior party to an interference fails to file a preliminary statement, or if his statement fails to overcome the prima facie case made by the filing date of the application of another party, judgment on the record will be entered against such junior party unless he has filed a motion under § 1.231, within the time set for such motions, for some action in the interference or he has opposed a motion under § 1.231(a) (2), (3), (4), or (5). If such a motion has been timely filed but does not result in action in the interference which will remove the basis for a judgment on the record, such judgment on the record will be entered unless the motion related to matters which may be reviewed at final hearing under § 1.258, and within 30 days of the decision disposing of the motion the junior party concerned requests that final hearing be set to review such matter. Also, such a junior party may within such 30-day period request a final hearing to review such a matter raised by his opposition to a motion under § 1.231(a) (2), (3), (4), or (5) which was granted over his opposition.

2. In § 1.231, subparagraphs (4) and (5) of paragraph (a) and paragraph (d) are revised to read as follows:

§ 1.231 Motions before the primary examiner.

(a) * * *

(4) To be accorded the benefit of an earlier application or to attack the benefit of an earlier application which has been accorded to an opposing party in the notice of declaration. See § 1.224.

(5) To amend an involved application by adding or removing the names of one or more inventors as provided in § 1.45. (See par. (d) of this section.)

(d) All proper motions as specified in paragraph (a) of this section, or of a similar character, will be transmitted to and considered by the primary examiner without oral argument, except that consideration of a motion to dissolve will be deferred to final hearing before a Board of Patent Interferences where the motion urges unpatentability of a count to one or more parties which would be reviewable at final hearing under § 1.258

(a) and such unpatentability is urged against a patentee or has been ruled upon by the Board of Appeals or by a court in ex parte proceedings. Also consideration of a motion to add or remove the names of one or more inventors may be deferred to final hearing if such motion is filed after the times for taking testimony have been set. Requests for reconsideration will not be entertained.

§ 1.243 [Amended]

3. In § 1.243, the last sentence is amended by deleting "10 days" and inserting in lieu thereof, the expression "20 days from the date of service of the motion".

§ 1.244 [Amended]

4. In § 1.244, paragraph (c) and paragraph (d), last sentence, is amended by deleting "10 days from the filing" and inserting in lieu thereof, the expression "20 days from the date of service".

5. In § 1.251, paragraph (a) is revised to read as follows:

§ 1.251 Assignment of times for discovery and taking testimony.

(a) A period for preparation for testimony will be set in which all parties should complete discovery and other preparatory activities, except for service by the senior party required by § 1.287 (a) (1) which is governed by § 1.287(a) (2) (iii).

6. In § 1.253, paragraph (f) is revised to read as follows:

§ 1.253 Copies of the testimony.

(f) When the copies of the record are in typewritten form, they must be clearly legible on opaque unglazed, durable paper approximately 8½ by 11 inches in size (letter size) and one of the three copies must be a ribbon copy, but need not be executed by the certifying officer. (The certified transcript may be a properly executed carbon copy. See § 1.277). The typing shall be on one side of the

paper, in not smaller than pica type; and double-spaced with a margin of 1½ inches on the left-hand side of the page. The sheets shall be bound at their left edges, in such manner to lie flat when opened, in a volume or volumes of convenient size (approximately 100 pages per volume is suggested) provided with covers. Documentary exhibits should not be included in bound volumes of testimony. Multigraphed or otherwise reproduced copies conforming to the standards specified will be accepted.

7. In § 1.272, paragraph (c) is revised to read as follows:

§ 1.272 Manner of taking testimony of witnesses.

(c) By agreement of the parties, the testimony of any witness or witnesses of any party may be submitted in the form of an affidavit by such witness or witnesses. The parties may stipulate what a particular witness would testify to if called, or the facts in the case of any party may be stipulated. When evidence is submitted in one of these forms, four copies of such affidavit or stipulated testimony (§ 1.253 (a), (c), (f)) are required.

8. In § 1.277, paragraph (a) is revised to read as follows:

§ 1.277 Form of deposition.

(a) The testimony must be written on letter size paper, with a wide margin on the left-hand side of the page, and with the writing on one side only of the sheet. The pages must be serially numbered throughout the entire record for each party (§ 1.253(c)) and the name of the witness must be plainly and conspicuously written at the top of each page. The questions propounded to each witness must be consecutively numbered, unless paper with numbered lines is used, and each question must be followed by its answer.

9. Section 1.281 is revised to read as follows:

§ 1.281 Additional time for taking testimony.

If either party has proceeded with the taking of testimony on his behalf but is unable to complete his case because of inability to procure the testimony of a witness or witnesses within the time limited and said time has expired, and he desires additional time for such purpose, he must file a motion, accompanied by a statement under oath or in the form of a declaration setting forth specifically the cause of such inability, the name or names of the witness or witnesses, the facts expected to be proved by such witness or witnesses, the steps which have been taken to procure such testimony, and the dates on which efforts have been made to procure it. (See § 1.245 for extensions of time in other situations.)

10. In § 5.3, paragraph (b) is revised to read as follows:

§ 5.3 Prosecution of application under secrecy order; withholding patent.

(b) An interference will not be declared involving applications under secrecy order. However, if an application under secrecy order copies claims from an issued patent, a notice of that fact will be placed in the file wrapper of the patent.

Date April 10, 1973.

ROBERT GOTTSCHALK,
Commissioner of Patents.

RICHARD O. SIMPSON,
Acting Assistant Secretary
for Science and Technology.

[FR Doc. 73-7744 Filed 4-20-73; 8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 8—VETERANS ADMINISTRATION

Miscellaneous Amendments to Chapter

Organizational titles, mail routing symbols, and cross references have been updated. In addition § 8-3.204(d) is revised to permit submission of proposed contracts for scarce medical specialist and professional services and for mutual use, or exchange of use, of specialized medical resources on an "as required basis" in lieu of the quarterly schedule. Section 8-10.450 is revoked as insurance requirements for service contracts will conform to FPR 1-10-4 and § 8-52.104 is revised to add release of claims clause which was formerly published in § 8-7.650-23.

Compliance with the provisions of § 1.12 of Title 38, Code of Federal Regulations, as to notice of proposed regulatory development and delayed effective date, is unnecessary in this instance and would serve no useful purpose. The amendments only involve agency procedure or practice.

Chapter 8 is amended as follows:

PART 8-1—GENERAL

1. Sections 8-1.602 and 8-1.602-1 are revised to read as follows:

§ 8-1.602 Establishment and maintenance of a list of concerns or individuals debarred, suspended or declared ineligible.

The Director, Supply Service, is the debarring official for the Veterans Administration. The names of firms or individuals debarred will be included in an administrative issue entitled, "Debarred, Suspended, and Ineligible Bidders List," which will be maintained by the Director, Supply Service (134C). This list marked "for official use only" will be made available only to those Veterans Administration employees who require this information in the performance of their official duties.

§ 8-1.602-1 Bases for entry on the debarred, suspended, and ineligible bidders list.

(a) The Director, Supply Service, may include on the debarred, suspended, or

ineligible bidders list those firms and individuals administratively debarred by another executive agency for the causes set forth in FPR 1-1.604 when it is known, or it is likely, that the firms or individuals will bid on Veterans' Administration requirements.

(b) Any contracting officer having knowledge of a firm or individual(s) debarred by another agency may recommend that the firm or individual(s) be included on the Veterans' Administration Debarred, Suspended and Ineligible Bidders List. Such recommendations will be supported by documentary evidence, other than the fact that the firm or individual(s) are included on another agency's list, to support their recommendation.

(c) Any contractor convicted of a criminal offense in connection with obtaining a Government contract, or in the performance of such contract, shall be debarred by the Veterans' Administration and his name shall be entered on the debarred list. The General Counsel, upon receipt of a notice of conviction, shall transmit such information to the Director, Supply Service (134C), for necessary action.

2. Section 8-1.606 is revised to read as follows:

§ 8-1.606 Agency procedure.

Debarment or suspension action may be initiated by any contracting officer. The recommendation for debarment or suspension together with a statement of the cause or conditions (see FPR 1-1.604 and 1-1.605-1), suggested term of debarment or suspension and documentary evidence to support the recommendation will be submitted to the appropriate department or staff head. Pending disposition of the recommendation, no awards will be made to the firm or individual recommended for debarment or suspension. The department or staff head concerned will review the adequacy of the debarment or suspension request and transmit it to the Director, Supply Service (134C), with recommendations.

PART 8-3—PROCUREMENT BY NEGOTIATION

3. In § 8-3.204, paragraphs (a) and (d) are amended to read as follows:

§ 8-3.204 Personal or professional services.

(a) Architect-engineer services when required in conjunction with construction (see subparts 8-4.50 and 8-16.7 of this chapter) will cite as the authority for such negotiation FPR 1-3.204—38 U.S.C. 5002.

(d) Proposed contracts for the services and resources specified in paragraphs (b) and (c) of this section will be entered into for 1 year only and are not subject to renewal. When deemed essential to the mission of the station, proposed new contracts will be negotiated for the subsequent year. Such proposed contracts will be submitted to the appropriate regional medical director, at-

tention (17B), when authority is 38 U.S.C. 5053, or (134), when authority is 38 U.S.C. 4117, for approval so as to reach central office 60 days prior to effective date of the contract. The Chief, Supply Service, will submit complete justification for all contracts, as approval depends on the adequacy of the justification. Proposed contracts under authority of 38 U.S.C. 4117 will be submitted in five copies, and contracts under authority of 38 U.S.C. 5053 will be submitted in six copies. The transmittal letter and each supporting document will be submitted in the same number of copies as the contract. As an incomplete submission delays processing of the proposed contract in central office, care will be exercised to assure that the proper number of copies are submitted, and that submissions are complete (e.g., complete name and address of the other party or parties to the contract is included).

PART 8-10—BONDS AND INSURANCE

§ 8-10.450 [Revoked]

4. Section 8-10.450, *Service contracts*, is revoked.

5. In § 8-10.451, paragraph (c) (1) is amended to read as follows:

§ 8-10.451 Insurance and indemnification requirements for ambulance service contracts.

Term contracts, or contracts of a continuing nature, for ambulance service will contain the following requirements, as applicable:

(c) *Exceptions.*—The provisions of this § 8-10.451 do not apply to:

(1) Emergency or sporadic ambulance service authorized by VA Manual MP-1, part II, chapter 3: *Provided*, That such service is not used solely for the purpose of avoiding entering into a continuing contract. *Provided further*, That such services will be obtained from firms known to carry insurance coverage in accordance with State or local requirements.

PART 8-52—CONTRACT ADMINISTRATION

6. Section 8-52.104 is revised to read as follows:

§ 8-52.104 Final release clause.

(a) As a part of the final settlement of construction contracts incorporating SF 23A, General Provisions, a release of claims will be required. The release will be executed in substantially the following format:

RELEASE OF CLAIMS

For and in consideration of the payments heretofore made, and payment of the above recited sum now due by reason of performance of the above contract, the undersigned contractor hereby releases and discharges the United States of America of and from all liabilities, obligations, and claims whatsoever under or arising out of said contract, except the following:

(a) Claims which are the subject of appeal, pending disposition by the Veterans Administration Contract Appeals Board.
 (b) Unresolved matters as indicated in the above statement of account.
 (c) Other specific claims: (List below. If none, so state.)
 All other terms and conditions of the above-mentioned contract remain in full force and effect.
 In witness whereof, this release has been duly executed this ____ day of _____, 19__.

 (Contractor)

By: -----

Title: -----

(b) Any final release or other contractual instruments entered into as a result of a decision by a board of contract appeals, the head of an agency, or a contracting officer under a contract disputes clause shall contain a provision substantially as follows:

FINAL RELEASE CLAUSE

It is further understood and agreed by the Government and the contractor named hereon, that this release is executed subject to the standards prescribed in the Wunderlich Act (41 U.S.C. 321, 322). Therefore, this release shall neither deprive the Government nor the contractor of the right of further administrative and judicial review, if any of the decisions rendered pursuant to the disputes clause of this contract are later found not to meet the standards of the Wunderlich Act.

7. In § 8-52.106, paragraph (c) is amended to read as follows:

§ 8-52.106 Representatives of contracting officers; receipt of equipment, supplies, and nonpersonal services.

(c) The Chief, Stock Control Division, VA Supply Depot, Hines, Ill., is hereby designated as the representative of each contracting officer and purchasing agent of the various marketing divisions of the VA Marketing Center, Hines, Ill., for the purpose of accepting, on behalf of the Veterans Administration, items purchased for stock. The Chief, Stock Control Division, may designate one or more employees of the Incoming Property Section, Supply Control Division, to represent him and authority is hereby delegated to such designees to accept such property on behalf of the Veterans Administration. Designations will be confined to those employees to whom such responsibility has been assigned by their position descriptions. The Chief, Fiscal Service, will be furnished a list of such designees. Where inspection for compliance with specifications, purity, quality, or other element must be made by the Service and Reclamation Division or other testing agency, acceptance will be contingent upon receipt of a properly prepared inspection report.

PART 8-75—DELEGATIONS OF AUTHORITY

8. In § 8-75.101, paragraphs (a) and (b) are amended to read as follows:

§ 8-75.101 Delegation.

(a) Except as otherwise provided for by law, VA regulations and these pro-

cedures regulations, the authority vested in the Administrator to execute, award, and administer contracts, purchase orders, and other agreements for the expenditure of funds involved in the acquisition of personal property, or services (excluding construction and architect engineer service), and for the sale of personal property, is hereby delegated to those employees of the Veterans Administration appointed or designated to the following positions:

- (1) Chief Medical Director.
- (2) Manager, Administrative Services, Central Office.
- (3) Director, Supply Service.
- (4) Managers, VA Supply Depots.
- (5) Manager, VA Marketing Center.
- (6) Chief, Purchase and Contract Division, Central Office.
- (7) Head of a Veterans Administration field station. (Note: Heads of field stations receiving supply support from another Veterans Administration station will exercise this authority only in an extreme emergency or when normal supply channels cannot be utilized.)
- (8) Chief, Supply Service, Veterans Administration field station.
- (9) Director, Building and Supply Service, Central Office.
- (10) Chiefs, Marketing Divisions, VA Marketing Center.

(b) The contracting officers named in paragraph (a) of this section may designate one or more of their subordinates as a contracting officer and authority is hereby delegated to such subordinates, to execute, award and administer contracts, purchase orders, and other agreements for the acquisition of supplies, equipment, nonpersonal services, and for the sale of personal property. Designations will be in writing, specifically state the scope and limitation of the designee's contractual authority and shall be confined to only those subordinates who are actively engaged in purchasing and contracting functions.

(80 Stat. 379, 72 Stat. 1114, sec. 205(c), 63 Stat. 390; 5 U.S.C. 301, 38 U.S.C. 210, 40 U.S.C. 486(c).)

These regulations are effective May 1, 1973.

Approved April 17, 1973.

By direction of the Administrator.

[SEAL] **FRED B. RHODES,**
Deputy Administrator.

[FR Doc. 73-7794 Filed 4-20-73; 8:45 am]

Miscellaneous Amendments to Chapter

On pages 5267 through 5269 of the FEDERAL REGISTER of February 27, 1973, there was published a notice of proposed regulatory development to issue regulations concerning the procurement of medical, dental, and ancillary services. Interested persons were given 30 days in which to submit written 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 regulations are effective May 23, 1973.

Approved April 17, 1973.

By direction of the Administrator.

[SEAL] **FRED B. RHODES,**
Deputy Administrator.

Parts 8-3, 8-16, and 8-75, Part 41, Code of Federal Regulations are amended as follows:

PART 8-3—PROCUREMENT BY NEGOTIATION

1. Section 8-3.605-3 is revised to read as follows:

§ 8-3.605-3 Agency order forms.

(a) VA Form 07-2138, Order for Supplies or Services, and VA Form 07-2139, Order for Supplies or Services (Continuation), provide in one interleaved set of forms a purchase or delivery order, vendor's invoice, and receiving report. They will be used in lieu of and in the same manner as Standard Forms 147 and 148.

(b) The following order forms are for use when ordering the indicated medical, dental and ancillary services up to \$2,500 per authorization when such services are not available under existing contracts or agreements. The forms are also for use without monetary limitations when ordering such services from existing contracts.

(1) VA Form 10-2569, Authorization for Dental Service.

(2) VA Form 10-7078, Authorization and Invoice for Medical and Hospital Services.

(3) VA Form 10-7079, Request for Outpatient Medical Services.

(c) In authorizing patient travel as set forth in VA Manual MP-1, Part II, Chapter 3, VA Form 10-2511, Authority and Invoice for Travel by Ambulance or Other Hired Vehicle, will be used as provided by that manual.

PART 8-16—PROCUREMENT FORMS

Subpart 8-16.2 [Revoked]

2. Subpart 8-16.2, Forms for negotiated supply contracts, is revoked.

Subpart 8-16.3—Purchase and Delivery Order Forms

3. Section 8-16.301-2 is revised to read as follows:

§ 8-16.301-2 Order for supplies or services (VA Forms 07-2138 and 07-2139).

VA Form 07-2138, Order for Supplies or Services, and VA Form 07-2139, Order for Supplies or Services (Continuation), are prescribed for use in § 8-3.605-3 of this chapter.

4. Section 8-16.350-1 is revised to read as follows:

§ 8-16.350-1 Special forms.

Special order forms for medical, dental, and ancillary services and beneficiary travel are prescribed in § 8-3.605-3.

5. Subpart 8-16.5 is added to read as follows:

Subpart 8-16.5—Forms for Advertised and Negotiated Nonpersonal Service Contracts (Other Than Construction and Architect-Engineer Contracts)

§ 8-16.501 Contract forms.

(a) *General.* The special contract forms described in this section have been developed on the basis of work simplification because of the extensive use of such contracts, and on the need to provide guidance in the area of their special provisions (i.e., those provisions relating particularly to the reason for the contract). General provisions, i.e., those relating to Government contracts in general or to specific categories of Government contracts, have been included as a matter of convenience as of the date the form was revised. Such general provisions have been and are subject to frequent changes. Accordingly, in using forms prescribed in paragraphs (b) and (c) of this section, officers must assure that the appropriate statutory and regulatory clauses and provisions currently prescribed by FPR 1-7.1, FPR Temporary Regulations, and Subpart 8-7.1 of Part 8-7 of this Chapter are included. Amendments to such forms are authorized for that purpose. Contracts for other types of negotiated nonpersonal service contracts will be individually prepared, and will make the maximum feasible use of the forms prescribed in FPR 1-16-1.

(b) *Education and rehabilitation contracts.* The following VA forms are prescribed for use when entering into contracts relating to education and rehabilitation services:

(1) VA Form 22-1903, Contract for Education and Training.

(2) VA Form 22-1905, Authorization and Certification of Entrance or Reentrance Into Training.

(3) VA Form 22-1931, Contract for Services Relating to Vocational Counseling.

(4) VA Form 21E-1933, Contract for Services Relating to Vocational Counseling.

(c) *Nursing home contracts.* Contracts for nursing home care will utilize VA Form 10-1170, Application and Contract for Furnishing Nursing Home Care to Patients of the Veterans Administration.

(d) *Other contracts for medical and ancillary services.* Formats for contracts for scarce medical specialist services and for sharing agreements are illustrated in Subpart 8-16.95 of this part.

PART 8-75—DELEGATIONS OF AUTHORITY

6. In § 8-75.201-13, the section heading and paragraphs (a) through (d) are amended to read as follows:

§ 8-75.201-13 Education and rehabilitation program.

(a) Except as stated in this section, the authority to negotiate, award, and administer contracts, purchase orders, and other agreements for the expenditure of funds for the vocational rehabilitation program is delegated to:

- (1) Chief Benefits Director.

(2) Director, Education and Rehabilitation Service.

(3) Director, Regional Office.

(4) Director, VA Center.

(5) Director, Veterans Benefits Office (Washington, D.C.).

(b) The Chief Benefits Director, and Director, Education and Rehabilitation Service, are delegated authority to execute contracts, agreements, or supplements thereto for correspondence courses.

(c) The Chief Benefits Director; Director, Education and Rehabilitation Service; and Directors, Regional Offices and Centers (hospital and regional office), are delegated authority to execute contracts, agreements, or supplements thereto with educational institutions and other approved agencies for the purpose of providing services relative to the counseling of persons eligible for vocational rehabilitation or educational assistance under title 38, United States Code.

(d) The Chief Benefits Director and the Director, Education and Rehabilitation Service, are delegated authority to execute contracts, agreements, or supplements thereto with State approving agencies for services relating to approving courses offered by educational institutions and training establishments.

7. Section 8-75.201-15 is added to read as follows:

§ 8-75.201-15 Medical, dental, and ancillary services.

(a) The Chief of Staff; the physician assigned the responsibility for the ambulatory care function; and the Chief, Medical Administration Service, at a Veterans Administration station are delegated authority to execute authorizations for medical, dental, and ancillary services under \$2,500 per authorization when such services are not available from existing contracts or agreements. Forms specified in § 8-3.605-3 of Part 8-3 of this chapter will be used for this purpose and when ordering such services from existing contracts.

(b) The contracting officers named in paragraph (a) of this section may designate one or more of their subordinates to execute the forms for purposes stated in paragraph (a) of this section. Designations will be in writing and will specifically set forth the scope and limitations of the designee's authority.

[FR Doc.73-7819 Filed 4-20-73;8:45 am]

PART 8-12—LABOR

Equal Opportunity Employment

Section 8-12.805-1 is amended in order to provide that preaward clearance required by the Veterans' Administration Contract Compliance Officer on all non-exempt construction contracts applies to contracts of \$100,000 or more in lieu of \$10,000 or more.

Compliance with the provisions of § 1.12 of title 38, United States Code, as to notice of proposed regulatory development and delayed effective date, is

unnecessary in this instance and would serve no useful purpose. The revision only involves agency procedures and practices.

In § 8-12.805-1(e), that portion preceding subparagraph (1) is amended to read as follows:

§ 8-12.805-1 Duties of agencies.

(e) Field station contracting officers prior to awarding a nonexempt construction contract of \$100,000 or more will, not less than 10 days prior to the date on which an award must be made, submit to the VACCO by teletype the following:

This regulation is effective May 1, 1973.

(72 Stat. 1114, sec. 205(c), 63 Stat. 390; 38 U.S.C. 210, 40 U.S.C. 466(c).)

Approved April 17, 1973.

By direction of the Administrator.

[SEAL]

FRED B. RHODES,
Deputy Administrator,

[FR Doc.73-7793 Filed 4-20-73;8:45 am]

**Title 43—Public Lands: Interior
SUBTITLE A—OFFICE OF THE SECRETARY
OF THE INTERIOR**

PART 23—SURFACE EXPLORATION, MINING AND RECLAMATION OF LANDS

Amendments To Reflect Reorganization of the Conservation Division, Geological Survey

Departmental Manual Release No. 1459 of June 28, 1972, revised the organization of the Geological Survey. The manual release included in 120 DM 4 a revision of the organization of the Conservation Division of the Geological Survey.

Included among the changes resulting from the reorganization of the Conservation Division are the following:

(1) The title "Regional Mining Supervisor" has been changed to "Area Mining Supervisor".

(2) A new part 290 has been added to title 30 of the Code of Federal Regulations, which consolidates in one part in title 30 the appellate procedures for appeals from decisions and orders of officers of the Conservation Division, Geological Survey. Formerly, the regulations governing appeals from orders or decisions of officials of the Conservation Division were contained in several separate parts of title 30.

These amended regulations reflect the above-indicated changes resulting from the reorganization of the Conservation Division, and for consistency with 30 CFR part 290, include an amendment providing that appeals from decisions of the Director, Geological Survey, shall be taken to the Board of Land Appeals.

Since these amended regulations are made merely to reflect the effects of a reorganization of an organizational unit of the Department, or to obtain uniformity with other regulations, it is determined that the rulemaking procedure is

unnecessary, and these amendments shall become effective on April 23, 1973.

Dated April 17, 1973.

STEPHEN A. WAKEFIELD,
Assistant Secretary of the Interior.

Part 23 of title 43 of the Code of Federal Regulations is amended as set forth below:

1. Paragraph (c) of § 23.3 is revised to read as follows:

§ 23.3 Definitions.

(c) "Mining Supervisor" means the Area Mining Supervisor, or his authorized representative, of the Geological Survey authorized as provided in 30 CFR 211.3 and 231.2 to supervise operations on the land covered by a permit or lease;

2. Paragraphs (a) and (b) of § 23.12 are revised to read as follows:

§ 23.12 Appeals.

(a) A person adversely affected by a decision or order of a district manager or of a mining supervisor made pursuant to the provisions of this part shall have a right of appeal to the Board of Land Ap-

peals, Office of Hearings and Appeals, whenever the decision appealed from was rendered by a district manager, or to the Director of the Geological Survey if the decision or order appealed from was rendered by a mining supervisor, and the further right to appeal to the Board of Land Appeals from an adverse decision of the Director of the Geological Survey unless such decision was approved by the Secretary prior to promulgation.

(b) Appeals to the Board of Land Appeals shall be made pursuant to part 4 of this title. Appeals to the Director of the Geological Survey shall be made in the manner provided in 30 CFR part 290.

[FR Doc.73-7735 Filed 4-20-73;8:45 am]

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

[Circular No. 2340]

Reorganization of the Conservation Division, U.S. Geological Survey

As a result of the reorganization of the Conservation Division of the Geological Survey, the title "Regional Mining Supervisor" has been changed to

"Area Mining Supervisor"; the title "Regional Oil and Gas Supervisor" has been changed to "Area Oil and Gas Supervisor"; and the territory over which each official has jurisdiction has been changed from "region" to "area".

Accordingly, whenever these terms appear in chapter II of subtitle B of title 43 of the Code of Federal Regulations they are changed as follows: (1) "Regional Mining Supervisor" is changed to "Area Mining Supervisor", (2) "Regional Oil and Gas Supervisor" is changed to "Area Oil and Gas Supervisor", and (3) "region" is changed to "area" when used to refer to the territory over which these officials have jurisdiction.

These amendments cover only an internal administrative matter resulting in no substantive change in the regulations affecting the public. It is unnecessary and impracticable to give notice of proposed rulemaking and invite public participation. This amendment shall become effective on April 23, 1973.

Dated April 17, 1973.

STEPHEN A. WAKEFIELD,
Assistant Secretary of the Interior.

[FR Doc.73-7736 Filed 4-20-73;8:45 am]

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

[21 CFR Part 308]

SCHEDULES OF CONTROLLED SUBSTANCES

Proposed Placement of Methaqualone and Its Salts in Schedule II; Correction

A notice was published in the FEDERAL REGISTER of April 11, 1973, (38 FR 9170).

Paragraph 5, line 4 should read "not to be" and paragraph 7, line 1 should read "March 8, 1972."

This correction is effective on April 23, 1973. However, this obviously does not effect the May 14, 1973, date for comments and objections or the May 21, 1973 hearing date set in the original publication of April 11, 1973.

Dated April 17, 1973.

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

[FR Doc. 73-7785 Filed 4-20-73; 8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 295]

USE OF OFF-ROAD VEHICLES

Proposed Procedure; Extension of Time for Comments

The time period for submission of written comments on proposed regulations for use of off-road vehicles on national forest lands is extended from April 2 to May 1, 1973. The proposed regulations were published in the FEDERAL REGISTER on March 2, 1973, page 5643. This extension is granted at the request of interested parties.

Dated April 18, 1973.

ROBERT W. LONG,
Assistant Secretary of Agriculture.
[FR Doc. 73-7780 Filed 4-20-73; 8:45 am]

[36 CFR Part 221]

TIMBER

Cancellation of Contracts

Notice is hereby given that, pursuant to the authority vested in the Secretary of Agriculture by the act of June 4, 1897 (30 Stat. 34, 35, as amended; 16 U.S.C. 476, 551), it is proposed to amend part 221 of title 36, Code of Federal Regulations by adding new provisions for cancellation of timber sale contracts because of environmental concerns. Items (a) (4) and (a) (5) would be added to § 221.17 and paragraph (b) revised. Item (a) (4)

with the revised paragraph (b) would authorize the Chief, Forest Service, or regional foresters, to cancel contracts for conviction of laws and regulations relating to environmental or natural resource protection. This would be implemented by contract provisions applicable to timber sales offered after the effective date of the amendment. Item (a) (5) with the revised paragraph (b) would give the Chief, Forest Service, final authority to cancel contracts when, for environmental reasons, it is determined to be in the interests of the Government to do so. Section 221.17 as revised would read as follows:

§ 221.17 Cancellation of Contracts.

(a) Timber sale contracts and permits may be canceled:

(1) For serious or continued violation of their terms.

(2) Upon application, or with the consent of, the purchaser, when such action is of advantage to the United States or not prejudicial to its interests.

(3) Upon application of the purchaser if the value of the timber remaining to be cut is diminished materially because of catastrophic damage caused by forces beyond the control of the purchaser resulting in (i) physical change in the sale area or access to it, or (ii) damage to timber remaining to be cut.

(4) For conviction of violation of Federal, State, or local laws or Federal regulations relating to environmental or natural resource protection in the conduct of operations thereunder, on National Forest land, unless compliance with such laws or regulations would preclude performance of other contractual requirements.

(5) Upon determination by the Chief, Forest Service, that operations, thereunder, would result in serious environmental degradation or resource damage.

(b) Cancellation will be by the Chief, Forest Service. Authority to cancel contracts under paragraph (a), items 1-4 of this section, may be delegated to regional foresters for sales within their authorization. All contract cancellations under paragraph (a), item (5) of this section, shall be by the Chief, Forest Service, whose decision shall be the final agency decision.

All persons who wish to submit written data, views or objections pertaining to the proposed amendment may do so by submitting them to the Department of Agriculture, Forest Service, Division of Timber Management, South Agriculture Building, room 32311-A, Washington, D.C. 20250, on or before June 22, 1973.

All written submissions made pursuant to this notice will be available for public inspection in the Division of Tim-

ber Management during regular business hours (7 CFR 1-27(b)).

ROBERT W. LONG,
Assistant Secretary.

APRIL 18, 1973.

[FR Doc. 73-7832 Filed 4-20-73; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Health Services and Mental Health Administration

[42 CFR Part 80]

OCCUPATIONAL SAFETY AND HEALTH

Tuition Fees for Direct Training

Section 21(a) (1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670(a) (1)) authorizes the Secretary of Health, Education, and Welfare to conduct, directly or by grants or contracts, education programs to provide an adequate supply of qualified personnel to carry out the purposes of the act.

Notice is hereby given that the Administrator, Health Services and Mental Health Administration, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Title 42, Code of Federal Regulations, by establishing a new part 80 and setting out a policy that all training will be conducted on a reimbursable basis and establishes a tuition fee schedule for training courses conducted by the National Institute for Occupational Safety and Health after June 30, 1973.

Written comments concerning the proposed regulations are invited from interested persons. Inquiries may be addressed, and data, views, and arguments relating to the proposed regulations may be submitted in writing, in triplicate, to the Regulations Officer, National Institute for Occupational Safety and Health, room 10A-19, 5600 Fishers Lane, Rockville, Md. 20852. All material received within 14 days after publication of this notice will be considered before further action is taken on the proposal. All comments received in response to this publication will be available for public inspection during normal business hours at the foregoing address.

It is therefore proposed to establish a new part 80 and adopt the following regulations to be effective on the date of their republication in the FEDERAL REGISTER.

Dated March 1, 1973.

FREDERICK L. STONE,
Acting Administrator, Health
Services and Mental Health
Administration.

Approved April 9, 1973.

CASPAR W. WEINBERGER,
Secretary.

PART 80—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subparts A-C [Reserved]

Subpart D—Tuition Fees for Direct Training

- Sec.
80.41 Applicability.
80.42 Definitions.
80.43 Tuition fees.
80.44 Schedule of fees.
80.45 Procedure for payment.
80.46 Refunds.

AUTHORITY.—Sec. 501, 65 Stat. 290; 31 U.S.C. 483a.

§ 80.41 Applicability.

The provisions of this subpart set forth the policies of the National Institute for Occupational Safety and Health with respect to its charging fees for direct training in occupational safety or health.

§ 80.42 Definitions.

Any term not defined herein shall have the same meaning as given it in the act. As used in this subpart:

(a) "Act" means the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) "Direct training" means all technical training courses conducted directly by NIOSH for personnel of State and local governmental agencies, other Federal agencies, private industries, universities, and other non-NIOSH agencies and organizations.

(c) "NIOSH" or "Institute" means the National Institute for Occupational Safety and Health.

(d) "Registration Office" means the Direct Training Registration Office, NIOSH, 1014 Broadway, Cincinnati, Ohio 45202.

§ 80.43 Tuition fees.

In accordance with the provisions of the subpart, the National Institute for Occupational Safety and Health will charge fees for all students attending NIOSH direct training courses which commence on or after July 1, 1973.

§ 80.44 Schedule of fees.

(a) Tuition fees for direct training courses are as follows:

Category:	Fee per student day
Classroom days.....	\$50
Laboratory days.....	70

(b) Total tuition charges for each course will be set forth in the course announcement.

§ 80.45 Procedure for payment.

(a) Applications for direct training courses shall be completed and submitted to the registration office in accordance with the instructions issued by that office.

(b) Federal agency personnel shall, upon notification of their acceptance, submit a letter identifying the agency and office to be billed, the agency order number, and any code numbers or other information necessary for billing purposes.

(c) All other applicants shall, upon notification of their acceptance by the NIOSH, submit a check payable to the National Institute for Occupational

Safety and Health in the amount indicated by the course announcement prior to the commencement of the training course.

§ 80.46 Refunds.

An applicant may withdraw his application and receive full reimbursement of the fee provided that written notification to the registration office is mailed no later than 10 days before the commencement of the course for which registration has been submitted.

[FR Doc. 73-7797 Filed 4-20-73; 8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 73-SO-26]

GRUMMAN MODEL G-1159 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 Grumman model G-1159 airplanes. There have been instances of malfunctions of the stall barrier system, and it has been demonstrated subsequently that it may be difficult or impossible for some pilots to reach the autopilot disconnect switch. This switch also inhibits (momentarily disables) the stall barrier system as well as Mach trim and electric trim and disables the automatic trim. Subsequent investigations revealed that some average sized pilots were unable to reach or operate this switch without moving the hand from its normal position on the control wheel. Movement of the index finger to actuate this switch reduces the ability of the pilot to override the push force resulting from a stall barrier system malfunction. Most of the G-1159 airplanes in service have been modified in accordance with Grumman service change 80, which relocates the autopilot disconnect switch W103MB3W; however, a significant number of airplanes remain in the original configuration.

The proposed AD would apply to airplanes which have not been modified in accordance with service change 80. Since this condition exists in other airplanes of the same type design, the proposed airworthiness directive would require modification of the autopilot disconnect switch on Grumman model G-1159 airplanes.

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, Office of the Regional Council, ASO-7, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before May 15, 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 rules docket for examination by interested persons.

This amendment is proposed under sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354 (a), 1421, 1423) and 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:

GRUMMAN AMERICAN AVIATION CORPORATION.

Applies to Grumman model G-1159 airplanes S/N 1 through 107 and 775, certificated in all categories.

Compliance required within the next 100 hours time in service after the effective date of this AD, unless already accomplished. To prevent degradation of the aircraft control due to inability of the pilot to reach the autopilot disconnect switch in the event of a malfunction, relocate the autopilot disconnect switch, P/N W103MB3W, in accordance with Grumman Aircraft service change No. 80 or in an equivalent position approved by the Chief, engineering and manufacturing branch, FAA southern region.

Issued in East Point, Ga., on April 11, 1973.

P. M. SWATEK,
Director, Southern Region.

[FR Doc. 73-7771 Filed 4-20-73; 8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-EA-23]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of part 71 of the Federal Aviation regulations so as to alter the Salisbury, Md., control zone (38 FR 418) and transition area (38 FR 572).

A new LOC (BC) RWY 14 instrument approach procedure developed for Salisbury-Wicomico County Airport, Salisbury, Md., requires alteration of the control zone and transition area to provide additional controlled airspace to protect aircraft executing the procedure.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before May 23, 1973, 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, airspace and procedures branch, eastern 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 parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Salisbury, Md., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of part 71 of the Federal Aviation Regulations so as to amend the description of the Salisbury, Md. control zone by inserting after "northeast of the VORTAC" the following:

; within 1 mile each side of the Salisbury-Wicomico County Airport localizer northwest course, extending from the 5-mile radius zone to 5.5 miles northwest of the localizer.

2. Amend § 71.181 of part 71 of the Federal Aviation Regulations so as to amend the description of the Salisbury, Md. transition area by inserting after "northeast of the VORTAC;" the following:

within 4 miles each side of the Salisbury-Wicomico County Airport localizer northwest course, extending from the 6.5-mile radius area to 10.5 miles northwest of the localizer.

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 Jamaica, N.Y. on April 6, 1973.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc. 73-7772 Filed 4-20-73; 8:45 am]

[14 CFR Part 71]

[Airspace docket No. 73-RM-16]

CONTROL ZONE AND TRANSITION AREA Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the control zone and transition area at Fargo, N. Dak.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, P.O. Box 7213, Denver, Colo. 80207. All communications received on or before May 17, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to be-

come part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010.

Due to the proposed installation of radar in the Fargo control tower, it is necessary that the descriptions of the control zone and transition area require amending to provide additional controlled airspace for protection of aircraft executing radar arrival/departure procedures at Hector Field Airport.

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

In § 71.171 (38 FR 351) the description of the Fargo, N. Dak., control zone is amended to read as follows:

FARGO, N. DAK.

Within a 7-mile radius of Hector Field (lat. 46°54'57" N., long. 96°48'53" W.); and within 2 miles each side of the Fargo VORTAC 009° radial, extending from the 7-mile radius zone to the VORTAC.

In § 71.181 (38 FR 435) the description of the Fargo, N. Dak., transition area is amended to read as follows:

FARGO, N. DAK.

That airspace extending upward from 700 feet above the surface within an 18.5-mile radius of Hector Field (lat. 46°54'57" N., long. 96°48'53" W.), and that airspace extending upward from 1,200 feet above the surface within a 46-mile radius of Hector Field and within 10 miles east and 7 miles west of the Fargo VORTAC 187° radial extending from the 46-mile radius area to 56 miles south of the VORTAC.

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

Issued in Aurora, Colorado, on April 12, 1973.

I. H. HOOVER,
Acting Director,
Rocky Mountain Region.

[FR Doc. 73-7773 Filed 4-20-73; 8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-RM-12]

TRANSITION AREA Proposed Alteration

The Federal Aviation Administration is considering an amendment to part 71 of the Federal Aviation Regulations which would alter the description of the Sioux Falls, S. Dak., transition area.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, P.O. Box 7213, Denver, Colo. 80207. All communications received on or before

May 17, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010.

Due to the proposed installation of radar in the Sioux Falls Tower, an extension to the existing 700-foot transition area is necessary in order to provide additional controlled airspace for protection of aircraft executing radar arrival/departure procedures at Joe Foss Field Airport, Sioux Falls, S. Dak.

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

In § 71.181 (38 FR 435) the description of the Sioux Falls, S. Dak., 700-foot transition area is amended to read:

SIoux FALLS, S. DAK.

That airspace extending upward from 700 feet above the surface within a 20-mile radius of Joe Foss Field (latitude 43°34'55" N., longitude 96°44'35" W.); within 9.5 miles southwest and 4.5 miles northeast of the Sioux Falls VORTAC 336° radial, extending from the 20-mile radius area to 18.5 miles northwest of the VORTAC; and within 9.5 miles northwest and 4.5 miles southeast of the Sioux Falls ILS localizer northeast course, extending from the 20-mile radius area to 23 miles northeast of the airport.

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

Issued in Aurora, Colo., April 12, 1973.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc. 73-7774 Filed 4-20-73; 8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-RM-17]

TRANSITION AREA Proposed Alteration

The Federal Aviation Administration is considering an amendment to part 71 of the Federal Aviation Regulations which would alter the transition area at Bozeman, Mont.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, P.O. Box 7213, Denver, Colo. 80207. All

communications received on or before May 17, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010.

New instrument transition procedures had been developed for the Gallatin Field, Bozeman, Mont., airport including holding procedures at a new intersection to be designated on V2 northwest of Bozeman VOR. This intersection will be named Lombard. Accordingly, it is necessary to alter the Bozeman transition area to provide controlled airspace protection for aircraft executing these procedures.

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

In § 71.181 (38 FR 435) the description of the Bozeman, Mont., transition area as amended by 37 FR 28501 is further amended to add the following:

BOZEMAN, MONT.

After "28 miles northwest of Gallatin Field", add "and that airspace extending upward from 9,000 feet MSL within 6 miles northeast and 10 miles southwest of the Bozeman VOR 338° radial extending from 10 miles northwest of the Bozeman VOR to 37.5 miles northwest of the VOR."

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

Issued in Aurora, Colo., on April 12, 1973.

M. M. MARTIN,

Director, Rocky Mountain Region.

[FR Doc. 73-7775 Filed 4-20-73; 8:45 am]

Office of the Secretary

[49 CFR Part 71]

[OST Docket No. 21; Notice No. 73-4]

EASTERN-CENTRAL STANDARD TIME ZONE BOUNDARY IN STATE OF MICHIGAN

Proposed Relocation

The boards of county commissioners of three contiguous counties in the southwestern corner of the Lower Peninsula of Michigan—Berrien, Van Buren, and Cass—have petitioned the Department of Transportation to amend § 71.5 of title 49 of the Code of Federal Regulations to

redefine the boundary between the eastern and central time zones so as to include those counties in the central time zone.

At present, the entire State of Michigan is in the eastern time zone (49 CFR 71.5). Effective 2 a.m. Sunday, April 29, 1973, by an amendment to § 71.5 published in the FEDERAL REGISTER of April 12, 1973 (38 FR 9228), the boundary between the eastern and central time zones in the western portion of the Upper Peninsula of Michigan will be redefined so as to move four counties of the Upper Peninsula along the Wisconsin border—Gogebic, Iron, Dickinson, and Menominee—from the eastern zone to the central zone. Waters of Lake Michigan adjacent to the counties of Berrien and Van Buren and part of the south line of Berrien County constitute the boundary between the eastern and central zones in the southwestern corner of the Lower Peninsula.

The petitions cite as the reason for seeking the change the recent decision of the State of Michigan to observe advanced (daylight, or fast) time beginning in 1973. From 1969 to 1972, the State of Michigan exercised its option under section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a) and exempted itself from the observance of advanced time. Thus, eastern standard (slow) time was observed throughout the year in Michigan. The petitions claim that the economies of the three counties concerned are based on agriculture which is closely tied to the actual movement of the sun, and that advancement to daylight time will increase the disparity between clock time and the position of the sun in the sky. This disparity would be lessened by inclusion of the three counties in the central zone.

Under the Time Act originally enacted in 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260 et seq.), the Secretary of Transportation is authorized to modify the limits of time zones having regard to "the convenience of commerce and the existing junction points and division points of carriers engaged in interstate or foreign commerce."

In consideration of the foregoing, the Department is considering amendment of paragraph (a) (as amended by the amendment published in the FEDERAL REGISTER of Apr. 12, 1973 (38 FR 9228)) and paragraph (b) of § 71.5 of title 49 of the Code of Federal Regulations to read as follows:

§ 71.5 Boundary line between eastern and central zones.

(a) *Minnesota-Michigan-Wisconsin.* From the junction of the western boundary of the State of Michigan with the boundary between the United States and Canada northerly and easterly along the west line of Gogebic County to the west line of Ontonagon County; thence south along the west line of Ontonagon County to the north line of Gogebic County; thence southerly and easterly along the north line of Gogebic County to the west line of Iron County; thence north along the west line of Iron County to the north line of Iron County; thence

east along the north line of Iron County to the east line of Iron County; thence south along the east line of Iron County to the north line of Dickinson County; thence east along the north line of Dickinson County to the east line of Dickinson County; thence south along the east line of Dickinson County to the north line of Menominee County; thence east along the north line of Menominee County to the east line of Menominee County; thence southerly and easterly along the east line of Menominee County to Lake Michigan; thence east to the western boundary of the State of Michigan; thence southerly and easterly along the western boundary of the State of Michigan to a point in the middle of Lake Michigan opposite the main channel of Green Bay; thence southerly along the western boundary of the State of Michigan to a point in Lake Michigan west of the north line of Van Buren County; thence east to the north line of Van Buren County; thence east along the north line of Van Buren County to the east line of Van Buren County; thence southerly and westerly along the east lines of Van Buren and Cass Counties to the southern boundary of the State of Michigan; thence west along the southern boundary of the State of Michigan to the east line of LaPorte County, Indiana.

(b) *Indiana-Illinois.* From the junction of the east line of LaPorte County, Ind., with the Michigan-Indiana boundary, southerly along the east line of LaPorte County to the north line of Starke County; thence east along the north line of Starke County to the east line of Starke County; thence south along the east line of Starke County to the south line of Starke County; thence west along the south line of Starke County to the east line of Jasper County; thence south along the east line of Jasper County to the south line of Jasper County; thence west along the south lines of Jasper and Newton Counties to the western boundary of the State of Indiana; thence south along the western boundary of Indiana to the north line of Gibson County; thence east along the north lines of Gibson and Pike Counties to the east line of Pike County; thence south along the east lines of Pike and Warrick Counties to the north line of Warrick County; thence east along the north lines of Warrick and Spencer Counties to the east line of Spencer County; thence south along the east line of Spencer County to the Indiana-Kentucky boundary.

Before taking final action to adopt, deny, or modify the proposed boundary requested by the petitioners, the Secretary of Transportation will consider the timely comments of all interested persons. Comments should identify the regulatory docket or notice number (see above) and be submitted to the Docket Clerk, Office of the General Counsel, TGC, Department of Transportation, Washington, D.C. 20590. Comments received on or before June 1, 1973, will be considered before final action is taken on the petitions. All docketed comments

will be available for public inspection and copying, both before and after the closing date for comments, in the Office of the Assistant General Counsel for Regulation, room 10100, Department of Transportation Headquarters (Nassif) Building, 400 Seventh Street SW., Washington, D.C., between 9 a.m. and 5:30 p.m. local time, Monday through Friday, except Federal holidays.

This proceeding does not concern adherence to or exemption from advanced time. The Uniform Time Act of 1966 requires observance of advanced time from 2 a.m. on the last Sunday in April to 2 a.m. on the last Sunday in October of each year, but permits any State to exempt itself from this requirement by law applicable to the entire State. A State that has parts in more than one time zone may exempt the entire area within one time zone without exempting the entire State. Thus, any part of the State of Michigan which is placed in the central time zone as a result of this proceeding must, under existing law in the State of Michigan, observe central advanced time from 2 a.m. on the last Sunday in April to 2 a.m. on the last Sunday in October of each year. Any such part and the counties of Gogebic, Iron, Dickinson, and Menominee in the Upper Peninsula may be exempted collectively from such observance by act of the Michigan legislature. In other words, any exemption from central advanced time must apply to all parts of the State that are in the central zone.

This proceeding also does not in any way exempt or excuse the three counties concerned from the requirement to observe eastern advanced (daylight) time beginning 2 a.m. Sunday, April 29, 1973.

This proposal is issued under authority of the Act of March 19, 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260-67); section 6(e)(5) of the Department of Transportation Act (49 U.S.C. 1655(e)(5)); and § 1.59(a) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.59(a)).

Issued in Washington, D.C., on April 18, 1973.

JOHN W. BARNUM,
General Counsel.

[FR Doc. 73-7778 Filed 4-20-73; 8:45 am]

Hazardous Materials Regulations Board

[49 CFR Part 171]

[Docket No. HM-22; Notice No. 73-3]

TRANSPORTATION OF HAZARDOUS MATERIALS

Matter Incorporated by Reference

The Hazardous Materials Regulations Board of the Department of Transportation is considering amending § 171.7 (d) (1) of the hazardous materials regulations to update the reference to the addenda to sections VIII (division I) and IX of the "American Society of Mechanical Engineers Boiler and Pressure Vessel Code."

The Compressed Gas Association, Inc., has petitioned the Board to effect this change.

In consideration of the foregoing, it is proposed to amend 49 CFR part 171 as follows:

Section 171.7, paragraph (d) (1) would be amended to read as follows:

§ 171.7 Matter incorporated by reference.

(d) * * *

(1) ASME Code means sections VIII (division I) and IX of the 1971 edition of the "American Society of Mechanical Engineers Boiler and Pressure Vessel Code," and addenda thereto through December 31, 1972.

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, 400 Sixth Street SW., Washington, D.C. 20590. Communications received on or before June 12, 1973, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

AUTHORITY.—Secs. 831-835 of Title 18, United States Code, sec. 9 of the Department of Transportation Act (49 U.S.C. 1657), title VI and sec. 902(h), Federal Aviation Act of 1958 (49 U.S.C. 1421-1430, 1472(h), and 1655(e).)

Issued in Washington, D.C., on April 17, 1973.

WILLIAM K. BYRD,
Acting Director,
Office of Hazardous Materials.

[FR Doc. 73-7712 Filed 4-20-73; 8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 2, 154, 157]

[Docket No. R-389-B]

JUST AND REASONABLE NATIONAL RATES FOR FUTURE SALES OF NATURAL GAS FROM CERTAIN WELLS

Notice of Proposed Rulemaking and Order Prescribing Procedures

APRIL 11, 1973.

1. Notice is hereby given, pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 551, et seq. (1970) and sections 4, 5, 7, 8, 14, 15, and 16 of the Natural Gas Act, 15 U.S.C. 717, et seq. (1963), that the Commission proposes to issue rules fixing the just and reasonable rates and otherwise regulating jurisdictional sales by producers of natural gas for all producing areas on a nationwide basis. The single uniform just and reasonable rate to be determined by final order herein shall apply to all jurisdictional sales of natural gas which is produced from wells commenced on or after Janu-

ary 1, 1973, except sales certificated under order No. 431¹ or order No. 455.²

2. Our authority to set just and reasonable rates by informal rulemaking procedures emanates from the Natural Gas Act, particularly sections 5 and 16 thereunder. The Commission has exercised such authority, consistent with the procedural requirements of the APA, in prescribing just and reasonable rates by rulemaking for the Appalachian-Illinois³ and Rocky Mountain⁴ areas. The U.S. Court of Appeals for the Tenth Circuit has affirmed our authority to use the rulemaking procedures established for the Rocky Mountain area. *Phillips Petroleum Co., et al. v. F.P.C.*, No. 71-1659, et al., February 20, 1973.⁵ Other judicial interpretations have likewise sanctioned such authority.⁶

3. The Commission's first area rate proceeding, covering the Permian Basin area of New Mexico and West Texas, was commenced in 1960. Following more than a decade of protracted adjudicatory and court proceedings accompanied by enormous evidentiary records, just and reasonable rates had been established for the following producing areas: Permian,⁷ South Louisiana,⁸ Hugoton-Anadarko,⁹ Texas Gulf Coast,¹⁰ and Other Southwest.¹¹ Three of those five determinations are pending court review.

4. We have determined that the protracted adjudicatory proceedings and subsequent court litigation of the past has made producer rate regulation by past methods too complex and cumbersome, precluding finality of nonappealable decisions as a basis for the timely commitment of resources to productive

¹ 45 F.P.C. 570 (1971).

² Docket No. R-441, appeal docketed. *John E. Moss, et al. v. F.P.C.*, No. 72-1837, D.C. Cir.

³ Order No. 411, 44 F.P.C. 1112 (1970).

⁴ Opinion No. 658, docket No. R-425, issued concurrently with the notice in this proceeding.

⁵ See our discussion contained in the procedural orders issued in 1971 in docket No. R-425, e.g., 46 F.P.C. 43; 46 F.P.C. 616; 46 F.P.C. 1323.

⁶ E.g., *U.S. v. Florida East Coast Railway Co.*, 93 S. Ct. 810 (1973); *U.S. v. Allegheny-Ludlum Steel Corp.*, 406 U.S. 742 (1972); *Mobil Oil Corp. v. F.P.C.*, 469 F. 2d 130 (D.C. Cir. 1972); *P.S.C. for N.Y. v. F.P.C.*, 467 F. 2d 361 (D.C. Cir. 1972); *City of Chicago v. F.P.C.*, 458 F. 2d 731 (D.C. Cir. 1971), cert. denied 405 U.S. 1074 (1972).

⁷ Permian Basin Area Rate Cases, 34 F.P.C. 159 (1965), aff'd in part and reversed in part, 375 F.2d 6 (10th Cir. 1967), reversed, 390 U.S. 747 (1968).

⁸ Southern Louisiana Area Rate Cases, 40 F.P.C. 630 (1968), aff'd 428 F.2d 407 (5th Cir.), cert. denied 400 U.S. 950 (1970). Southern Louisiana Area Rate Cases, 46 F.P.C. 86 (1971), appeal docketed, *Placid Oil Co. v. F.P.C.*, No. 71-2761, 5th Cir.

⁹ Hugoton-Anadarko Area Rate Cases, 44 F.P.C. 761 (1970), aff'd, 466 F.2d 974 (8th Cir. 1972).

¹⁰ Texas Gulf Coast Area Rate Cases, 45 F.P.C. 674 (1971), appeal docketed, *P.S.C. for N.Y. v. F.P.C.*, No. 71-1828, D.C. Cir.

¹¹ Other Southwest Area Rate Cases, 46 F.P.C. 900 (1971), appeal docketed, *Shell Oil Co. v. F.P.C.*, No. 72-1114, 5th Cir.

exploration and development. Moreover, we looked to our rulemaking powers so as to determine rates expeditiously.²⁴ Through such procedures we would no longer have to retrace the same paths we had traveled before. We would have the flexibility afforded by rulemaking to adapt to changing circumstances²⁵ and to make rate determinations responsive to current economic conditions. Additionally, we could bring to bear data and expertise we had gained in related proceedings upon a problem of national proportions.²⁶

5. The need for more streamlined producer rate regulation has been made even more immediate by the deepening and pervasive natural gas shortage.²⁷ During the last 5 years, we have used twice as much gas as we have found.²⁸ Since 1961, there has been a generally declining trend in the number of gas wells drilled, while the average depth of gas well completions has increased.²⁹ Curtailments of both firm and interruptible gas service by 15 major interstate pipelines have been estimated at 1 trillion cubic feet for the period April 1972-March 1973.

6. Against this background, we prescribed just and reasonable rates for the Appalachia-Illinois and Rocky Mountain areas. We reaffirm the latitude and flexibility recognized by the courts in formulating a workable method of producer regulation.³⁰ We have experimented with traditional adjudicatory proceedings and have recognized the inherent difficulties which subsequently developed. The adoption of area rates through rulemaking was a marked improvement over the past. We now seek to move to a single uniform national rate for new gas for all producing areas, which in our judgment, should better serve the public interest through the prescription, on a timely basis, of current rates based on relevant current evidence to elicit gas supplies to meet consumer needs.

7. We do not propose any specific rates, terms and conditions in this notice. Rather, we will rely in making such determination on the responses to be filed herein. As part of this notice, we have appended certain information prepared by our staff, particularly appendix A,

statistical data; appendix B, estimated nationwide cost of finding and producing nonassociated gas; appendix C, summary of interstate and intrastate volumes and rates of large producers; appendix D, supply and demand and other indicators. We ask that comments filed herein address the factual basis of staff's presentation, as well as the issues of rate design and cost allocation embodied therein.³¹

8. Our initial decision is that the just and reasonable rates ultimately prescribed herein should be applicable to jurisdictional sales of natural gas from wells commenced on or after January 1, 1973, regardless of contract date or date of dedication. We recognize there are other alternatives to such a demarcation, e.g. contract date or date of deliveries. However, by using "wells commenced,"³² (1) drilling activity on acreage of high productive potential should be stimulated, (2) recognition will be given to the current cost of drilling irrespective of contract date and (3) incentive for further new gas drilling will be provided. "Commencement date" is readily identifiable from State regulatory records, and is not susceptible to misinterpretation.

9. The single rate ultimately established herein will be applicable to jurisdictional sales throughout the lower 48 States³³ whether or not gas is presently being produced. There will be a uniform rate for both onshore and offshore production, whether gas-well gas or casing-head gas. Such rate shall be exclusive of State production taxes, measured at 14.73 lb/in²a and 60° F., but shall be subject to British thermal unit adjustments downward from 1,000 and upward from 1,050 Btu. Such a rate shall be subject to a downward adjustment of 0.5 cent per M ft³ for deliveries made closer to the wellhead than a central point in the field, the tailgate of a processing plant, an offshore platform to the buyer's line, or a point on the buyer's pipeline.

10. The rate ultimately prescribed herein shall be a new just and reasonable rate. To the extent shown necessary by the record compiled herein, the rate provisions of presently effective area rate opinions may be modified. Any final order in R-389-B will likewise modify any presently effective moratoria prohibiting future rate filing where contractually authorized.

11. We look forward also to institution of a rulemaking procedure for the establishment of a single national just and reasonable rate for gas sold in interstate commerce from wells commenced prior to January 1, 1973. Such will be a separate proceeding from this docket No. 389-B, however, and will be separately noticed and heard.

12. Overall, we seek expeditious and flexible procedures which will function more effectively to achieve the goal of

producer regulation, that is, the delivery to the interstate market of a reliable and adequate supply of gas at the lowest reasonable cost. We seek rate stability and rate simplification. We continue to recognize our obligation to eliminate as much rate uncertainty as possible, and accordingly, although we cannot bind future commissions, we state our conviction that previously issued certificates of public convenience and necessity, and currently effective rate schedules, which conform to rates lawfully determined by the Commission to be just and reasonable, should not be impaired.

13. We are considering an annual review of the just and reasonable rates prescribed in R-389-B so that current costs and market conditions will be reflected in the currently effective just and reasonable rate. For instance, we will consider a procedure whereby, in 1974, we would review the rate set herein in light of current costs and market conditions, considering among other things (1) changes in the Bureau of Labor Statistics Wholesale Price Index for industrial commodities, (2) costs for lease acquisition and dry holes, and (3) productivity, so as to adjust, as required, the rate previously applicable to gas from wells commenced on or after January 1, 1973.

14. In order to provide a maximum incentive for new exploration and new sales to the interstate market, we are considering a premium for new gas discoveries to compensate for the greater risk of exploratory drilling and the higher marginal cost of new gas supplies. We will consider a 5 cents to 10 cents per M ft³ risk factor rate component, applicable to new interstate sales from newly discovered reservoirs, whether found on newly committed or previously committed acreage, and including consideration of drilling depth. If adopted, this risk factor component will be tried on an experimental basis for a period of 3 years, following which a review will be undertaken to determine if the desired results of greater exploration and interstate sales have resulted. To qualify for the risk factor rate component, the standards for determination of newly discovered reservoirs set in section 2.56(f)(2) of our rules³⁴ would have to be met, and deliveries from the new reservoir would have to commence within 2 years from the initial discovery.

15. The standards which govern the just and reasonable rates to be prescribed in R-389-B emanate from *Permian* and *Austral*. We use costs as a basis for departure, as suggested in *City of Detroit*,³⁵ although we recognize the inherent imprecisions contained in such an approach. We will look toward a range of just and reasonable costs and rates of return. We will likewise consider numerous noncost factors,³⁶ including supply and demand and consequences upon the

²⁴ Cf. 46 FPC 617 (1971).

²⁵ Cf. *Permian*, supra, 390 U.S. at 784; *City of Chicago v. F.P.C.*, 385 F.2d 629, 637 (D.C. Cir. 1967), cert. denied, 390 U.S. 945 (1968); *Long Island R.R. Co. v. U.S.*, 318 F. Supp. 490, 491-92 (E.D.N.Y. 1970).

²⁶ Cf. *N.L.R.B. v. Wyman-Gordon Co.*, 394 U.S. 759, 765-66 (1969); *City of Chicago v. F.P.C.*, supra, 458 F.2d 731; *Sun Oil Co. v. F.P.C.*, 256 F.2d 233, 240-41 (5th Cir.), cert. denied, 358 U.S. 872 (1958); Attorney General's Manual on the Administrative Procedure Act (1947) at 31.

²⁷ The natural gas shortage has been judicially recognized. E.g., *F.P.C. v. Louisiana Power & Light Co.* 406 U.S. 621 (1972).

²⁸ American Gas Association Annual Reports, 1968-1972 and FPC Form 15 data.

²⁹ National Gas Supply and Demand 1971-90, Staff Report No. 2, Bureau of Natural Gas, February 1972.

³⁰ See *Permian*, supra, 390 U.S. at 767, 772, 800; Southern Area Rate Cases, supra, 428 F.2d at 418.

³¹ Appendices A, B, C, and D filed as part of the original document.

³² Date upon which well is "spudded in."

³³ Including the Rocky Mountain and Permian Basin areas, but excluding sales certificated under order No. 431 or order No. 455.

³⁴ See Opinion No. 567, 42 FPC 726 (1969).

³⁵ *City of Detroit v. F.P.C.*, 230 F.2d 810 (D.C. Cir. 1955), cert. denied 352 U.S. 829 (1956).

³⁶ *Permian*, supra, 390 U.S. at 815; *Southern Louisiana*, supra, 428 F.2d at 441-444.

producing industry of the rate order. We will also consider the capital required to conduct the necessary exploration and development effort, prices of alternative fuels, prices of supplemental gas sources, intrastate contract rates, and the commodity value of natural gas. The end result will be a just and reasonable rate designed to maintain and assure adequate service to consumers and to attract the necessary capital to maintain gas exploration, gas and production, at a level which will serve consumer needs.²⁴ We ask that comments filed herein address these noncost issues on a factual basis.

16. All large producers who make annual jurisdictional natural gas sales in excess of 10 million M ft³ are hereby made respondents to this rulemaking proceeding.

17. Any interested person may become a party to this proceeding by filing with the Secretary of the Commission, on or before April 30, 1973, a notice of intention to respond; parties having a common interest shall combine in a group, where practicable and desirable. The Secretary will prepare and publish, by May 7, 1973, a list of all parties including groups of parties. Parties shall certify that all other parties, or a group's designated representative, have been served with a copy of each filing made hereunder.

18. Responses in writing concerning this proposed rulemaking shall be filed with the Secretary at the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, by May 16, 1973. The submittal shall state the name, title, mailing address, and telephone number of the person of persons to whom communications concerning this matter should be addressed. An original and 14 conformed copies of such response shall be filed with the Commission. Responses to the submittals shall be filed no later than June 1, 1973, in the same form and number as the original submittals. All submittals and responses will be placed in the Commission's public files and will be available for inspection in the Commission's Office of Public Information, 441 G Street NW., Washington, D.C. 20426, during regular business hours.

19. All statements and submittals in response to this notice shall be under oath, acknowledged by a notary public or comparable official, as follows: (name)

²⁴ See *Colorado Interstate Gas Co. v. F.P.C.*, 324 U.S. 581, 612 (1945) (Jackson, J., concurring); *F.P.C. v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944).

being duly sworn, deposes and says that he is (title and organization, if filing is a representative capacity) that he is authorized to verify and file this document, that he has examined the statements contained in the submittal or response, and that all such statements are true and correct to the best of his knowledge, information, and belief. The parties preparing statements and submittals, other than prepared data sheets in response to this rulemaking shall insert line numbers on each page in the left-hand margin.

20. It is our present belief that there is no need for any public conference on this notice. The procedures to be followed in R-389-B will be those of informal rulemaking and at this juncture we do not envision a trial-type adjudicatory hearing or oral cross-examination.²⁵ All parties are afforded the opportunity to respond to this notice and to file written rebuttals to other responses, all of which will be considered by the Commission in issuing a final order in this proceeding.

21. We intend to issue an order on the merits in this proceeding by July 1, 1973.

22. The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7728 Filed 4-20-73;8:45 am]

SELECTIVE SERVICE SYSTEM

[32 CFR Parts 1623, 1628, 1641]

CLASSIFICATION OF REGISTRANTS

Proposed Procedures

Pursuant to the Military Selective Service Act, as amended (50 U.S.C. App., secs. 451 et seq.), and Executive Order No. 11623 dated October 12, 1971, the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service Regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These regulations implement the Military Selective Service Act, as amended (50 U.S.C. App., secs. 451 et seq.).

²⁵ See sec. 4(b) of the APA 5 U.S.C. 553(c) and judicial precedents, supra. Even assuming arguendo the applicability of secs. 7 and 8 of the APA, i.e., formal rulemaking, full and true disclosure of the facts can be obtained through written submissions and responses. See Attorney General's Manual, supra at 78; *Siegel v. A.E.C.*, 400 F. 2d 778, 784 (D.C. Cir. 1968); *Long Island R.R. Co.*, supra., 318 F. Supp. at 499-500.

These proposed amendments, if made effective, would change the identification of the local board that is required to issue the duplicate notice of classification, eliminate the opportunity for a registrant to request an armed forces examination, and modify the requirement that a registrant have unaltered documents in his personal possession.

All persons who desire to submit views to the Director on the proposals should prepare them in writing and forward them to the Director, Selective Service System, Attn: LLD, 1724 F Street NW., Washington, D.C., 20435. Comments received on or before May 23, 1973, will be considered.

The proposed amendments follow:

PART 1623—CLASSIFICATION PROCEDURE

Section 1623.7 is amended to read as follows:

§ 1623.7 Issuing a duplicate of a lost, destroyed, mislaid, or stolen Notice of Classification (SSS Form 110).

A duplicate notice of classification will be issued to a registrant by the local board with which he is registered upon its receipt of his written request therefor.

PART 1628—EXAMINATION OF REGISTRANTS

§ 1628.6 [Amended]

Section 1628.6(c) is revoked.

PART 1641—DUTY OF REGISTRANTS

Section 1641.6(a) is amended to read as follows:

§ 1641.6 Duty to have unaltered Registration Certification in personal possession.

(a) Every registrant who has not discharged his current military obligation under the Military Selective Service Act shall, until his liability for training and service has terminated, have in his personal possession except while he is on active duty (other than active duty for training or for the sole purpose of undergoing a physical examination) in the Armed Forces (1) his registration certificate (SSS Form 2) and notice of classification (SSS Form 110) showing his current classification or (2) his status card (SSS Form 7) most recently issued by the local board.

BYRON V. PEPITONE,
Director.

APRIL 18, 1973.

[FR Doc.73-7826 Filed 4-20-73;8:45 am]

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

Agency for International Development

[Public Notice No. 1, Revised]

STATEMENT OF ORGANIZATION, FUNCTIONS, AND PROCEDURES

Information Guidance

In compliance with 5 U.S.C. 552, this notice provides information for the guidance of the public regarding: the basic authorities and programs of the Agency for International Development; the organization and functions of the Agency's central and field organizations; the Agency's methods of operation; statements of policy, rules, and procedures; and the methods whereby the public may obtain information, make submittals or requests, or obtain decisions.

This notice is a revision of "AID Public Notice No. 1" published in the FEDERAL REGISTER for July 6, 1967 (32 FR 9845). Any further revision or amendment of this statement will also be published in the FEDERAL REGISTER.

I. Creation and authority of the Agency.—Section 621 of the Foreign Assistance Act of 1961 (75 Stat. 424; 22 U.S.C. 2381), as amended, authorizes the President to exercise his functions under that act through such agency or officer of the U.S. Government as he may direct. Executive Order 10973 of November 3, 1961 (26 FR 10469), as amended, delegates to the Secretary of State the authorities set forth in the Foreign Assistance Act of 1961, as amended, and in certain other acts with certain limited exceptions. The Executive order also directs that the Secretary of State establish an agency in the Department of State to be known as the Agency for International Development.

State Department Delegation of Authority No. 104 of November 3, 1961 (26 FR 10603), as amended, establishes the Agency for International Development (AID) as an agency within the Department of State and delegates to the Administrator of the Agency the functions conferred upon the Secretary of State by Executive Order 10973 and certain related Executive orders, unless otherwise reserved by the Secretary of State or delegated to others by him.

II. Program of the Agency.—A. AID has responsibility for carrying out certain U.S. development assistance and security supporting assistance programs and for exercising continuous supervision and general direction of U.S. foreign assistance programs under part I of the Foreign Assistance Act of 1961, as amended (hereafter referred to as the FAA). The Agency also carries out certain functions under the act of September 8, 1960 (74 Stat. 869; 22 U.S.C. 1942

et seq.), to provide for assistance in the development of Latin America and for other purposes, and under Public Law 480, the Agricultural Trade Development and Assistance Act of 1954, as amended (68 Stat. 454; 7 U.S.C. 1691 et seq.).

B. The development assistance programs which AID administers include the following major categories of assistance under the FAA:

1. Development loans (title I).—To promote economic development through loans repayable in dollars to less developed friendly countries and areas. Emphasis is placed on assisting long-range plans and programs designed to develop economic and human resources, increase productive capacities, and improve the quality of human life.

Under this title, there is also authority to transfer funds to multilateral lending institutions and multilateral organizations in which the United States participates.

2. Technical cooperation and development grants (title II).—To promote the economic development of less developed friendly countries and areas, with emphasis on assisting the development of human resources through programs of technical cooperation and development. Assistance may also be given, under section 211(d), to research and educational institutions in the United States for the purpose of strengthening their capacity to develop and carry out programs concerned with economic and social development of less developed countries.

Under section 214 of this title, assistance is also authorized for American schools and hospitals abroad, i.e., to schools and libraries abroad founded or sponsored by U.S. citizens and serving as study and demonstration centers for ideals and practices of the United States, and to overseas hospital centers for medical education and research, founded or sponsored by U.S. citizens.

In addition, under this title, there is authority: (1) To reimburse the American Red Cross and registered U.S. voluntary nonprofit relief agencies for the international transportation costs on their shipments of supplies in humanitarian relief and rehabilitation programs; and (2) to carry out programs of peaceful communications which make use of television and related technologies, including satellite transmissions, for educational, health, agricultural, and community development purposes in the less developed countries.

3. Housing guaranties (title III).—On a worldwide basis, to issue guaranties to eligible U.S. investors assuring against loss of loan investments in self-liquidating housing projects.

Under this title, there is also special authority to issue guaranties to eligible

investors assuring against loss of loan investments in certain housing projects and credit institutions in Latin America. The purpose of this authority is to assist in the development of self-liquidating housing projects, the development of institutions engaged in Alliance for Progress programs, including cooperatives, free labor unions, savings and loan type institutions and other private enterprise programs engaged directly or indirectly in the financing of home mortgages, the construction of homes for lower income persons and families, the increased mobilization of savings and improvement of housing conditions in Latin America.

4. Development research (title V).—To carry out programs of research into, and evaluation of, the process of economic development in less developed friendly countries and areas, into the factors affecting the relative success and costs of development activities, and into the means, techniques, and other aspects of development assistance in order to render such assistance of increasing value and benefit.

5. Alliance for progress (title VI).—To furnish both loan and grant assistance in order to promote the economic development of countries and areas in Latin America. Assistance under this title is directed toward the development of human as well as economic resources.

This title includes, within its general authority, specific authorities to assist, when requested and where appropriate, in fostering measures of agrarian reform; and to assist in promoting the organization, implementation, and growth of the cooperative movement in Latin America.

6. Population programs (title X).—To provide loan or grant assistance for programs relating to population growth in friendly foreign countries and areas. Such assistance may be provided to foreign governments, the United Nations, its specialized agencies, and other international organizations and programs, U.S. and foreign nonprofit organizations, universities, hospitals, accredited health institutions, and voluntary health or other qualified organizations.

In carrying out programs under this title, procedures are to be established to insure, whenever family planning assistance from the United States is involved, that no individual will be coerced to practice methods of family planning inconsistent with his or her moral, philosophical, or religious beliefs.

7. Utilization of democratic institutions (title IX).—In carrying out all assistance programs, emphasis is to be placed on assuring maximum participation in the task of economic development by the people of the developing coun-

tries, through the encouragement of democratic private and local governmental institutions. In the allocation of research funds, emphasis is to be given to research designed to examine the political, social, and related obstacles to development and to research designed to increase understanding of the ways in which development assistance can support democratic social and political trends in recipient countries. Title IX also requires AID to develop systematic programs of inservice training to familiarize its personnel with the objective of this title and to increase their knowledge of the political and social aspects of development.

C. The AID administers other programs under the FAA and other acts as follows:

1. *Security supporting assistance.*—AID administers the provision of economic assistance to friendly countries, organizations, and eligible bodies, in order to support or promote economic or political stability (part II, chapter 4, of the FAA).

2. *Food for peace program.*—In cooperation with the Department of Agriculture, the Agency participates in the sale of agriculture commodities on concessional terms under title I of Public Law 480 to encourage economic development, to assist in combating hunger and malnutrition, and for other purposes. Under title II, AID administers the donation of agricultural commodities to meet famine or other urgent or extraordinary relief requirements, to combat malnutrition, to promote economic and community development, and for needy persons and nonprofit school lunch and preschool feeding programs outside the United States (Public Law 480—the Agricultural Trade Development and Assistance Act of 1954, as amended).

III. *Organization, functions, and methods of operation.*—A. *General.*—AID performs its functions as an Agency within the Department of State. The Administrator reports directly to the Secretary of State and the President, and is charged with central direction and responsibility for the economic assistance program.

The overall structure of the Agency consists of: the Office of the Administrator; seven program and staff offices; four functional Bureaus for: population and humanitarian assistance, technical assistance, program and management services, and program and policy coordination; four geographic Bureaus for Asia, Africa, Latin America, and supporting assistance; and the overseas missions and offices.

B. *The Office of the Administrator.*—The Administrator plans, directs, and coordinates the operation of the Agency. He is responsible, subject to approval of the Secretary of State, for the formulation and execution of U.S. foreign assistance programs delegated to the Agency. He supervises and directs the activities of all personnel of the Agency in the United States and overseas.

The Administrator's office includes the Deputy Administrator, the Office of Equal Opportunity Programs, and an Executive Secretariat.

C. *Program and staff offices.*—The following program and staff offices report to the Office of the Administrator:

1. The Office of Food for Peace is responsible for the coordination of AID's roles in the Food for Peace Program in accordance with interagency agreements and delegated authority. It is the central focal point in the Agency for applying Public Law 480 (the Agricultural Trade Development and Assistance Act of 1954, as amended), as it relates to AID activities in the less developed areas of the world. The Office also maintains liaison and collaborates with other U.S. Government agencies, international organizations, and private agencies concerned with the use of food resources for development.

2. The Office of Labor Affairs develops Agency guidelines and policies to provide a framework for consideration of the labor-manpower aspects of country programs and projects and collaboration with pertinent multilateral organizations. The Office also provides general Agency liaison and coordination with the U.S. trade union movement, the International Labor Organization, and the U.S. Department of Labor, the Social Security Administration, and private sector labor-manpower institutions.

3. The Office of Public Safety has primary responsibility for AID public safety programs. It develops policies, standards, and programs for public safety assistance; coordinates public safety programs and operations with AID bureaus and offices and other appropriate agencies; and administers public safety participant training activities.

4. The Office of the General Counsel provides all legal advice, counsel, and services to Agency officials, both in the United States and abroad.

5. The Office of the Auditor General is the Agency's focal point for reviewing the integrity of aid operations. It is the central authority concerned with the quality, coverage, and coordination of the audit, appraisal, investigation, inspection, and security services of the Agency.

6. The Office of Legislative Affairs has responsibility for the conduct of the Agency's relations with the Congress, including the preparation and submission of information relating to legislative authority and appropriations requests.

7. The Office of Public Affairs has responsibility for insuring that information about Agency Objectives is made fully and freely available to the public. The Office develops public information policies; prepares informational materials; reviews and approves communications (speeches, films, articles, pamphlets, etc.) designed to inform the Congress and the public; disseminates information about the foreign assistance program to the U.S. public; and prepares certain informational materials for internal Agency distribution. The office also has primary Agency responsibility for implementation of the Freedom of Information Act (5 U.S.C. 552).

D. *Functional Bureaus.*—1. The Bureau for Population and Humanitarian Assistance, headed by an Assistant Ad-

ministrator, is responsible for policy formulation and program administration of Agency activities in three broad areas: Population/family planning; private and voluntary agency cooperation; and coordination of the U.S. role in foreign disaster relief. In these areas of responsibility, the Assistant Administrator directs the formulation of U.S. assistance programs; approves regional inter-regional and country programs and projects within the limits of delegated authority from the Administrator; submits to the Administrator an annual budget of proposed Bureau activities and assists in presenting the Bureau's program and budget to the Congress; approves and directs the allocation among Bureau offices and overseas missions of program resources made available to the Bureau; assures necessary liaison with other AID bureaus and offices in carrying out its program responsibilities; and manages the implementation of Bureau programs and projects.

The Bureau provides leadership in expanding AID's relationships with the U.S. private nonprofit community (including cooperatives, credit unions, savings and loan associations, voluntary agencies, foundations, nongovernmental organizations, and other similar private groups presently or potentially interested in participating in overseas humanitarian and development programs; but excluding universities and labor organizations); promotes increased constructive U.S. private participation in, and contribution to, overseas development; encourages and supports privately-managed technical assistance and humanitarian programs in less developed countries; and serves in AID as the central point of contact with the U.S. private nonprofit community, as defined herein.

The Bureau administers U.S. foreign disaster assistance and preparedness programs; participates in disaster assistance policy formulation and develops disaster relief standards and procedures; mobilizes and provides coordinative direction to U.S. Government foreign disaster operations and planning activities and coordinates these with responses of U.S. voluntary agencies, the American Red Cross and international organizations; maintains overseas disaster relief stockpiles; and directs a disaster operations and information exchange center.

2. The Bureau for Technical Assistance, headed by an Assistant Administrator, identifies and seeks solutions to major problems impeding the modernization process in less developed countries in the areas of agriculture, development administration, education and human resources, health, nutrition, science and technology, and urban development; and provides leadership in improving the quality of Agency professional services. The Bureau formulates strategies and methodologies for sector analysis and for the application of technical assistance in the LDC's; acts as the Agency's focal point for all dealings with universities and U.S. Government agencies in pertinent technical areas; coordinates the Agency's research

program; administers grants under section 211(d); and carries out a program of technical exchange and reimbursable technical services with developing countries not requiring financial assistance.

3. The Bureau for Program and Management Services, headed by an Assistant Administrator, provides centralized program and management services to AID bureaus and offices, Washington and overseas; administers the American schools and hospitals abroad and the Housing Investment Guaranty Programs; and represents the Agency on management and administrative matters with the committees of Congress, the Office of Management and Budget, the Department of State, and other Federal agencies. The Assistant Administrator for Program and Management Services is assisted by the following:

a. The Office of American Schools and Hospitals Abroad is the central office concerned with AID's responsibilities for planning, programing, implementing, and monitoring grants to American schools and hospitals abroad authorized under section 214 of the FAA.

b. The Office of Housing administers the AID housing guaranty program, and provides housing, housing finance, and other housing sector expertise to AID bureaus and offices.

c. The Office of Personnel and Manpower has central responsibility for personnel administration. The office develops policies, standards, and guidelines for operation of overseas and domestic personnel systems; operates centralized personnel recruitment, assignment, evaluation, and training programs; and conducts a full range of personnel operations for the Agency.

d. The Office of Management Operations develops policies, standards and guidelines for management of administrative and logistical support systems both in Washington and overseas; coordinates joint administrative and support policies and activities with the Department of State and other agencies; and provides a wide range of administrative and logistical services for the Agency. Such services include administrative type procurement; real and personal property acquisition and management; space planning and acquisition; travel communications management; travel and transportation; printing, reproduction, distribution, graphic arts and visual aids services; and motor vehicle fleet management.

e. The Office of Financial Management, as the principal financial office of the Agency, provides advice and assistance to Agency management on the financial implications of legislation, plans, programs, policies, procedures, operating activities, and audit and evaluation findings. The office administers and coordinates such financial management activities as: Accounting; statistics; administrative budgets; internal financial management control; advice and assistance to overseas missions regarding financial practices and procedures; and preparation and interpretation of financial and statistical reports.

f. The Office of Management Planning assists Agency management in the development, implementation, and evaluation of AID management policies and practices; provides management consulting services to Agency bureaus and offices in Washington and overseas; coordinates Agency systems; and administers the Agency's manpower management, organization control, committee management, and management improvement programs.

g. The Office of Data Management provides guidance, assistance, and leadership to the Agency in the planning, development, and implementation of automated systems. The office also provides automatic data processing services and administers the Agency's directives and records management programs.

h. The Office of Contract Management provides policy guidance and centralized services to the Agency in the areas of AID direct contracting, grants to intermediaries, Participating Agency Service Agreements, Small Business, and Excess Property. The office develops and maintains the AID Procurement Regulations (AIDPR).

i. The Office of International Training provides participant training policies and standards; develops and manages training programs for participants; and arranges for implementation of approved participant training programs.

j. The Office of Engineering develops engineering policies, standards, and practices for AID-financed activities; reviews major projects for engineering feasibility; and monitors engineering operations under all Agency programs.

k. The Office of Commodity Management develops commodity procurement and transportation policies; administers commodity import programs; and provides support for the implementation of the commodity and transportation elements of other AID-financed programs.

1. The Labor Relations Staff is responsible for the Agency's internal labor relations program, including administration of Executive Orders 11491 and 11636 and the several grievance procedures available to AID employees under the provisions provided by these orders.

4. The Bureau for Program and Policy Coordination, headed by an Assistant Administrator, is concerned with overall program policy, planning, coordination, and evaluation. The Bureau develops economic assistance policies, provides guidance on program planning and economic analysis, coordinates the formulation and revision of the Agency's program and budget, and develops Agency programing and budgeting systems. It provides in-depth analyses of development problems and related issues and formulates AID's position on major U.S. financial, trade, and development policies affecting the developing countries. The Bureau coordinates the Agency's policies for capital assistance and lending activities; reviews the policy aspects of all types of Agency projects to assure consistency with Agency objectives; and serves as Secretariat for the Development Loan Committee (DLC). It develops policies

and systems for the integrated use of capital, technical, Public Law 480, and other assistance and for evaluation of progress toward program goals; coordinates U.S. economic assistance with other bilateral and multilateral assistance programs; and assures implementation of title IX of the Foreign Assistance Act.

E. *Geographic Bureaus.*—There are three regional Bureaus: Asia, Africa, and Latin America; and a Bureau for Supporting Assistance. The latter coordinates supporting assistance programs in designated countries without regard to geographic location, and currently has overseas organizations in Vietnam, Laos, Khmer Republic (Cambodia), Jordan, and Thailand.

These Bureaus are the principal line offices of AID with responsibility for the planning, formulation, and management of U.S. economic development and/or supporting assistance programs in their respective areas overseas. Their programs are administered within delegated authorities and in accordance with policies and standards established by the AID Administrator.

Each geographic Bureau is headed by an Assistant Administrator who:

1. Directs and supervises the activities of the Bureau and its overseas missions and offices;

2. Directs the formulation of U.S. assistance programs, approves regional and country programs and projects within the limits of delegated authority from the Administrator, and authorizes execution of assistance agreements with countries of the area;

3. Submits to the Administrator an annual budget of proposed Bureau activities and assists in presenting the Bureau's program and budget to the Congress;

4. Approves and directs the allocation of available program and administrative resources among Bureau offices and overseas missions;

5. Assures necessary liaison with other AID bureaus and offices, the Department of State, other U.S. and multilateral agencies and officials of recipient countries, and represents the U.S. Government at country consortia or consultative group meetings;

6. Manages the implementation of programs and projects, monitors performance under loan and grant agreements, contracts, and other operating agreements, and takes or recommends any required remedial action.

F. *Overseas Missions and Offices.*—1. AID country organizations are located in countries where AID is carrying out bilateral economic assistance programs. Such organizations include the following:

a. AID Missions are currently located in 36 countries having major continuing U.S. economic assistance programs; usually carry out programs involving multiple types of aid in several sectors; and are headed by a Mission Director who has been delegated program planning, implementation, and representation authorities.

b. AID Offices are currently located in six countries where the AID program is moderate, declining, or has limited objectives and are headed by an AID Representative who has been delegated program planning, implementation, and representation authorities.

c. AID Sections of Embassy are currently located in the U.S. Embassies to eight countries where assistance programs are very small or are being phased out and are headed by an AID Affairs Officer. AID program planning and implementation authorities are delegated to the Chief U.S. Diplomatic Representative in the country.

2. Regional offices are established to carry out regional programs or closely related country programs in two or more countries (17 offices); or to provide services to country or regional programs (6 offices). Except for the Far East Regional Logistics Office and the Regional Procurement Office (Taipei) which report to the Office of Commodity Management, regional offices report to the Geographic Bureaus.

3. Interregional offices report to staff offices or functional bureaus, and include the following:

a. The Bureau for Program and Policy Coordination coordinates U.S. economic assistance with that of other donors through overseas offices for: The U.S. representative to the Development Assistance Committee (DAC) (located in Paris, France); the AID representative in the U.S. Permanent Mission to UNESCO (Paris); and the AID Development Coordination Officer in the U.S. mission to UN specialized agencies headquartered in Geneva, Switzerland.

b. The Office of Food for Peace maintains liaison with the World Food Program and the Food and Agriculture Organization (FAO) through a development affairs office located in the U.S. Embassy in Rome, Italy.

c. The Office of Contract Management maintains an AID field office in Yokosuka, Japan, to assist in carrying out its excess property functions.

d. The Office of the Auditor General currently maintains area audit offices headquartered at five overseas locations and inspection and investigations staffs at six overseas locations.

IV. *Statements of general policy and procedures.*—The statements of AID policy, and the nature and requirements of AID's formal and informal procedures which are currently available to the public, are contained in the published regulations and other publications of AID listed below. To the extent applicable these also contain description of forms available or specify the places at which forms may be obtained, and give instructions as to the scope and content of papers, reports or examinations involved in the transaction of business with AID.

The following AID regulations are codified in chapter II of title 22 of the Code of Federal Regulations.

SUBJECT

No. 1. Rules and procedures applicable to commodity transactions financed by AID.

No. 2. Overseas shipment of supplies by voluntary nonprofit relief agencies.

No. 3. Registration of agencies for voluntary foreign aid.

No. 5. Per diem payments to participants in nonmilitary mutual security training programs.

No. 7. Service contracting: Use of third country nationals on AID-financed construction.

No. 8. Suppliers of commodities and commodity related services ineligible for AID financing.

No. 9. Nondiscrimination in federally assisted programs of AID-effectuation of title VI of the Civil Rights Act of 1964, as amended.

No. 10. Loyalty and security investigations for persons serving under contracts financed from U.S. foreign assistance funds.

No. 11. Transfer of food commodities for use in disaster relief and economic development, and other assistance (P.L. 480, title II).

No. 12. Public information—availability of records and exemptions from disclosure.

No. 13. Collection of civil claims by the Agency for International Development.

The procurement regulations for the Agency for International Development (AIDPR) are codified in chapter 7 of title 41 of the Code of Federal Regulations.

In addition, the following other AID publications contain procedures available to the public.

1. Capital Projects Guidelines.
2. AID-Financed Export Opportunities.
3. AID Procurement Information Bulletins.
4. AID Small Business Memos.
5. AID Importer Lists.

Copies of the above listed AID regulations and other publications are available for public inspection and copying through the Office of Public Affairs, AID, Department of State, Washington, D.C. 20523. In addition, publications listed under 2 through 5 above are available from the Office of Contract Management, Small Business Office, AID, Washington, D.C. 20523, and at Department of Commerce field offices located in principal cities of the United States. AID procurement regulations are also for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

V. *Information, submittals and requests for decisions.*—A. *Information.*—AID regulation No. 12 (22 CFR part 212) specifies AID policy and procedures for making information available to the public, and for obtaining access to its identifiable records for information or for historical research.

B. *Submittals, requests, or decisions.*—Members of the public doing business, or wishing to do business, with AID may make their submittals or requests, or obtain decisions at the cognizant AID bureau or office described in section III above, in accordance with the provisions of the AID regulation or other publication which govern the action or process.

In case of uncertainty by a member of the public as to the appropriate AID

bureau or office, or as to the methods of applying for or obtaining AID action, application should be made to the Director, Office of Public Affairs, AID, room 4898 N.S., Department of State, 21st and Virginia Avenue NW., Washington, D.C. 20523.

Effective date.—This notice shall be effective April 23, 1973.

Dated April 13, 1973.

WILLARD H. MEINECKE,
Acting Assistant Administrator
for Program and Management
Services.

[FR Doc. 73-7745 Filed 4-20-73; 8:45 am]

Office of the Secretary

[Public Notice 386; Delegation of Authority No. 127]

DEPUTY UNDER SECRETARY FOR MANAGEMENT

Delegation of Authority

Correction

In FR Doc. 73-7141, appearing on page 9336 of the issue for Friday, April 13, 1973, the agency bracket should read as set forth above.

SECURITIES AND EXCHANGE COMMISSION

[File 500-1]

ACCURATE CALCULATOR CORP.

Order Suspending Trading

APRIL 13, 1973.

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 Accurate Calculator 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 April 15, 1973, through April 24, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc. 73-7747 Filed 4-20-73; 8:45 am]

[File 500-1]

ALBRO INDUSTRIES CORP.

Order Suspending Trading

APRIL 13, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, \$1 par value, and all other securities of Albro Industries 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 10 a.m., e.s.t., April 13, 1973 through April 22, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-7748 Filed 4-20-73;8:45 am]

[File 500-1]

BENEFICIAL LABORATORIES, INC.
Order Suspending Trading

APRIL 13, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, warrants, units, and all other securities of Beneficial Laboratories, 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 April 14, 1973, through April 23, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-7749 Filed 4-20-73;8:45 am]

[File 500-1]

CLINTON OIL CO
Order Suspending Trading

APRIL 16, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, \$0.03½ 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 April 17, 1973, through April 26, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-7750 Filed 4-20-73;8:45 am]

[File 500-1]

ELECTRONIC CONCEPTS LABORATORIES CORP.

Order Suspending Trading

APRIL 13, 1973.

It appearing to the Securities and Exchange Commission that the summary

suspension of trading in the common stock, no par value, and all other securities of Electronic Concepts Laboratories 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 10 a.m., e.s.t., April 13, 1973, through April 22, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-7751 Filed 4-20-73;8:45 am]

[File 500-1]

EQUITY FUNDING CORP. OF AMERICA
Order Suspending Trading

APRIL 16, 1973.

The common stock, \$0.30 par value, of Equity Funding Corp. of America being traded on the New York Stock Exchange, the Midwest Stock Exchange, the Pacific Coast Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange, the Boston Stock Exchange; warrants to purchase the \$0.30 par value common stock being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange; 9½ percent debentures due 1990 being traded on the New York Stock Exchange; and 5½ percent convertible subordinated debentures due 1991 being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Equity Funding Corporation of America 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 section 19(a) (4) and 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from April 17, 1973, through April 26, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-7752 Filed 4-20-73;8:45 am]

[File 500-1]

FIRST LEISURE CORP.

Order Suspending Trading

APRIL 13, 1973.

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 First Leisure 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 April 16, 1973, through April 25, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-7753 Filed 4-20-73;8:45 am]

[File 500-1]

FIRST WORLD CORP.
Order Suspending Trading

APRIL 13, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the class A and class B common stocks, \$0.15 par value, and all other securities of First World 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 April 15, 1973, through April 24, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-7754 Filed 4-20-73;8:45 am]

[File 500-1]

INDUSTRIES INTERNATIONAL, INC.
Order Suspending Trading

APRIL 16, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, and all other securities of Industries International, 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 April 17, 1973, through April 26, 1973.

By the Commission.

RONALD F. HUNT,
Secretary.

[FR Doc.73-7755 Filed 4-20-73;8:45 am]

[File 500-1]

LOGOS DEVELOPMENT CORP.**Order Suspending Trading**

APRIL 13, 1973.

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 Logos Development 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 April 15, 1973, through April 24, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc. 73-7756 Filed 4-20-73; 8:45 am]

[812-3394]

LOOMIS-SAYLES CAPITAL DEVELOPMENT FUND, INC.**Notice of Filing of Application**

APRIL 16, 1973.

Notice is hereby given that Loomis-Sayles Capital Development Fund, Inc. (Applicant), P.O. Box 449, Back Bay Annex, Boston, Mass. 02177, a Massachusetts corporation registered under the Investment Company Act of 1940 (Act), as a diversified, open-end management investment company, has filed an application pursuant to section 6(c) of the Act for an order of exemption from section 22(d) of the Act to permit Applicant to issue its redeemable securities at a price other than the current public offering price in exchange for substantially all of the assets of JWC Investment Co., Inc. (JWC), a Michigan corporation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

JWC is a personal holding company all of whose outstanding stock is owned of record and beneficially by only five persons, and by reason of that fact it is exempt from registration under the Act under the provisions of section 3(c)(1) of the Act.

Applicant and JWC have agreed to adopt a plan and agreement of reorganization (Agreement) whereby substantially all of the assets of JWC, which had a value of approximately \$1,338,000 as of January 18, 1973, are to be transferred to Applicant in exchange for shares of Applicant's capital stock which will be distributed to the shareholders of JWC in complete liquidation of JWC. Applicant presently intends to sell, after acquisition thereof, securities of JWC having a market value on January 18, 1973 of \$619,000, which represents approxi-

mately 46.5 percent of the market value of JWC's total assets on that date.

Pursuant to the Agreement, the net value of the assets of JWC to be transferred and the net asset value of the shares of the Applicant to be issued in exchange therefor, will be determined in each case as of the time of close of trading on the New York Stock Exchange on the 15th business day following receipt of the exemption order herein applied for, or such earlier or later day as may be mutually agreed upon in writing. The Agreement also requires that in determining the number of shares of Applicant to be delivered to JWC, the aggregate market value of the assets of JWC shall be reduced by an amount, if any, determined by application of a formula designed to compensate the Applicant for any increased tax liability which may result by reason of its acquisition of the assets of JWC. If the valuation date had been January 18, 1973, when the net asset value of Applicant's stock was \$14.42, JWC would have received approximately 92,732 shares of Applicant's stock as a result of the aforementioned adjustment.

Applicant represents that while Loomis-Sayles & Co., Inc., the investment adviser to the Applicant, provides investment advice to JWC with respect to a third of its portfolio, the Agreement between JWC and Applicant was negotiated at arms-length by the officers of JWC and the Applicant. Applicant further represents that the granting of this application is appropriate and in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act, that the terms of the proposed transactions are reasonable and fair and do not involve any overreaching on the part of any party concerned, and that the proposed transactions are consistent with the policies of JWC and Applicant.

Section 22(d) of the Act provides, in pertinent part, that no registered open-end investment company or principal underwriter thereof shall sell any redeemable security issued by such company except at a current public offering price described in the prospectus. The current public offering price of Applicant's shares, as stated in its prospectus, is net asset value. Applicant contends that the making of an adjustment to the value of JWC's assets for the purpose of determining the number of shares of Applicant to be issued in exchange therefor may be considered to result in a sale at other than net asset value.

Section 6(c) of the Act permits the Commission, upon application, to exempt a transaction from any provision or provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 11, 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, if any, of fact and law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certification) 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 a hearing on 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 Management Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc. 73-7758 Filed 4-20-73; 8:45 am]

[70-5326]

MIDDLE SOUTH UTILITIES, INC., AND ARKANSAS POWER & LIGHT CO.**Notice of Proposed Issue and Sale of Notes**

APRIL 16, 1973.

Notice is hereby given that Middle South Utilities, Inc. (Middle South), 280 Park Ave., New York, N.Y. 10017, a registered holding company, and Arkansas Power & Light Co. (Arkansas), Ninth and Louisiana Streets, Little Rock, Ark. 72203, a public-utility subsidiary company of Middle South, have filed with this Commission an application-declaration and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 6(b), 7, 9(a), 10 and 12(f) of the Act and rule 43 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Middle South proposes to issue and sell its unsecured promissory notes, in an aggregate principal amount of \$20 million, to New York commercial banks, namely, Chase Manhattan Bank, N.Y. (\$10 million) and Manufacturers' Hanover Trust Co. of New York (\$10 million).

The proposed notes will be payable not more than 9 months from the date of issuance, will bear interest on the unpaid

principal amount thereof at a rate per annum equal to the commercial loan rate of the individual bank from time to time in effect on borrowings having a 90-day maturity (the prime rate) to responsible and substantial corporate borrowers, and will, at the option of Middle South, be prepayable at any time, in whole or in part without premium.

Unless prepaid, the notes will be repaid at maturity out of funds available to Middle South from its business or derived from the issuance and sale of similar short-term securities, subject to further regulatory approval, if necessary. Middle South maintains working balances at these banks, of which an amount equal to 10 percent of the outstanding balance of such notes may be deemed to be compensating balances. Such 10 percent compensating balance requirement results in an effective cost of borrowing of 7.22 percent per annum, assuming a 6½ percent prime rate.

Middle South proposes to use the proceeds of the borrowings to purchase additional shares of common stock of Arkansas as described below.

Arkansas proposes to issue and sell to Middle South (the holder of all of the issued and outstanding shares of Arkansas' common stock, \$12.50 par value), and Middle South proposes to acquire at the par value thereof, 1,600,000 additional shares of Arkansas' authorized but unissued common stock aggregating \$20 million in par value. Upon completion of the proposed transaction, Arkansas will have outstanding 17,790,000 shares of common stock, \$12.50 par value, having an aggregate par value on its books of \$222,375,000. Arkansas proposes to use the net proceeds from the sale of the additional common stock for the payment of bank loans and commercial paper indebtedness made or incurred for the temporary financing of Arkansas' construction program. Arkansas estimates that its construction program for 1973 will result in expenditures of approximately \$170,600,000.

The sale of the additional common stock by Arkansas has been expressly authorized by the Arkansas Public Service Commission, and an application regarding that transaction is pending before the Tennessee Public Service Commission. It is stated that no other State commission and no Federal Commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses in connection with the proposed transactions are estimated at \$5,000.

Notice is further given that any interested person may, not later than May 9, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be

served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL]

RONALD F. HUNT,
Secretary.

[FR Doc.73-7759 Filed 4-20-73; 8:45 am]

[812-3421]

NATIONAL SECURITIES FUNDS ET AL.

Notice of Application

APRIL 17, 1973.

Notice is hereby given that National Securities Funds, Fairfield Fund, Inc., and Capital Trinity Fund, Inc. (Funds), all open end diversified, management investment companies registered under the Investment Company Act of 1940 (Act), and National Securities & Research Corp. (Underwriter), 120 Broadway, New York, N.Y. 10005, the principal underwriter for the Funds (hereinafter collectively called "Applicants") have filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting Applicants from section 22(d) of the Act and rule 22d-1 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current public offering price described in the prospectus. The prospectuses of the Funds state that a sales commission is included in the offering price of the shares of such Funds.

Applicants propose to offer to persons who have caused their shares of any of the Funds to be redeemed the privilege of being able to reinstate their accounts without any sales charges. In order to be eligible for such privilege, an investor must not previously have exercised the privilege. Reinstatement, or the purchase of shares of a Fund pursuant to the privilege, will be limited to not more than

the amount of the redemption proceeds. A written order to purchase the shares must be received by the Fund, or be postmarked, within 15 days after the date the request for redemption was received. The reinstatement will be made at net asset value next determined after notice of the exercise of the privilege is received. Neither the Underwriter nor any salesmen will receive any compensation in connection with the reinvestment.

It is contemplated that the Underwriter, at its expense, will include with the redemption check mailed to a redeeming shareholder a statement containing information concerning the repurchase privilege. Telephone calls to redeeming shareholders are also contemplated.

Applicants contend that the proposed privilege will enable investors to be reminded of features of their investment which they may have overlooked, or of which they may have misunderstood at the time they redeemed. In order to minimize the possibility of shareholders "playing the market" the reinvestment privilege is being offered on a one-time basis and must be exercised within a relatively short period of time.

Section 6(c) of the Act provides that the Commission may, upon application, 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 May 11, 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 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 Management Regulation, pursuant to delegated authority.

[SEAL]

RONALD F. HUNT,
Secretary.

[FR Doc. 73-7760 Filed 4-20-73; 8:45 am]

[812-3443]

SHIELDS SECURITIES CORP.**Notice of Application**

APRIL 16, 1973.

Notice is hereby given that Shields Securities Corp. (Applicant), 44 Wall Street, New York, N.Y. 10005, a registered broker-dealer, in connection with a proposed public offering of shares of common stock of Southern States Fund, Inc. (Company), a registered closed-end nondiversified management investment company, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order of the Commission exempting Applicant and its underwriters from section 30(f) of the Act to the extent that such section adopts sections 16(a), (b) and (c) of the Securities Exchange Act of 1934 (1934 Act) with respect to their transactions prior to completion of the public offering of Company shares. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is one of the prospective representatives (Representatives) of a group of underwriters (Underwriters) being formed in connection with the proposed public offering.

The application states that each Underwriter will execute an agreement among Underwriters, and the Representatives, acting both for themselves and as Representatives of the several Underwriters, will execute a purchase contract with the Company and Northwestern Investment Management Company, the Company's investment adviser and a wholly owned subsidiary of Northwestern Financial Corp. It is also contemplated that one or more dealers, among whom one or more of the Underwriters may be included, will offer to sell certain of the shares, and in connection with such offers and sales, each such dealer will execute a selected dealer agreement.

The application also states that it is intended that the several Underwriters will make a public offering of all of the Company's shares which such Underwriters are to purchase under the purchase contract at the price therein specified, as soon on or after the effective date of the Company's Registration Statement on form S-4 (Registration Statement) as the Representatives deem advisable, and such shares are initially to be offered to the public at the price to the public set forth in the prospectus incorporated in the Registration Statement (Prospectus) at the time the Registration Statement becomes effective under the Securities Act of 1933.

Applicant states that it is not possible to determine until just prior to the effective

date of the Registration Statement the exact number of shares to be offered by the underwriting group and by each Underwriter. Although 1 million shares have been included for registration in the Registration Statement, the actual number of shares which may be the subject of the proposed public offering may be increased or decreased by the Representatives and the Company, because of market conditions or otherwise, shortly before the effective date of the Registration Statement and the proposed public offering, and thereafter depending upon the exercise of an overallotment option granted to the Underwriters. In addition to purchases of shares from the Company and sales of shares to customers, there may be the usual transactions of purchase or sale incident to a distribution such as stabilizing purchases, purchases to cover overallotments or other short positions created in connection with such distribution, and sales of shares purchased in stabilization.

Applicant also states that it is possible that the original purchase obligation of any one or more of the Underwriters, including each of the Representatives, may exceed 10 percent of the aggregate number of shares of the Company's common stock to be outstanding after the purchase by the several Underwriters pursuant to the purchase contract or upon the completion of the initial public offering or at some interim time. Applicant further states that it is contemplated that the Representatives will purchase, immediately prior to the effective date of the Registration Statement, up to an aggregate of approximately 2,718 shares of common stock of the Company providing the Company with one-half of its required initial net worth and that, as a result, one or more Representatives may own more than 10 percent of the Company's outstanding shares prior to the public offering. Such shares will be purchased for investment and not for resale or future distribution.

Since section 30(f) of the Act subjects every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of outstanding securities of the Company to the same duties and liabilities as those imposed by section 16 of the Exchange Act with respect to the transactions in the securities of the Company, such Underwriter or Underwriters would become subject to: (i) The reporting requirements of section 16(a) of the 1934 Act; (ii) upon resale to their customers of the shares purchased by them, the liabilities imposed by section 16(b) of the 1934 Act; and (iii) the prohibition of section 16(c) of the 1934 Act against short sales of the shares. Applicant states that no purpose would be served by requiring the filing of reports under section 16(a) of the 1934 Act in view of the disclosures in the Prospectus, the availability of records retained by the Representatives or Underwriters, and the exemption of their transactions sought from the application of sections 16(b) and (c).

Rules 16b-2 and 16c-2 under the 1934 Act exempt certain transactions in con-

nection with a distribution of securities from the operation of sections 16(b) and 16(c) of the 1934 Act. Applicant states that the purpose of the purchase of the shares by the Underwriters will be for resale in connection with the initial distribution of the shares. Applicant also states that such purchases and sales, therefore, will be transactions effected in connection with a distribution of a substantial block of securities within the purpose and spirit of rule 16b-2 and, to the extent that there occur any short sales subject to section 16(c), of rule 16c-2.

Applicant states that it is possible that one or more of the Underwriters, through their participation in the distribution of the Company's shares, may acquire more than 10 percent of the shares, and that they may fail to meet the requirement stated in rules 16b-2(a)(3) and 16c-2(b) that the aggregate participation of persons not within the purview of sections 16(b) and 16(c) of the 1934 Act be at least equal to the aggregate participation of persons receiving the exemption under rules 16b-2 and 16c-2, since it is possible that one or more of such Underwriters may together be obligated to purchase more than 50 percent of the shares being offered.

Applicant states that there is no material inside information in existence since the Company, prior to the initial distribution of the shares, will have no assets other than cash, nor business of any sort, and all material facts with respect to the Company will be set forth in the Prospectus. Applicant also states that none of the representatives nor any of their directors or officers is or is expected to become an officer, director, member of an advisory board, investment adviser, or affiliated person of an investment adviser of the Company; and further states that it does not know of any partner, director or officer of any other Underwriter who is or is expected to become a director, officer, member of an advisory board, investment adviser, or affiliated person of an investment adviser of the Company.

Section 6(c) of the Act permits the Commission, upon application, to exempt any person, security or transaction, or any class or classes of persons, securities, or transactions from the provisions of the Act and 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.

Applicant contends that the transactions sought to be exempted cannot lend themselves to the practices section 16 of the 1934 Act and section 30(f) of the Act were enacted to prevent, and submits that the requested exemption from the provisions of section 30(f) of the Act is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 7, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is 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 Management Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-7761 Filed 4-20-73;8:45 am]

[File 500-1]

TRIONICS ENGINEERING CORP.

Order Suspending Trading

APRIL 17, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, and all other securities of Trionics Engineering 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 10:15 a.m., e.s.t., April 17, 1973, through April 26, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-7757 Filed 4-20-73;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

NOTICE OF GRANTING OF RELIEF

Notice is hereby given that pursuant to 18 U.S.C. section 925(c) the follow-

ing named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding 1 year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Bakke, Michael D., 6830 Yinger, Dearborn, Mich., convicted on September 23, 1964, in the Court of Common Pleas, Greene County, Ohio.

Barber, Jesse H., 2525 Park Row, Dallas, Tex., convicted on or about March 9, 1932, in the Dallas County Circuit Court, Dallas, Tex.

Bell, Ira, Jr., 3286 B North Green Bay Avenue, Milwaukee, Wis., convicted on September 9, 1959, in Criminal District Court No. 5, Harris County, Tex.

Bloomquist, Francis W., 681 E. Howell Road, Oxnard, Calif., convicted on January 19, 1960, in the Municipal Court, San Diego Judicial District, County of San Diego, State of California, and on August 28, 1964, in the Superior Court of the State of California in and for the County of Orange.

Burns, James R., 425 Taft, Apt. 210, Wichita, Kans., convicted on April 16, 1965, in the District Court of Sedgwick County, Wichita, Kans.

Cox, Jackie Ray, 194 Holiday Park, Baton Rouge, La., convicted on August 1, 1969, in the U.S. District Court for Eastern District of Louisiana.

Epperson, James, 6040 South Sangamon, Chicago, Ill., convicted on December 11, 1940, in the Criminal Court of Cook County, Ill.

Freeland, Dwight E., 1038 Batavia Avenue, Royal Oak, Mich., convicted on March 3, 1931, in the Circuit Court of Saginaw County, Mich., and on April 2, 1954, in the U.S. District Court, Eastern District of Michigan.

Gedgaudas, Ignas James, 276 Washington Boulevard, Hoffman Estates, Ill., convicted on November 3, 1959, in Kenosha County Municipal Court, Wisconsin.

Golding, Garrett W., Route 9, Box 14, Mount Atry, N.C., convicted on November 7, 1955, in the U.S. District Court, Winston Salem, N.C.

Gray, Elway P., 23510 Samoset Trail, Southfield, Mich., convicted on April 24, 1934, in Caro County Circuit Court, Tuscola, Mich.

Grunden, Mason G., Box 62-B R.D. #3, Everett, Pa., convicted on August 18, 1970, in the U.S. District Court for the Middle District of Pennsylvania.

Guernsey, Floyd H., 1907 Second Street, Westland, Mich., convicted on July 23, 1937, in the Circuit Court, County of Montcalm, Mich.

Hacker, Gary W., RR #2 Box 287-B, Shawano, Wis., convicted on May 7, 1958, in Brown County Municipal Court, Green Bay, Wis., and on May 10, 1960, in the Oconto County Circuit Court, Oconto, Wis.

Hausch, Michael A., 37720 Tyler Road, Romulus, Mich., convicted on July 29, 1959, in the Circuit Court for the County of Wayne, at Detroit, Mich.

Killa, Wayne M., 397 Brimhall St., St. Paul, Minn., convicted on November 4, 1963, in the District Court of Anoka County, Minn.

Klawitter, Jerome K., 1514 Merrill Ave., Beloit, Wis., convicted on June 6, 1956, in the Superior Court of the State of California, in and for the County of San Diego.

Lamkins, John W., 2348 Lorraine Dr., Cahokia, Ill., convicted on April 2, 1962, in the Circuit Court of St. Clair County, Ill.

Little, Buford M., Jr., P.O. Box 67, Esmont, Va., convicted on March 9, 1964, in the Corporation Court of the City of Charlottesville, Va.

McGrew, Claude, 2800 Gordon Rd., Atlanta, Ga., convicted on March 31, 1964, in the Circuit Court of Choctaw County, Butler, Ala.

Markowitz, Herbert, 3700 Vienna Dr., Aptos, Calif., convicted on September 26, 1944, in the Court of Common Pleas, Cuyahoga County, Cleveland, Ohio.

O'Malley, Charles F., 7346 Lee Highway, apt. T-2, Falls Church, Va., convicted on October 2, 1956, in Superior Court, Middlesex County, Mass.

Ormsby, Warren L., 217 East Tyndall, Aurora, Mo., convicted on July 16, 1959, in the District Court, Johnson County, Kans.

Rodriguez, Hector, 91 Central Ave., Brooklyn, N.Y., convicted on June 11, 1963, in the Supreme Court, Kings County, N.Y.

Schulz, Steven E., 506 North Main St., Oregon, Wis., convicted on October 29, 1970, in the Dane County Court, Branch II, Madison, Wis.

Stenger, Carl C., Sr., Chestertown, Md., convicted on August 18, 1969, in the Third District Court, Kent County, Md.

Stephenson, Clayton E., 1656 University, Ferndale, Mich., convicted on September 25, 1961, in Oakland County Circuit Court, Mich.

Whittier, David A., 1812 Seventh St., Menomonie, Wis., convicted on May 18, 1970, in the Dunn County Court, Menomonie, Wis.

Wright, Ervin J., 3054 Westgate St., Mobile, Ala., convicted on September 27, 1961, in the Baldwin County, Alabama Circuit Court, and on April 27, 1965, in the Mobile County, Alabama Circuit Court, and on September 8, 1965, in the Circuit Court of Elmore County, Ala.

Zerbe, Glenn E., 704 Elk St., Sabula, Iowa, convicted on August 11, 1949, in the Recorder's Court of the city of Detroit, Mich.

Signed at Washington, D.C., this 16th day of April 1973.

[SEAL] REX D. DAVIS,
Director, Bureau of
Alcohol, Tobacco and Firearms.

[FR Doc.73-7824 Filed 4-20-73;8:45 am]

Bureau of Customs

PAPERMAKING MACHINERY AND PARTS THEREOF FROM SWEDEN

Withholding of Appraisal Notice

Information was received on June 6, 1971, that papermaking machinery and parts thereof from Sweden were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of August 14, 1971, on page 15460. The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States.

For the purpose of this notice, the term "papermaking machinery and parts thereof" means an entire papermaking machine and the constituent components of a papermaking machine from and including the headbox to and including the

reels. It refers to papermaking machinery and parts thereof purchased or agreed to be purchased as an entire papermaking machine.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect that the purchase price (sec. 203 of the Act; 19 U.S.C. 162) of papermaking machinery and parts thereof from Sweden is less, or likely to be less, than the foreign market value (sec. 205 of the Act; 19 U.S.C. 164).

Statement of reasons.—Information currently before the Bureau tends to indicate there are sufficient sales of papermaking machinery and parts thereof in the home market to provide an adequate basis of comparison for fair value purposes. No sales to the United States were made to related parties within the meaning of section 207 of the Act.

Accordingly, the probable basis of comparison for fair value purposes will be between purchase price and the adjusted home market price of such or similar merchandise.

Preliminary analysis suggests that purchase price will probably be calculated by deducting from the c.i.f. delivered contract price, inland freight in the country of exportation, ocean freight, marine insurance, U.S. duty, inland freight in the United States, and commissions where applicable.

Home market price will probably be calculated by deducting from the delivered contract price, transportation costs, insurance costs, and erection costs. Adjustments to this price will probably be made for finance costs where applicable and the difference between packing costs for export and home market shipments. In addition, appropriate adjustments will probably be made for differences in the merchandise compared.

Using the above criteria, there are reasonable grounds to believe or suspect that purchase price will be lower than the adjusted home market price.

Customs officers are being directed to withhold appraisement of papermaking machinery and parts thereof from Sweden in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

In accordance with §§ 153.32(b) and 153.37, Customs Regulations (19 CFR 153.32(b), 153.37), interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, D.C. 20229, in time to be received by his office not later than May 3, 1973. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than May 23, 1973.

This notice, which is published pursuant to § 153.34(b), Customs Regulations, shall become effective on April 23, 1973. It shall cease to be effective at the expiration of 6 months from the date of this publication, unless previously revoked.

[SEAL] EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

APRIL 19, 1973.

[FR Doc.73-7922 Filed 4-20-73;8:45 am]

SALES BELOW COST OF PRODUCTION Antidumping; Fair Value Determination

Notice was published in the FEDERAL REGISTER on May 5, 1972 (37 FR 9125; FR Doc. 72-6995), that the Treasury Department was undertaking a review of the extent to which price information relating to sales below cost of production should be used in determining "fair value" within the meaning of section 201 (a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

That notice stated that information before the Bureau of Customs in respect of pending antidumping investigations indicated the possibility that foreign merchandise was being, or was likely to be, sold to the United States, in the home market, and for exportation to countries other than the United States at prices below their cost of production. Interested parties were invited to submit written comments within 30 days as to whether, and under what circumstances, sales below cost of production in the home market or for exportation to countries other than the United States should be disregarded in the ascertainment of "fair value" within the meaning of section 201(a) of the Antidumping Act and whether, if such sales were disregarded, resort to "constructed value" (sec. 206 of the Antidumping Act) would be appropriate.

The period of time for submission of comments was extended to 60 days by a notice published in the FEDERAL REGISTER on June 8, 1972 (37 FR 11475; FR Doc. 72-8690).

All comments received have been thoroughly considered and the Department, after an intensive examination of the question, has concluded that the fact that foreign merchandise is sold in the home market or for exportation to countries other than the United States at prices less than the cost of production is not a sufficient basis for disregarding such prices in the determination of the "fair value" of such merchandise. Accordingly, the prices at which foreign merchandise is sold in the home market or for exportation to countries other than the United States will be used in determining the "fair value" of such merchandise, regardless of whether the prices represented less than the cost of production, unless the Department concludes that a failure of the sales in question to meet the standards set forth for the determination of "foreign market value" (sec. 205 of the Antidumping Act)

precludes the use of such sales in determining "fair value."

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved April 19, 1973.

EDWARD L. MORGAN,
Assistant Secretary
of the Treasury.

[FR Doc.73-7922 Filed 4-20-73;8:45 am]

Office of the Secretary ELEMENTAL SULFUR FROM CANADA Withholding of Appraisement Notice

Information was received on January 21, 1972, that sulfur from Canada was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of February 24, 1972, on page 3922. The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

An amendment to this notice was published in the FEDERAL REGISTER of April 19, 1972, on pages 7717 and 7718, for the purpose of restricting the application of the notice to elemental sulfur from Canada. A "Notice of Extension of Time for Investigations" was published in the FEDERAL REGISTER of January 19, 1973, on page 1945, for the purpose of permitting adequate consideration of certain complex issues relating to the treatment of possible sales below cost of production.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect that the purchase price (sec. 203 of the Act; 19 U.S.C. 162), of elemental sulfur from Canada is less, or likely to be less, than the foreign market value (sec. 205 of the Act; 19 U.S.C. 164).

Statement of reasons.—The information before the Bureau of Customs tends to indicate that the probable basis of comparison for fair value purposes will be between purchase price and home market price of such or similar merchandise.

Purchase price will probably be based on the delivered buyer's plant price or f.o.b. seller's plant price, as appropriate, with probable deductions for United States and Canadian freight, brokerage charges, car heel allowance, plant conversion costs and discounts, as appropriate.

Home market price will probably be based on the delivered buyer's plant price or f.o.b. seller's plant price, as appropriate, with probable deductions for Canadian freight costs, car heel allowance, plant conversion costs, discounts, and

differences in commissions, as appropriate.

Using the above criteria, there are reasonable grounds to believe or suspect that the purchase price will be lower than the home market price.

Customs officers are being directed to withhold appraisal of elemental sulfur from Canada in accordance with § 153.48, Customs regulations (19 CFR 153.48).

In accordance with §§ 153.32(b) and 153.37, Customs regulations (19 CFR 153.32(b), 153.37), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, D.C. 20229, in time to be received by his office not later than May 3, 1973. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than May 23, 1973.

This notice, which is published pursuant to § 153.34(b), Customs Regulations (19 CFR 153.34(b)), shall become effective on April 23, 1973. It shall cease to be effective at the expiration of 6 months from the date of this publication, unless previously revoked.

[SEAL] EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

APRIL 19, 1973.

[FR Doc. 73-7921 Filed 4-20-73; 8:45 am]

PAPERMAKING MACHINERY AND PARTS THEREOF FROM FINLAND

Notice of Tentative Negative Determination

Information was received on June 6, 1971, that papermaking machinery and parts thereof from Finland were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of August 14, 1971, on page 15460.

I hereby make a tentative determination that papermaking machinery and parts thereof from Finland are not being, nor likely to be, sold at less than fair value within the meaning of section 201 (a) of the Act (19 U.S.C. 160(a)).

Statement of reasons.—The information currently before the Bureau of Customs indicates that the basis of comparison is between purchase price and the adjusted home market price of such or similar merchandise.

Purchase price was calculated by deducting inland freight in the country of exportation, forwarding and handling costs, ocean freight, marine insurance, U.S. duty, inland freight in the United States, unpacking and installation costs,

and commissions where applicable, from the c.i.f., delivered contract price. Finnish import duties refunded or not collected by reason of exportation of the merchandise to the United States were added back.

Home market price was calculated by deducting from the delivered contract price transportation costs, insurance costs, selling expenses, and erection costs. An adjustment to this price was made for the difference between packing costs for export to the United States and home market shipments, finance costs and, where appropriate, differences in the merchandise compared.

Using the above criteria, purchase price was found to be higher than the home market price of such or similar merchandise.

In accordance with §§ 153.33(a) and 153.37, Customs Regulations (19 CFR 153.33(a), 153.37), interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, D.C. 20229, in time to be received by his office not later than May 3, 1973. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than May 23, 1973.

This tentative determination and the statement of reasons therefor are published pursuant to § 153.33 of the Customs Regulations (19 CFR 153.33).

[SEAL] EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

APRIL 19, 1973.

[FR Doc. 73-7920 Filed 4-20-73; 8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

ADVISORY COMMITTEE FOR NATIONAL DREDGING STUDY

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given of the second meeting of the Advisory Committee for National Dredging Study to be held April 26, and 27, 1973. The meeting will begin at 9:30 a.m. in room 5E069, Forrestal Building.

The purpose of the meeting is:

- (1) To develop in final form the scope of study based on modifications resulting from review of preliminary draft considered at the meeting of March 28 and 29, 1973.
- (2) To review and screen the presentations of consultants who have indicated interest in the National Dredging Study.
- (3) To review the specifications to be included in a request for proposals for soliciting the services of a consulting firm to accomplish the study.

Within the facilities available (about 22 persons) the meeting will be open to

observers. However, the purpose of this meeting is not compatible with participation in the proceedings by the observers. Any member of the public who wishes to do so will be permitted to file a written statement with the Committee before or after the meeting.

Inquiries may be addressed to the Designated Federal Representative, Mr. Eugene B. Conner, DAEN-CWO-M, Office Chief of Engineers, U.S. Army, Washington, D.C. 20314.

For the Chief of Engineers.

Dated April 16, 1973.

JAMES L. KELLY,
Brigadier General, USA,
Deputy Director of Civil Works.

[FR Doc. 73-7762 Filed 4-20-73; 8:45 am]

DEPARTMENT OF THE ARMY MILITARY HISTORY RESEARCH COLLECTION ADVISORY COMMITTEE

Agenda and Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), announcement is made of the following Committee meeting.

Name: Department of the Army Military History Research Collection Advisory Committee.

Date: April 25-26, 1973.

Place: Bradley Office, Upton Hall, Carlisle Barracks, Pa.

Time: 1330-1600, April 25, 1973; 0930-1600, April 26, 1973.

Proposed agenda: 1330-1430, April 25, 1973, review of historical activities, 1445-1600, April 25, 1973, discussion of military history research collection activities, 0930-April 26, 1973, Continuation of discussion.

Purpose of meeting.—The committee will review the past year's historical activities based on reports and manuscripts received throughout the year and formulate recommendation to the Secretary of the Army for advancing the purposes of the Army historical program.

Meetings of the Army Military History Research Collection Advisory Committee are open to the public. Public attendance depending on available space, may be limited to those persons who have notified the Army Military History Research Collection Advisory Committee Management Officer in writing, at least 5 days prior to the meeting, of their intention to attend the April 25-26, 1973, meeting.

All communications regarding this Advisory Committee should be addressed to Lt. Col. C. F. Moore, Army Military History Research Collection Advisory Committee Management Officer for Office of the Chief of Military History, room 2009, Tempo C, Second and R Streets SW., Washington, D.C. 20315.

For the Chief of Military History.

C. F. MOORE,
Lieutenant Colonel, Infantry,
Executive Officer, Plans, Programs and Administration.

[FR Doc. 73-7763 Filed 4-20-73; 8:45 am]

Department of the Navy
**CHIEF OF NAVAL OPERATIONS INDUSTRY
 ADVISORY COMMITTEE FOR TELECOM-
 MUNICATIONS (CIACT)**

Notice of Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463 (1972)) notice is hereby given that a closed meeting of the Chief of Naval Operations Industry Advisory Committee for Telecommunications will be held on April 27, 1973, at the Pentagon, Washington, D.C.

[SEAL] MERLIN H. STARING,
*Rear Admiral, JAGS, U.S. Navy,
 Judge Advocate General of
 the Navy.*

APRIL 16, 1973.

[FR Doc.73-7740 Filed 4-20-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Portland Area Office Redesignation Order 3,
 Amdt. 4]

SUPERINTENDENTS

**Delegation of Authority Concerning Lands
 and Minerals**

MARCH 6, 1973.

This delegation is issued under the authority delegated to the Commissioner of Indian Affairs from the Secretary of the Interior in section 25 of Secretarial Order 2508 (10 BIAM 2.1) and redelegated by the Commissioner to the Area Director in 10 BIAM 3.

The Portland Area Office Redesignation Order 3 published beginning on page 15813 of the October 14, 1969, FEDERAL REGISTER (34 FR 15813) is amended in § 3.10 to provide for the transfer of delegation of authority from the Superintendent, Colville Agency, to the Superintendent, Spokane Agency, for the presentation, sale, and exchange of certain lands on the Spokane Indian Reservation due to the establishment on November 29, 1970, of the Spokane Agency on the Spokane Reservation.

As amended, part 3 of Portland Area Office Redesignation Order 3 reads as follows:

**PART 3—AUTHORITY OF SPECIFICALLY
 DESIGNATED EMPLOYEES**

Subject to the provisions of part 1, the following employees may exercise the authority of the Area Director.

**FUNCTIONS RELATING TO LANDS
 AND MINERALS**

Section 3.10 *Special legislation authority.*—Subject to the same limitations contained in part 2 of this delegation order, the following superintendents are authorized all those matters with respect to lands, improvements, and interests therein, as provided in the following acts.

(a) *Superintendent, Yakima Agency.*—(1) The act of July 28, 1955 (69 Stat. 392), "To authorize the purchase, sale, and exchange of certain Indian lands on the Yakima Indian Reservation, and for

other purposes," as amended by the act of August 31, 1964 (78 Stat. 747).

(b) *Superintendent, Colville Agency.*—(1) The act of July 24, 1956 (70 Stat. 626), entitled "Restoring to tribal ownership certain lands upon the Colville Indian Reservation, Wash., and for other purposes."

(c) *Superintendent, Spokane Agency.*—(1) The act of June 10, 1968 (82 Stat. 174), entitled "To authorize purchase, sale, and exchange of certain lands on the Spokane Indian Reservation, and for other purposes."

(d) *Superintendent, Western Washington Agency.*—(1) The act of September 28, 1968 (82 Stat. 884), entitled "To authorize the purchase, sale, exchange, mortgage, and long-term leasing of land by the Swinomish Indian Tribal Community, and for other purposes."

DALE M. BALDWIN,
Area Director.

Approved April 16, 1973.

WILLIAM L. ROGERS,
*Deputy Assistant,
 Secretary for Indian Affairs.*

[FR Doc.73-7743 Filed 4-20-73;8:45 am]

Bureau of Land Management

[Serial No. A 6894]

ARIZONA

**Notice of Proposed Withdrawal and
 Reservation of Lands**

The Bureau of Land Management, U.S. Department of the Interior, has filed an application, serial number A 6894, for the withdrawal of lands from all forms of appropriation under the public land laws, including the mining but not the mineral leasing laws, for primitive overnight camping in support of the management of Aravaipa Canyon Primitive Area. The withdrawal would be made subject to valid existing rights.

The Bureau of Land Management plans to develop sanitary facilities, roads and parking areas to provide primitive overnight camping facilities for visitors to Aravaipa Canyon, and other public lands in the area.

The land is located approximately 1 mile east of Klondyke, Ariz., and about 12 miles southeast of the east entrance to Aravaipa Canyon. One-third of the tract is nearly level; the remainder is hilly with some relatively steep slopes. Vegetation consists primarily of mesquite, catclaw and various species of cacti, and some perennial grasses.

On or before May 23, 1973, 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, Phoenix, Ariz. 85025.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary of the Interior regarding the application will be published in the FEDERAL

REGISTER. A separate notice will be sent to each interested party of record.

The lands involved are:

GILA AND SALT RIVER MERIDIAN, ARIZ.

T. 7 S., R. 20 E.,

Sec. 18, lots 1 and 2, and E½NW¼.

The areas described aggregate 159.49 acres in Graham County.

JOE T. FALLINI,
State Director.

APRIL 16, 1973.

[FR Doc.73-7792 Filed 4-20-73;8:45 am]

Office of the Secretary

[INT DES 73-18]

**PLANET TOWNSITE LAND EXCHANGE,
 ARIZONA**

**Notice of Availability of Draft
 Environmental Statement**

Correction

In FR Doc. 73-6414 appearing on page 8609 in the issue for Wednesday, April 4, 1973, the headings should read as set forth above.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

GRAIN STANDARDS

Iowa Grain Inspection Point

Statement of considerations.—The Davenport Grain Exchange, Inc., Davenport, Iowa, has proposed that its designation under section 3(m) of the U.S. Grain Standards Act (Sec. 3, 39 Stat. 482, as amended, 82 Stat. 762; 7 U.S.C. 75(m)) to operate an official grain inspection agency at Dubuque, Iowa, be transferred. Accordingly, the Department proposes to transfer the designation to a qualified applicant.

The following organizations have applied for designation (in accordance with § 26.97 of the regulations (7 CFR 26.97) under the U.S. Grain Standards Act) to operate an official grain inspection agency at Dubuque, Iowa:

Cedar Rapids Chamber of Commerce Grain Service, Inc., Cedar Rapids, Iowa.
 Dubuque Area Chamber of Commerce, Dubuque, Iowa.
 Eastern Iowa Grain Inspection Service, Inc., Muscatine, Iowa.

The above applications do not preclude other interested agencies and persons from making similar applications. Other interested persons are hereby given opportunity to make application for designation to operate an official inspection agency at Dubuque, Iowa, according to the requirements in § 26.97 of the regulations (7 CFR 26.97) under the U.S. Grain Standards Act.

NOTE: Section 7(f) of the act (7 U.S.C. 79(f)) generally provides that not more than one inspection agency shall be operative at any one time for any one city, town, or other area.

Members of the grain industry who wish to submit views and comments are requested to include the name of the person or agency, if any, which they

recommend to be designated to operate an official inspection agency at Dubuque, Iowa.

Opportunity is hereby afforded all interested persons to submit written data, views, or arguments with respect to this matter to the hearing clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions shall be in duplicate and shall be mailed to the hearing clerk not later than May 23, 1973. All submissions made pursuant to this notice will be made available for public inspection at the office of the hearing clerk during regular business hours (7 CFR 1.27(b)). Consideration will be given to the written data, views, or arguments so filed with the hearing clerk and to other information available to the U.S. Department of Agriculture before final determination is made with respect to this matter.

Done in Washington, D.C., on April 18, 1973.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.72-7830 Filed 4-20-73;8:45 am]

SHIPPERS ADVISORY COMMITTEE

Notice of Public Meeting

Pursuant to the provisions of section 10(a) (2) of Public Law 92-463, notice is hereby given of a meeting of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR part 905). This order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The committee will meet in the Waldo Room of the Driftwood Inn, 3150 Ocean Drive, Vero Beach, Fla., at 10:30 a.m., local time, on May 2, 1973.

The meeting will be open to the public and a brief period will be set aside for public comments and questions. The agenda of the Committee includes the receipt and review of market supply and demand information incidental to consideration of the need for regulation of the shipments of any grade or size of the named fruits, including export shipments, and the size, capacity, weight, dimensions, or pack of the containers used in export shipments other than to Canada or Mexico.

Dated April 18, 1973.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.73-7910 Filed 4-20-73;8:45 am]

Forest Service

MARBLE WINTER SPORTS SITE

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Marble

Winter Sports site of the White River National Forest, Forest Service report No. USDA-FS-DES (Adm) 73-58.

The environmental statement concerns a permit for expansion of the existing Marble Winter Sports Area, Inc. facilities on private land onto some 600 acres of the adjoining White River National Forest.

The draft environmental statement was filed with CEQ on April 5, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, room 3230, 12th Street and Independence Avenue SW., Washington, D.C. 20250.

Regional Forester, Building 85, Denver Federal Center, Denver, Colo. 80225.

Forest Supervisor, White River National Forest, Old Federal Building, P.O. Box 948, Glenwood Springs, Colo. 81601.

A limited number of single copies are available upon request to Thomas C. Evans, Forest Supervisor, White River National Forest, Old Federal Building, P.O. Box 948, Glenwood Springs, Colo. 81601.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Thomas C. Evans, Forest Supervisor, White River National Forest, Old Federal Building, P.O. Box 948, Glenwood Springs, Colo. 81601. Comments must be received by May 4, 1973, in order to be considered in the preparation of the final environmental statement.

Dated April 18, 1973.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

[FR Doc.73-7781 Filed 4-20-73;8:45 am]

COOPERATIVE 1973 SPRUCE BUDWORM SUPPRESSION PROJECT IN MAINE

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Cooperative 1973 Spruce Budworm Suppression project in Maine, USDA-FS-FES(Adm) 73-44.

The environmental statement concerns a proposal to treat approximately 450,000 acres of State and private woodlands in northern Maine with the carbamate insecticide, Zectran[®]. The purpose is to prevent or minimize further tree mortality and reduce high spruce budworm populations in four separate areas in Aroostook and Piscataquis Counties.

This final environmental statement was filed with CEQ on April 12, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, room 3230, 12th Street and Independence Avenue SW., Washington, D.C. 20250.

USDA, Forest Service, 6816 Market Street, room 409, Upper Darby, Pa. 19082.

A limited number of single copies are available upon request to John R. McGuire, Chief, U.S. Forest Service, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20250.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality guidelines.

Dated April 18, 1973.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

[FR Doc.73-7782 Filed 4-20-73;8:45 am]

Office of the Secretary

SAWTOOTH NATIONAL RECREATION AREA

Area Description; Correction

In FR Doc. 73-1685 appearing on page 2992 of the issue for Wednesday, January 31, 1973, the description of the Sawtooth National Recreational Area, Idaho, under T. 6 N., R. 14 E., the second line now reading "13, 14, 23, 26, 35, and 36", should read "13, 14, 23 to 26, 35, and 36". Under T. 6 N., R. 15 E., lines 8 and 9 now reading "southwesterly," should read "southeasterly."

Dated April 18, 1973.

ROBERT W. LONG,
Assistant Secretary.

[FR Doc.73-7783 Filed 4-20-73;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

STANDARD SPECIFICATIONS FOR MERCHANT SHIP CONSTRUCTION

Revised Edition

The Maritime Administration announces the publication of the latest edition of its standard specifications under the title "Standard Specifications for Merchant Ship Construction" dated

December 1972. This document supersedes the previous issue dated March 1968. It has been updated and broadened to include text for applicability to the container, LASH, OBO, and tanker vessels in addition to the general cargo ship. Volume of text has been condensed to eliminate detail repetition of requirements of regulatory bodies, MarAd administration requirements as contained in the contracts, and restrictive shipyard practices unless essential for quality control.

The purpose of the MarAd standard specifications is to provide guidance to the maritime industry in the preparation of detail ship specifications, especially where construction differential subsidy is involved. They are complete in all aspects of required contract work and embody the following pertinent features:

Establish levels of quality as a benchmark for construction differential subsidy.

Identify current requirements of regulatory bodies.

Reflect latest technological developments.

Indicate measures of standardization to encourage mass production techniques.

Include standard text to reflect legal aspects of contract work.

It is intended to further update the MarAd standard specifications periodically to reflect continuing technological developments and pertinent results of research and development investigations; for example, the recently completed study of regulatory constraints and design practices prepared for the Maritime Administration by the Newport News Shipbuilding and Dry Dock Co. (Report has as yet not been completely incorporated in these specifications.) Future editions will also include applicable text for LNG, tug-barge combinations and other specialized designs as well as other forms of propulsion machinery (diesel, gas turbine, nuclear, etc.) in addition to the steam turbine already in the current text.

Copies of these latest specifications are available from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Va. 22151 at a cost of \$12.50 per copy. (Refer to publication No. COM-72-11469.)

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

Dated April 18, 1973.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc. 73-7827 Filed 4-20-73; 8:45 am]
National Oceanic and Atmospheric
Administration

PETER M. KNUDSON ET AL.

Economic Hardship Exemption Applications

Notice is hereby given that the following applicants have filed applications for an economic hardship exemption pursuant to section 101(c) of the Marine Mammal Protection Act of 1972 (Public

Law 92-522), and § 216.13 of the interim regulations governing the taking and importing of marine mammals (37 FR 28177).

1. Peter M. Knudson, Route 1, P.O. Box 602, Eureka, Calif. 95501, and Thomas R. Loughlin, 1305 Belnor Road, McKinleyville, Calif. 95521, to capture, mark and immediately release as many as 30 harbor seals (*Phoca vitulina richardi*) in Humboldt Bay, off Humboldt County, Calif., between April and October 21, 1973, to complete their requirements for advanced degrees at California State University, Humboldt, Arcata, Calif. 95521 (telephone 707-826-3245).

The applicants state:

(1) The 30 seals sought comprise less than 10 percent of the total harbor seal population in the southern part of Humboldt Bay;

(2) The tagging must be done during the early part of the year while the young of the year and the yearlings are still distinguishable from the adults;

(3) The animals would be captured by means of a large mesh seine strung across narrow channels of the bay;

(4) The lack of a Marine Mammal Commission which would enable them to apply for a scientific research permit under the Marine Mammal Protection Act of 1972 has placed an undue burden on them, and an exemption from the application of the act on grounds of undue economic hardship is justified because they have already invested 9 months of preliminary field work on the study, and if the animals cannot be marked, then the project would have to be abandoned, a new research project found and the research begun again. This would require at least an additional year of school for each applicant meaning not only the loss of 9 months of preparation and study but also university tuition and living expenses for the past year, in addition to costing them a year of productive employment. If the exemption is not granted, they will lose a total of approximately \$25,000.

(5) All tagging and subsequent study would be done under the direction of Dr. Warren J. Houck, professor of zoology, California State University, Humboldt, who will closely supervise their activities to guarantee that all conditions specified in a letter of exemption are complied with.

2. David T. Richardson, Fisheries Research Station, West Boothbay Harbor, Maine 04575 (Telephone 207-633-5572), to temporarily capture as many as 20 adult harbor seals, *Phoca vitulina*, for purposes of tagging with sonic transmitters.

The applicant states:

(1) The overall goal of his study is to provide information for intelligent implementation of long-term protection and management policies for seals on the Maine coast in accordance with the Marine Mammal Protection Act of 1972.

(2) A primary goal of his study of Maine's seals is to investigate the hunting and feeding habits of harbor seals and to assess the effect of such activity on commercial fisheries. Another major goal of the study is to determine by

means of aerial photography and boat census techniques the total numbers of harbor and gray seals and their distribution on the Maine coast.

(3) The study would be supported by funds from the National Geographic Society and the Maine Department of Sea and Shore Fisheries.

(4) The seals to be captured, tagged and monitored would be from the mid-coast area of Maine in Sagadahoc or Lincoln Counties and in the Mount Desert area of Hancock County. Captured seals may be of any age, sex, or condition; no harmful effects of such capture are anticipated. Seals would be tagged during the months of April through October 1973, using the following procedures:

(a) Capture would be by means of a lightweight, positively buoyant entangling net.

(b) A sedative agent, Ketaset, might or might not be used depending on success in handling the animal. The latest knowledge in use of sedation techniques was obtained from Dr. Joseph Geraci of the University of Guelph, Ontario, whom the applicant met during the symposium on the biology of the seal during the summer of 1972.

(c) A galvanic-powered sonic transmitter weighing approximately 400 gms. would be attached by means of a canvas webbing harness to the back of the seal. Such a tag has a life expectancy of 1 year or more in salt water and tracking activity would continue through fall and winter.

(d) The seals would be released immediately (or following recovery from sedative) in the area of capture. All steps would be taken to minimize trauma so that tagged seals continued to behave as wild seals.

(e) Tracking would be done from an outboard-powered boat equipped with hydrophone and receiver and capable of receiving the high frequency signal a mile or more from the seal.

(f) Pathometer tracings, sampling methods for finfish, and diving would be used to establish by indirect methods the dietary items preferred by seals during their hunting activity.

(g) Degradable lacing would be used in the harnesses to allow recovery of the transmitters without recapturing the animals. Should premature recovery be required similar capture techniques would be used.

(5) No transportation of any captured seal is expected other than in the tracking vessel used at the time of capture.

(6) If the studies could not be conducted according to schedule, the applicant would suffer undue economic hardship in that his time and money spent planning the studies would be wasted, and he would lose a grant of \$7,290 from the National Geographic Society to conduct the studies.

3. Mr. Charles T. Powell, General Manager, Japanese Village, 6122 Knott Avenue, Buena Park, Calif. 90621, owned by Six Flags, Inc. (Telephone 714-522-8353), to take eight Atlantic bottle-nose dolphins, *Tursiops truncatus*, for public display.

The applicant states that:

(1) The animals will be taken by seine net in the Gulf of Mexico off Florida, Louisiana, and Mississippi between the time an exemption is granted and October 20, 1973.

(2) The animals will be used as backup animals for other animals used for public display at Japanese Village, as well as in shows in other Six Flags, Inc. facilities, i.e., Six Flags Over Texas Park (Arlington, Tex.) and Six Flags Over Mid-America Park (St. Louis, Mo.), and in shows under contract with Jungle Habitat, West Mildorf, N.J.

(3) Japanese Village has been training and displaying marine mammals since late 1968, and has trained marine mammals for its own shows and other parks since that time.

(4) The training, care, and maintenance of the animals is of high quality; and the animals will be examined by an attending veterinarian.

(5) In transport the animals will be under constant attendance by experienced staff members.

(6) The four parks named above together use 24 dolphins for their shows, and require a total of 33, including backup animals, and at present they have 25 animals.

(7) At each of the parks where the animals are displayed they play important roles in providing entertainment, as well as educating and introducing the public to the animals.

(8) Without the eight dolphins requested as backup animals, Japanese Village will suffer economic hardship, and unnecessary stress would be placed on the performing dolphins now maintained.

4. Dr. Robert Elsner, Assistant Professor of Physiology, Scripps Institution of Oceanography, P.O. Box 109, La Jolla, Calif. 92037 (telephone 714-453-1194), to take the following animals for scientific research: 20 harbor seals (*Phoca vitulina*), 10 bearded seals (*Erignathus barbatus*), 10 ringed seals (*Pusa hispida*), 5 ribbon seals (*Histiocarpa fasciata*), and 10 northern sea lions (*Eumetopias jubatus*).

The applicant states that:

(1) The animals will be taken during a research cruise on the vessel *Alpha Helix* in the Bering Sea during July and August 1973, and tissues, organs and blood will be removed from the animals for scientific and medical research;

(2) All animals will be taken by shooting through the head with .222, .270, or 30-06 caliber rifles as may be appropriate, on land, water, or floating ice, during the periods July 1-20 and August 6-31;

(3) During the first period, investigations will be centered in the Aleutian Islands between Unalaska and Adak, where harbor seals, ribbon seals, and northern sea lions will be taken. During the second period, operations will take place along the Chukchi Sea, where ringed and bearded seals will be taken.

(4) The research, involving 30 scientists, is being funded by a \$120,000 grant from the National Science Foundation;

(5) If the exemption is not granted the applicant will suffer undue economic hardship in that the \$120,000 grant will be forfeited and no alternative funding is available for this research at a later date, the research vessel *Alpha Helix* will be docked during the period scheduled for the research with some or all of the crew unemployed, the scientists would lose research grant support and be forced to change career goals, and the work of review and planning of the research in progress since January 1972 would be lost.

(6) The cancellation of the research would mean suspension of joint United States-U.S.S.R. research in the Bering Sea;

(7) The research would contribute significantly to greater knowledge of the biology of the animals, and to medical research for humans.

5. Dr. Lee Simmons, director, Henry Doorly Zoo, Deer Park Boulevard and 10th Street, Omaha, Nebr. 68107 (telephone 402-733-8401), to take three female California sea lions, *Zalophus californianus*, for public display. The animals would be taken for Henry Doorly Zoo by Sea Lions International, Santa Barbara, Calif., on San Miguel Island, Calif.

The applicant states that:

(1) Henry Doorly Zoo has maintained and displayed two male and one female California sea lions since August 1972;

(2) The zoo recently completed construction of a sea lion pavilion at a cost of \$270,000, including a 333,000-gallon pool which is designed as the focal point of a new area in its zoo and is the major display to attract visitors;

(3) Three additional animals are desperately needed to round out the zoo's sea lion exhibit in this new pavilion;

(4) In the interest of future reproduction, the zoo is requesting permission to take three female California sea lions, which will give them a ratio of two males to four females;

(5) The zoo has been unable to obtain these animals from supplies of animals taken prior to December 21, 1972, by other collectors and zoos;

(6) He is a veterinarian with 20 years zoo experience, the general curator has 10 years experience, and another staff member is a veterinarian with 3½ years zoo experience, and all parties have had experience in caring for sea lions.

(7) If the sea lions are not obtained, the zoo faces a potential loss of \$86,000 in gross receipts from the new concession stand and souvenir shop which is adjacent to the sea lion pavilion, with concomitant loss of \$28,000 spendable income to the zoo, plus loss of jobs for an unspecified number of zoo employees.

Documents submitted in connection with these applications are available for inspection in the Office of the Director, National Marine Fisheries Service. Confidential financial documents and trade secrets will not be available.

All factual statements and opinions contained in this notice, with respect to each application, are those supplied by

the respective applicants and do not necessarily reflect the findings of opinions of the National Marine Fisheries Service.

Dated April 18, 1973.

ROBERT W. SCHONING,
Acting Director, National
Marine Fisheries Service.

[FR Doc.73-7730 Filed 4-20-73;8:45 am]

NAVY BIOMEDICAL RESEARCH LABORATORY

Issuance of Letter of Exemption for Marine Mammals

On April 5, 1973, a notice was published in the FEDERAL REGISTER (38 FR 8682) stating that an application had been filed with the National Oceanic and Atmospheric Administration for an economic hardship exemption by the Navy Biomedical Research Laboratory, Naval Supply Center, Oakland, Calif. 94625, to collect during April, May, and June 1973, bacterial and tissue samples from a maximum of 25 aborted, dead or stillborn fetuses of California sea lions (*Zalophus californianus*) on each of three trips to San Miguel Island.

Therefore, notice is hereby given that, pursuant to the provisions of the Marine Mammal Protection Act of 1972 (Public Law 92-522), and after having considered the application and all pertinent information and facts with regard thereto, the National Marine Fisheries Service issued a letter of exemption to the Navy Biomedical Research Laboratory on April 6, 1973, subject to the limitations and conditions set forth in the letter of exemption. Such letter and supporting documents are available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235.

Dated April 18, 1973.

ROBERT W. SCHONING,
Acting Director, National
Marine Fisheries Service.

[FR Doc.73-7731 Filed 4-20-73;8:45 am]

SEA LIONS INTERNATIONAL

Denial of Application for Economic Hardship Exemption for Marine Mammals

On January 24, 1973, a notice was published in the FEDERAL REGISTER (38 FR 2340) stating that an application had been filed with the National Oceanic and Atmospheric Administration for an economic hardship exemption by Sea Lions International, Santa Barbara, Calif., to take 200 California sea lions for public display by various zoos and seaquaria. The application was subsequently amended to increase the number to 300 sea lions. A notice of hearing was published in the FEDERAL REGISTER on February 9, 1973 (38 FR 4003). The hearing was held on February 21, 1973, in San Diego, Calif., and testimony and written comments were received from the inter-

ested public. The hearing record was formally closed 10 working days after the date of the hearing.

Notice is hereby given that pursuant to the provisions of the Marine Mammal Protection Act of 1972 (Public Law 92-522), after having considered the application and all other pertinent information and facts with regard thereto, the Director of the National Marine Fisheries Service has determined that the request by Sea Lions International for an undue economic hardship exemption should be denied.

Dated April 17, 1973.

ROBERT W. SCHONING,
Acting Director, National
Marine Fisheries Service.

[FR Doc. 73-7732 Filed 4-20-73; 8:45 am]

MARINE MAMMAL PROTECTION

Policy on Issuance of Letters of Exemptions for Taking Live Animals for Display Purposes

Following the entry into effect of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407; Public Law 92-522) and the Department of Commerce interim regulations promulgated thereunder (37 FR 28177), we have received applications requesting the Secretary to exempt persons from the provisions of the act up to October 21, 1973, in order to minimize undue economic hardship. A number of these applications have been submitted by persons who are involved solely with the capture of marine mammals for resale to others for the purposes of scientific research or public display.

As a result of public presentations made in connection with a public hearing on one such application, as well as our analysis of other relevant documents and materials, we have determined that, consistent with the purposes and policies of the act, economic hardship exemptions in cases where the purpose of the taking is for scientific research or public display will only be granted to persons intending to actually display or conduct research with the animals such as zoos, oceanaria, or scientists. Thus, economic hardship exemptions to take marine mammals for the purposes of scientific research or public display will not be granted to persons engaged solely in the capture of marine mammals for sale to others.

This policy is based on the overall spirit and intent of the act with respect to public benefit and interest; the need for proper care and maintenance of marine mammals taken and the need for control of all facilities where mammals will be maintained during taking, transport, and display or research. It seems clear that exemptions from the provisions of the act should be related to the person ultimately responsible for the care of the mammal away from its natural habitat. It is he who has caused the animal to be removed from its habitat and, therefore, it is he who should be asked to demonstrate economic hardship for the exemption. His responsibility for maintenance

and care extends to the taking and transportation of the animal as well as for its entire period of captivity.

Therefore, notice is hereby given that effective this date and pursuant to the provisions of the Marine Mammal Protection Act of 1972 (Public Law 92-522) and the Department of Commerce regulations (38 FR 28177) promulgated thereunder, applications requesting an exemption on grounds of undue economic hardship from the moratorium for the taking of live marine mammals for scientific research or public display purposes, will be considered only to those persons or entities conducting research with or displaying the animals. Applications for economic hardship exemptions will not be considered from, nor letters of exemption issued to, those persons or entities taking marine mammals for sale.

Dated April 17, 1973.

ROBERT W. SCHONING,
Acting Director, National
Marine Fisheries Service.

[FR Doc. 73-7733 Filed 4-20-73; 8:45 am]

Office of Import Programs

U.S. DEPARTMENT OF AGRICULTURE

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited act, as published in the February 24, 1972 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 73-00450-33-46040. Applicant: U.S. Department of Agriculture, Agricultural Research Services, SR, P.O. Box 53326, 701 Loyola Avenue, New Orleans, La. 90153. Article: Electron microscope, model EM 300. Manufacturer: Philips Electronic Instruments, NVD, the Netherlands. Intended use of article: The article is intended to be used to examine ultrathin sections of animal, insect, and plant tissue. Struc-

tural and histochemical changes that occur in cellular substructure as the result of intoxication by chemicals or microorganisms will be studied. Experiments will involve the exposure of the animal or plant to the intoxicating agent through various routes of administration for varying periods of time. The objectives of these studies are to delineate the mechanism involved in intoxication through examination of the cellular substructure, both stained and unstained, observable only by transmission electron microscopy. Application received by Commissioner of Customs: March 27, 1973.

Docket No. 73-00452-01-77030. Applicant: David Lipscomb College, Granny White Pike, Nashville, Tenn. 37203. Article: NMR spectrometer, model JNM-C60HL. Manufacturer: JOEL Ltd., Japan. Intended use of article: The article is intended to be used to study transition metal chelates and the effects of lanthanide salts on the structure of methanol and ethanol. The article will also be used as a teaching tool in various courses in chemistry. Application received by Commissioner of Customs: March 28, 1973.

Docket No. 73-00453-33-46070. Applicant: The University of New Mexico School of Medicine, Basic Medical Sciences Bldg., N. Campus, Albuquerque, N. Mex. 87106. Article: Scanning electron microscope, model MSM-2. Manufacturer: Akashi-Seisakusho, Ltd., Japan. Intended use of article: The article is intended to be used for studies of biological material, consisting of isolated cells or groups of cells as well as tissues and organs derived from a variety of laboratory animals and from humans. Specific experiments to be conducted are: (1) the development and closure of the secondary palate in human fetuses, (2) an assessment of cell death as a normal consequence of the surface area of the ovary of the rodent upon stimulation and prior to ovulation, and (3) the morphologic assessment of surface phenomena during development of the fetal kidney, the fetal heart and areas of the fetal brain. The article will also be used in a course in research techniques in morphology. Application received by Commissioner of Customs: April 2, 1973.

Docket No. 73-00454-99-46040. Applicant: University of Scranton, Monroe Avenue, Scranton, Pa. 18510. Article: Electron microscope, model JEM T-8. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to study the effects of a variety of experimental agents on cultured nervous tissue from various parts of the central peripheral nervous system; study the myelin sheath of the central and peripheral nervous systems; and aid in the analysis of the fine structure of the nervous system. Application received by Commissioner of Customs: April 2, 1973.

Docket No. 73-00455-33-46040. Applicant: University of Oregon Medical School, 3181 Sam Jackson Park Road SW., Portland, Oreg. 97201. Article: Electron microscope, model EM 301. Manufacturer: Philips Electronic Instru-

ments NVD, The Netherlands. Intended use of article: The article is intended to be used in research directed toward a detailed electron microscopic study of the microembolization of the brain, kidney, liver, and lungs by platelet and leukocyte aggregates as the result of hypotensive or hypovolemic shock, transfusion of aging blood and cardiopulmonary bypass procedures. Application received by Commissioner of Customs: March 16, 1973.

Docket No. 73-00456-33-46040. Applicant: State University of New York, Downstate Medical Center, 450 Clarkson Avenue, Brooklyn, N.Y. 11203. Article: Electron microscope, model HS-9. Manufacturer: Hitachi Perkin-Elmer, Japan. Intended use of article: The article is intended to be used to teach medical students, interns and residents, faculty and research associates the principles of electron microscopy in biological research. The research interests include examination of tumor cells of lung; tumor cells of lung, bone-forming cells; embryonic development of the pancreas; secretion of insulin from specialized cells of the pancreas; and human biopsy tissue from a variety of sources. The article will also be used in formal courses in electron microscopy for medical students and graduate students and in the training of postdoctoral research associates and technicians in the use of techniques of electron microscopy. Application received by Commissioner of Customs: March 16, 1973.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc. 73-7825 Filed 4-20-73; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration BOARD OF TEA EXPERTS

Notice of Meeting

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776), the Food and Drug Administration announces the following public advisory committee meeting and other required information in accordance with provisions set forth in section 10(a)(1) and (2) of the act:

Committee name	Date, time, place	Type of meeting and contact person
Board of Tea Experts	Apr. 25, 10 a.m., room 700, 850 Third Ave., Brooklyn, N.Y.	Open—Robert H. Dick, Food and Drug Administration, 850 Third Ave., Brooklyn, N.Y. 11202, 212-788-1330.

Purpose.—Advises the Secretary regarding establishment of uniform standards of purity, quality, and fitness for consumption of all kinds of teas imported into the United States and makes appropriate recommendations with respect thereto.

Agenda.—Selection of tea standards. Agenda items are subject to change as priorities dictate.

During the open session shown above, interested persons may present relevant information or views orally to any committee for its consideration. Information or views submitted to any committee in writing before or during a meeting shall also be considered by the committee.

A list of committee members and summary minutes of meetings may be obtained from the contact person for the committee both for meetings open to the public and those meetings closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act.

Dated April 19, 1973.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc. 73-7856 Filed 4-20-73; 8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

COMPLETION OF INTERSTATE SYSTEM

Notice of Submission of Assurances

Notice is hereby given that the Federal Highway Administration must receive from the States by May 1, 1973, submission of assurances for completion of the Interstate System.

The following instructions implement section 124 of the Federal-Aid Highway Act of 1970 (23 U.S.C. 103(g)) by providing guidelines for the States to comply with this provision of law. The purpose of section 124 is to require that final decisions be made by the Secretary as to whether or not to delete interstate segments from designation as part of the National System of Interstate and Defense Highways for which a State has not submitted a firm schedule for completion by July 1, 1973, and has not submitted satisfactory assurances to the Secretary that such schedule will be met. Compliance with these instructions and supplements thereto will constitute compliance with the July 1, 1973, provision of section 124 of the Federal-Aid Highway Act of 1970.

In order to comply with section 124 of the Federal-Aid Highway Act of 1970, States were requested by IM 10-1-73, January 11, 1973, to review the schedule submitted pursuant to the requirements of Policy and Procedure Memorandum 10-6, dated September 19, 1965 (revised June 30, 1966), for all toll-free system segments which have not yet advanced to a status of development in status group 4 in which both right-of-way acquisition and detailed design engineering are in progress. See exhibit 3, PR-511 Reporting Code, status group 4a(1) of PPM 10-6.

Following this review, States were asked to bring their PR-511 reports up-to-date by making such adjustments in their schedule as are necessary to comply with PPM 10-6 and the guidelines provided in IM 10-1-73. For the purposes of this current action status Groups 1, 2, 3, and 4a(1) are considered not subject to section 124 of the Federal-Aid High-

way Act of 1970, unless involved in current litigation or controversy.

Section 124 of the Federal-Aid Highway Act of 1970 requires that the States establish a schedule for expenditures of funds for completion of construction of uncompleted segments of the Interstate System within the period of availability of funds authorized for completion of the System. The establishment of this schedule is a statutory requirement, and if such schedule is not submitted, the Secretary, on July 1, 1973, shall remove such segments from designation as a part of the System. Compliance with this part of Section 124 will be deemed accomplished upon (1) submittal of an updated PR-511 schedule, in accordance with IM 10-1-73 that is acceptable to the division engineer and (2) receipt of a statement of assurance signed by the head of the State highway department that such schedule will be met.

In addition, for those segments which are in current litigation or controversy in any status group, the following information and statement will be required for consideration as assurance for the Secretary.

The statement shall contain:

(a) A discussion of the need for completion of the segment.

(b) The expressed views of the local officials—mayor, governor, etc., on the need for completion of the segment, and a description of opposition to the completed segment.

(c) An identification of the segments in current litigation, along with a statement as to the status of the lawsuit, including date suit was filed, trial date, date of latest order of judgment, with summary of such order. If the segment is under an injunctive order, a statement as to what the State is doing to comply with such order, including anticipated dates for compliance with the order.

(d) The assurance will be concluded with a positive statement that the State will process the segment to completion.

The determination by the Secretary as to whether the assurances for the segments in litigation or controversy are satisfactory will be based on the content of the statements, any additional information requested by him, and such other facts and information he might have or acquire.

Section 124 of the 1970 Federal-Aid Highway Act further provides that the procedures for the schedule and required assurances set forth in the section are not deemed to prohibit "the substitution prior to July 1, 1973, of alternative segments of the Interstate System which will meet the requirements of this title." Where the State cannot submit the required schedule and assurance on the designated segment, it may submit an alternative segment for substitution along with a formal request for System action. The State may propose an alternate segment which exceeds the length of the deleted segment but it should not depend on receiving any additional mileage, due to the small amounts available in both the Howard-Cramer amendment (section 103(e)(2)),

Title 23, U.S.C.) and basic System reserves.

Nevertheless, if the State does submit a substitution, such substitution shall so appear on a separate sheet of PR-511 which shall be labeled "Substitution for Deleted Segment _____" (referring to appropriate route number, segment, and page number of PR-511). On the appropriate sheet number containing the deleted segment, in lieu of the schedule, insert "Delete," and refer to appropriate sheet number of PR-511 containing the substituted segment.

The schedule for the segment substituted, for the segment withdrawn, and the required assurance will be subject to the criteria for review as is set forth in this FHWA Notice for the designated segments.

In order to assure adequate review in Washington Headquarters and allow for consideration by the Secretary before July 1, 1973, the assurance along with all related material discussed above must be received in Washington no later than May 1, 1973. The submittal should, of course, include comments and recommendations of the Federal Highway Administration Division Engineer and Regional Federal Highway Administrator.

Dated April 13, 1973.

M. F. MALONEY,
Executive Director,

Federal Highway Administration.

[FR Doc.73-7746 Filed 4-20-73;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-334]

DUQUESNE LIGHT CO. ET AL.

Notice of Special Prehearing Conference

In the matter of Duquesne Light Co., Ohio Edison Co., Pennsylvania Power Co. (Beaver Valley Power Station unit 1), docket No. 50-334.

On November 7, 1972, the Atomic Energy Commission issued a notice of hearing in the above-entitled proceeding, which notice was published in the FEDERAL REGISTER on November 10, 1972 (37 FR 23,935). This notice provided an opportunity for participation by the public in the consideration and determination of the application filed by Duquesne Light Co., Ohio Edison Co., and Pennsylvania Power Co. for a license to operate a nuclear power facility which is being constructed and nears completion, and which is designated as Beaver Valley Power Station, unit 1, and is located in Shippingport Borough, Beaver County, Pa.

Petitions to intervene have been filed in this proceeding and, after a consideration thereof, the Licensing Board appointed to consider such petitions and the Atomic Safety and Licensing Appeal Board have determined that the following designated petitioners shall be made and are parties to this proceeding:

City of Pittsburgh.
Mayor Pete Flaherty.
Ernest J. Sternglass.
David Marshall.
Friends of the Earth.
Environment Pittsburgh.
Beaver County Citizens Conservation Corps.

The rules of practice of the Commission provide for a special prehearing conference to consider procedural matters, including requests for discovery of data, schedules for presentation of interrogatories, that will aid in the presentation of evidence and expedite the proceeding. Such a prehearing conference does not receive any evidence, but the conference is open to attendance by the public.

Wherefore, it is ordered, in accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, a special prehearing conference shall convene at 10 a.m. on Wednesday, May 16, 1973, in courtroom No. 16, U.S. District Court, located on the seventh floor, U.S. Post Office and Courthouse, Seventh and Grand Streets, Pittsburgh, Pa. 15230.

Issued April 18, 1973, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.73-7800 Filed 4-20-73;8:45 am]

[Docket No. 50-27]

WASHINGTON STATE UNIVERSITY

Notice of Issuance of Amendment to Facility License

The Atomic Energy Commission (the Commission) has issued, effective as of the date of issuance, amendment No. 5 to facility license No. R-76. Facility license No. R-76 authorizes Washington State University to possess, use, and operate a TRIGA reactor on its campus located at Pullman, Wash. The amendment authorizes the University to possess and store an additional 3 kg of contained uranium 235 to permit the possession of new and used fuel elements during and after refueling of the reactor.

By application for amendment dated November 16, 1972, Washington State University requested authorization to increase the uranium 235 possession limit to permit a future core change and to retain partially burned-up fuel after refueling operations. The technical specifications of license No. R-76 limits the amount and type of fuel installed in the reactor and contains provisions to assure safe storage of fuel when not installed in the reactor. Accordingly, we have concluded the increase of material authorized will not decrease the safety of reactor operations.

The Commission has found that the application for amendment complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act) and

the Commission's regulations published in 10 CFR ch. I. The Commission has made the findings (relating to its review of the application) which are set forth in the amendment and has concluded that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public. The Commission also has found that prior public notice of this amendment is not required since the amendment does not involve significant hazards considerations different from those previously evaluated.

For further details with respect to this amendment, see (1) the licensee's application for amendment dated November 16, 1972, (2) the amendment to facility license No. R-76, and (3) the related safety evaluation prepared by the Directorate of Licensing, which are available for public inspection at the Commission's public document room at 1717 H Street NW., Washington, D.C. A copy of items (1) and (3) may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director of Licensing.

Dated at Bethesda, Md., this 12th day of April 1973.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Operating Reactors, Directorate of Licensing.

[FR Doc.73-7801 Filed 4-20-73;8:45 am]

[Docket No. 50-428]

WESTINGHOUSE ELECTRIC CORP.

Notice of Application for Consideration of Issuance of Facility Export License

Please take notice that Westinghouse Electric Corp., Pittsburgh, Pa., has submitted to the Atomic Energy Commission an application for a license to authorize the export of two pressurized water reactors with a thermal power level of 2,696 MW each to the Central Nuclear de Almaraz, Madrid, Spain, Almaraz site, and that the issuance of such license is under consideration by the Atomic Energy Commission.

No license authorizing the proposed reactor export will be issued until the Atomic Energy Commission determines that such export is within the scope of and consistent with the terms of an applicable agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954, as amended (act), nor until the Atomic Energy Commission has found that:

(a) The application complies with the requirements of the act, and the Atomic Energy Commission's regulations set forth in title 10, chapter 1, Code of Federal Regulations, and

(b) The reactors proposed to be exported are utilization facilities as defined in said act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Atomic Energy

Commission does not evaluate the health and safety characteristics of the facility to be exported.

On or before May 8, 1973, a request for a hearing is filed with the Atomic Energy Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of Regulation may, upon the determinations and findings noted above, cause to be issued to Westinghouse Electric Corp., a facility export license and may cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Atomic Energy Commission will issue a notice of hearing or an appropriate order.

A copy of the application is on file in the Atomic Energy Commission's Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 9th day of April 1973.

For the Atomic Energy Commission.

S. H. SMILEY,
*Deputy Director for Fuels and
Materials, Directorate of
Licensing.*

[FR Doc.73-7737 Filed 4-20-73;8:45 am]

[Docket No. 50-429]

WESTINGHOUSE ELECTRIC CORP.

Notice of Application for Consideration of Issuance of Facility Export License

Please take notice that Westinghouse Electric Corp., Pittsburgh, Pa., has submitted to the Atomic Energy Commission an application for a license to authorize the export of two pressurized water reactors with a thermal power level of 2,696 MW each to the Hidro-electrica Iberico Iberduero S.A., Gardoqui, Spain, Lemoniz site, and that the issuance of such license is under consideration by the Atomic Energy Commission.

No license authorizing the proposed reactor export will be issued until the Atomic Energy Commission determines that such export is within the scope of and consistent with the terms of an applicable agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954, as amended (act), nor until the Atomic Energy Commission has found that:

(a) The application complies with the requirements of the act, and the Atomic Energy Commission's regulations set forth in title 10, chapter 1, Code of Federal Regulations, and

(b) The reactors proposed to be exported are utilization facilities as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Atomic Energy Commission does not evaluate the health and safety characteristics of the facility to be exported.

On or before May 8, 1973, a request for a hearing is filed with the Atomic Energy Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of Regulation may, upon the determinations and findings noted above, cause to be issued to Westinghouse Electric Corp., a facility export license and may cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Atomic Energy Commission will issue a notice of hearing or an appropriate order.

A copy of the application is on file in the Atomic Energy Commission's Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 9th day of April 1973.

For the Atomic Energy Commission.

S. H. SMILEY,

*Deputy Director for Fuels and
Materials, Directorate of Li-
censing.*

[FR Doc.73-7738 Filed 4-20-73;8:45 am]

[Docket No. 50-430]

WESTINGHOUSE ELECTRIC CORP.

Notice of Application for Consideration of Issuance of Facility Export License

Please take notice that Westinghouse Electric Corp., Pittsburgh, Pa., has submitted to the Atomic Energy Commission an application for a license to authorize the export of a pressurized water reactor with a thermal power level of 2,696 megawatts to the Fuerzas Electricas de Cataluna S.A., Barcelona, Spain, Asco site, and that the issuance of such license is under consideration by the Atomic Energy Commission.

No license authorizing the proposed reactor export will be issued until the Atomic Energy Commission determines that such export is within the scope of and consistent with the terms of an applicable agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954, as amended (Act), nor until the Atomic Energy Commission has found that:

(a) The application complies with the requirements of the Act, and the Atomic Energy Commission's regulations set forth in Title 10, Chapter 1, Code of Federal Regulations, and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Atomic Energy Commission does not evaluate the health and safety characteristics of the facility to be exported.

On or before May 8, 1973, a request for a hearing is filed with the Atomic Energy Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of Regulation may, upon the determinations and

findings noted above, cause to be issued to Westinghouse Electric Corp., a facility export license and may cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Atomic Energy Commission will issue a notice of hearing or an appropriate order.

A copy of the application is on file in the Atomic Energy Commission's Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 9th day of April 1973.

For the Atomic Energy Commission.

S. H. SMILEY,
*Deputy Director for Fuels and
Materials, Directorate of Li-
censing.*

[FR Doc.73-7739 Filed 4-20-73;8:45 am]

[Docket No. 50-261]

CAROLINA POWER & LIGHT CO.

Notice of Availability of Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulations in appendix D to 10 CFR part 50, notice is hereby given that a draft environmental statement prepared by the Commission's Directorate of Licensing related to the operation of the H. B. Robinson Steam Electric Plant, Unit No. 2 by Carolina Power & Light Co. in Darlington County is available for inspection by the public in the Commission's public document room at 1717 H Street NW., Washington, D.C., and in the Hartville Memorial Library, Home and Fifth Avenues, Hartville, S.C. 29550. The draft statement is also being made available at the Pee Dee Development and Planning Council, P.O. Box 4366, Florence, S.C. 29501. Copies of the Commission's draft environmental statement may be obtained by request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

The applicant's environmental report, as supplemented, submitted by Carolina Power & Light Co. is also available for public inspection at the above-designated locations. Notice of availability of the applicant's environmental report was published in the FEDERAL REGISTER on December 31, 1971, 36 FR 25438.

Pursuant to 10 CFR part 50, appendix D, interested persons may, on or before June 4, 1973, submit comments on the applicant's environmental report, as supplemented, and the draft environmental statement for the Commission's consideration. Federal and State agencies are being provided with copies of the applicant's environmental report and the draft environmental statement (local agencies may obtain these documents

upon request). When comments thereon by Federal, State, and local officials are received by the Commission, such comments will be made available for public inspection at the Commission's public document room in Washington, D.C., and the Hartville Memorial Library, Home and Fifth Avenues, Hartville, S.C. 29550. Comments on the draft environmental statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 17th day of April 1973.

For the Atomic Energy Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects
Branch No. 4 Directorate of
Licensing.

[FR Doc.73-7659 Filed 4-20-73;8:45 am]

[Docket Nos. 50-416, 50-417]

MISSISSIPPI POWER & LIGHT CO.

Notice of Availability of Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the U.S. Atomic Energy Commission's regulations in appendix D to 10 CFR part 50, notice is hereby given that a draft environmental statement prepared by the Commission's Directorate of Licensing related to the proposed Grand Gulf Nuclear Station, Units 1 and 2, to be constructed by the Mississippi Power & Light Co. in Claiborne County, Miss., is available for inspection by the public in the Commission's public document room at 1717 H Street NW., Washington, D.C., and in the Harriet Person Memorial Library, Municipal Building, Port Gibson, Miss. 39150. The draft statement is also being made available at the Office of the Coordinator, Federal-State Programs, Office of the Governor, 510 Lamar Life Building, Jackson, Miss. 39201, and the Southwest Mississippi Planning and Development District, P.O. Box 686, McComb, Miss. 39648. Copies of the Commission's draft environmental statement may be obtained by request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

The applicant's environmental report, as supplemented, submitted by the Mississippi Power & Light Co. is also available for public inspection at the above-designated locations. Notice of availability of the applicant's environmental report was published in the FEDERAL REGISTER on December 21, 1972 (37 FR 28204).

Pursuant to 10 CFR part 50, appendix D, interested persons may, on or before June 7, 1973, submit comments on the applicant's environmental report, as supplemented, and the draft environmental statement for the Commission's consideration. Federal and State agencies are being provided with copies of the applicant's environmental report and the

draft environmental statement (local agencies may obtain these documents upon request). When comments thereon by Federal, State, and local officials are received by the Commission, such comments will be made available for public inspection at the Commission's public document room in Washington, D.C. and the Harriet Person Memorial Library, Municipal Building, Port Gibson, Miss. Comments on the draft environmental statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 17th day of April 1973.

For the Atomic Energy Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects
Branch 1 Directorate of
Licensing.

[FR Doc.73-7658 Filed 4-20-73;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN MEXICO

Entry or Withdrawal from Warehouse for Consumption

APRIL 19, 1973.

On May 3, 1972, there was published in the FEDERAL REGISTER (37 FR 8959) a letter dated April 28, 1972, from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, establishing levels of restraint applicable to certain specified categories of cotton textiles and cotton textile products produced or manufactured in Mexico and exported to the United States during the 12-month period beginning May 1, 1972. As set forth in that letter, the levels of restraint are subject to adjustment pursuant to paragraphs 5 and 8 which provide, in part, that within the aggregate limit certain group limits may be exceeded by not more than 10 percent and for limited carryover of shortfalls in certain categories to the next agreement year.

Accordingly, at the request of the Government of Mexico and pursuant to the provisions of the bilateral agreement referred to above, there is published below a letter of April 19, 1973, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending the levels of restraint applicable to cotton textiles in categories 1/2/3/4 (group I); 5-27 and part 64 (knit fabrics) (group II); 9/10; 22/23; and 26/27 and part 64 (knit fabrics), produced or manufactured in Mexico and exported to the United States during the 12-month period which began on May 1, 1972.

SETH M. BODNER,
Chairman, Committee for the
Implementation of Textile
Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

APRIL 19, 1973.

DEAR MR. COMMISSIONER: On April 28, 1972, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the 12-month period beginning May 1, 1972, of cotton textiles and cotton textile products in certain specified categories produced or manufactured in Mexico, in excess of designated levels of restraint. The chairman further advised you that the levels of restraint are subject to adjustment.¹

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to paragraphs 5 and 8 of the bilateral Cotton Textile Agreement of June 29, 1971, between the Governments of the United States and Mexico, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to amend, effective as soon as possible, the levels of restraint established in the aforesaid directive of April 28, 1972, for cotton textiles and cotton textile products in the following categories for the 12-month period beginning May 1, 1972:

Category:	Levels of restraint ¹ Amended 12-month
1/2/3/4 (Group I)-----	12,315,816 lb.
5-27 and part 64 (knit fabrics) (Group II):-----	44,978,750 yd ²
9/10-----	14,132,531 yd ²
22/23-----	14,132,531 yd ²
26/27 and part 64 (knit fabrics)	16,693,688 square yards (but not more than 7,779,375 square yards in Categories 26 and 27 shall be in duck fabric ³ and not more than 656,250 square yards equivalent shall be in knit fabrics, T.S.U.S.A. Nos. 345.1020, 345.1040, 346.4500, 353.5014, and 359.1040)

The actions taken with respect to the Government of Mexico and with respect to imports of cotton textiles and cotton textile products from Mexico have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions fall within the foreign affairs

¹ The term "adjustment" refers to those provisions of the bilateral cotton textile agreement of June 29, 1971, between the Governments of the United States and Mexico which provide, in part, that within the aggregate limit, the limits for groups I and II may be exceeded by not more than 10 percent; for limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements.

² These levels have not been adjusted to reflect entries made on or after May 1, 1972.

³ Only T.S.U.S.A. Nos.:
320.—01 through 04, 06, 08
321.—01 through 04, 06, 08
322.—01 through 04, 06, 08
326.—01 through 04, 06, 08
327.—01 through 04, 06, 08
328.—01 through 04, 06, 08

exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.73-7947 Filed 4-20-73; 11:18 am]

COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1973

Notice of Proposed Additions

Notice is hereby given pursuant to section 2(a) (2) of Public Law 92-28, 85 Stat. 79, of the proposed addition of the following commodity and service to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITY

Class 8470:
Strap, Chin, Soldier's Steel Helmet, MI, 8470-030-8003.

SERVICE

Industrial Class 7641:
Furniture Rehabilitation, Monterey, Calif.

Comments and views regarding these proposed additions may be filed with the committee not later than 30 days after the date of this FEDERAL REGISTER. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 14th Street North, suite 610, Arlington, Va. 22201.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-7619 Filed 4-20-73; 8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 644]

COMMON CARRIER SERVICES INFORMATION¹

Domestic Public Radio Services Applications Accepted for Filing²

APRIL 16, 1973.

Pursuant to §§ 1.227(b) (3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the list below, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day

¹ All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

² The above alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Service (part 21 of the rules).

preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

APPENDIX

APPLICATIONS ACCEPTED FOR FILING DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

- 5400-C2-P-73, Canaveral Communications (new): C.P. for a new facility to operate on 454.050 MHz at New Smyrna Beach, Fla.
- 7402-C2-P-73, Electrodyne, Inc. (new): C.P. for a new facility to operate at west of Conroe, 0.5 mile on old Montgomery Road, Huntsville, Tex. on frequency: 152.12 MHz.
- 7420-C2-P-73, Continental Telephone Company of California (KMM598): C.P. to correct coordinates and ground elevation increase the height of antenna, on Black Metal Mountain, 2 miles northwest of Parker Dam, Calif. Operating on frequency: 152.63 MHz.
- 7421-C2-P-73, The Mountain States Telephone and Telegraph Co. (KOA795): C.P. to replace transmitter, operating on frequencies: 157.86, 157.92, 157.98 and 158.01 MHz at 285 Second Avenue, Yuma, Ariz.
- 7422-C2-P-73, Radio Dispatch Co. (KLF674): C.P. to change antenna system and replace transmitter, operating on 152.15 MHz at 1.33 miles north of Backems Crossroads, Alabama Highway 123, Ala.
- 7423-C2-P-73, Batavia Radio-Page (new): C.P. for a new two-way station to operate on 454.300 MHz at 104 Cedar Street, Batavia, N.Y.
- 7424-C2-AL-(7)-73, National Communications Systems, Inc.: consent to assignment of license from National Communications System, Inc., assignor to Airtel of California, Inc., assignee. Stations: KMM703, Lake Tahoe, Calif.; KMM706, Modesto, Calif.; KMM704 and KRM981, Sacramento, Calif.; KMM705 and KRM982, Stockton, Calif. and KJU808, Vallejo, Calif.
- 7425-C2-P-73, Contact of New Mexico (KUC 840): C.P. to change antenna location, control point location and to change azimuth

and length of radio patch for repeater. Operating on 454.200 and 459.200 MHz at 901 Texas Avenue, Alamogordo, N. Mex.

7449-C1-P-73, Stockton Mobilphone, Inc. (KRM984): C.P. to change antenna system, antenna location, and power also to replace transmitter. Operating on 152.24 MHz on Pock Lane, approximately 1,500 feet north of Carpenter Road, Stockton, Calif.

7450-C2-P-73, King Communications, Inc. (new): C.P. for a new one-way station to operate on 152.24 MHz at 1510 Bayless, Midland, Mich.

7451-C2-P-73, Airtel of California, Inc. (KQZ798): C.P. to add antenna location (No. 2) to operate on 158.70 MHz at 321 Dooty, Hanford, Calif. (one-way).

7452-C2-P-(2)-73, New England Telephone & Telegraph Co. (KCC800): C.P. to change antenna system, replace transmitter and additional facilities, to operate on 454.025 MHz and 152.72 MHz, at Great Hill, Bridgewater, 0.75 mile southeast of Bridgewater Center, Bridgewater, Mass.

POINT TO POINT MICROWAVE RADIO SERVICE

7298-C1-P-73, the Pacific Telephone & Telegraph Co. (KMA 38): 434 South Grand Avenue, Los Angeles, Calif. Latitude 34°03'02" N., longitude 118°15'08" W. C.P. to change antenna system, power and replace transmitter on frequencies 3750H, 3770V, 3830H, 3850V, 3910H, 3930V, 3990H, 4010V, 4070H, 4090V, 4150H, and 4170V MHz toward Oat Mountain, Calif.

7299-C1-P-73, Lemhi Telephone Co. (new): Approximately 300 feet from intersection of Highways 28 and 29, Leadore, Idaho. Latitude 44°40'54" N., longitude 113°21'20" W. C.P. for a new station on frequency 2128.0H MHz toward Leadore (Mill Creek), Idaho.

7300-C1-P-73, same (new): 11.2 miles from Leadore (Mill Creek), Idaho. Latitude 44°43'23" N., longitude 113°34'47" W. C.P. for a new station on frequency 2178.0H MHz toward Leadore Terminal; frequency 5974.8V MHz toward Baker (Sandy Creek); frequencies 11,685.0V and 11,445.0H MHz toward Leadore Bell via Leadore passive reflector.

7301-C1-P-73, same (new): 3.8 miles from Baker (Sandy Creek), Idaho. Latitude 45°03'23" N., longitude 113°40'30" W. C.P. for a new station on frequency 6226.9V MHz toward Salmon Terminal via Salmon passive reflector; frequency 6256.5V MHz toward Leadore (Mill Creek) repeater.

7302-C1-P-73, same (new): Salmon, Idaho. Latitude 45°10'35" N., longitude 113°53'47" W. C.P. for a new station on frequency 5945.2V MHz toward Baker (Sandy Creek) repeater via Salmon passive reflector.

7303-C1-P-73, American Telephone & Telegraph Co. (KZA40): 1.8 miles west of Rosenberg, Tex. Latitude 29°33'15" N., longitude 95°50'41" W. C.P. to add frequency 4050V MHz toward Pattison, Tex.

7304-C1-P-73, same (KZA38): 1.9 miles east of Independence, Tex. Latitude 30°19'05" N., longitude 96°18'55" W. C.P. to add frequency 4050V MHz toward Pattison, Tex.; frequency 4050V MHz toward Caldwell, Tex.

7305-C1-P-73, same (KZA39): 8.6 miles north of Pattison, Tex. Latitude 29°56'51" N., longitude 96°00'36" W. C.P. to add frequency 4090V MHz toward Rosenberg, Tex.; frequency 4090V MHz toward Independence, Tex.

7306-C1-P-73, same (KZA37): 1 mile north of Caldwell, Tex. Latitude 30°40'47" N., longitude 96°40'22" W. C.P. to add frequency 4090V MHz toward Independence,

- Tex.; frequency 4090V MHz toward Hammond, Tex.
- 7307-C1-P-73, same (KZA36): 0.5 mile west of Hammond, Tex. Latitude 31°05'32" N., longitude 96°43'13" W. C.P. to add frequency 4050V MHz toward Caldwell, Tex.; frequency 4050H MHz toward Riesel, Tex.
- 7308-C1-P-73, American Telephone & Telegraph Co. (KZA35): 2.4 miles east-southeast of Riesel, Tex. Latitude 31°27'36" N., longitude 96°53'14" W. C.P. to add frequency 4090H MHz toward Hammond, Tex.; frequency 4090H MHz toward West, Tex.
- 7309-C1-P-73, same (KZA34): 1 mile north of West, Tex. Latitude 31°49'35" N., longitude 97°05'32" W. C.P. to add frequency 4050H MHz toward Riesel, Tex.; frequency 4050H MHz toward Itasca, Tex.
- 7310-C1-P-73, same (KZA33): 2.4 miles east of Itasca, Tex. Latitude 32°09'43" N., longitude 97°06'00" W. C.P. to add frequency 4090H MHz toward West, Tex.; frequency 4090V MHz toward Kennedale, Tex.
- 7311-C1-P-73, same (KYZ92): 3 miles southeast of Kennedale, Tex. Latitude 32°36'29" N., longitude 97°11'13" W. C.P. to add frequency 4050V MHz toward Itasca, Tex.; frequency 4050V MHz toward Roanoke, Tex.
- 7312-C1-P-73, same (KYZ91): 4.9 miles northwest of Roanoke, Tex. Latitude 33°01'41" N., longitude 97°18'05" W. C.P. to add frequency 4090V MHz toward Kennedale, Tex.; frequency 3850V MHz toward Adams, Tex.
- 7313-C1-P-73, same (KKH66): 3.5 miles northeast of Frisco, Tex. Latitude 33°10'31" N., longitude 96°46'18" W. C.P. to add frequency 3810V MHz toward Roanoke, Tex.
- 7314-C1-P-73, New York Telephone Co. (WDD41): 101 Willoughby Street, Brooklyn, N.Y. Latitude 40°41'33" N., longitude 73°59'07" W. C.P. to add frequencies 11,365V and 11,525V and H MHz toward Staten Island, N.Y.
- 7315-C1-P-73, same (KEA76): 355 Forest Avenue, Staten Island, N.Y. Latitude 40°37'52" N., longitude 74°06'05" W. C.P. to add frequencies 10,915V, 11,075V, and H MHz toward Brooklyn, N.Y.
- 7316-C1-P-73, Continental Telephone Co. of California (KPJ38): Parker, Ariz. Latitude 34°08'48" N., longitude 114°17'12" W. C.P. to add frequency 2122.0H MHz toward Black Peak, Ariz.
- 7317-C1-P-73, same (new): Piomosa Road, approximately 150 feet west of Highway 72, Bouse, Ariz. Latitude 33°55'56" N., longitude 114°00'20" W. C.P. for a new station on frequency 2114.0V MHz toward Black Peak, Ariz.
- 7318-C1-P-73, same (new): Black Peak, Ariz. Latitude 34°07'29" N., longitude 114°12'36" W. C.P. for a new station on frequency 2172.0H MHz toward Parker, Ariz.; frequency 2164.0V MHz toward Bouse, Ariz.
- 7368-C1-P-73, Southeast Kansas Microwave, Inc. (KTG29): 2 miles northwest of Garnett, Kans. (lat. 38°17'45" N., long. 95°16'31" W.): C.P. to replace existing transmitters on frequencies 6212.0V MHz, 6330.7V MHz, and 6390.0V MHz and to increase output power to 5 watts toward Iola, Kans., on azimuth 195°08'.
- 7369-C1-P-73, same (KTG30): 1.1 mile north of Iola, Kans. (lat. 37°56'47" N., long. 95°23'43" W.): C.P. to replace existing transmitters on frequencies 5989.6V MHz, 6049.0V MHz, and 6167.6V MHz and to increase output power to 5 watts toward Chanute-Humboldt, Kans., on azimuth 182°21'.
- 7370-C1-P-73, same (KTG31): 1.75 miles east of Chanute, Kans. (lat. 37°41'02" N., long. 95°24'32" W.): C.P. to replace existing transmitters on frequencies 6212.0H MHz, 6330.7H MHz, and 6390.0H MHz and to increase output power to 5 watts toward Parsons, Kans., on azimuth 162°16'.
- 7371-C1-P-73, Mountain Microwave Corp. (new): Miller, 5 miles northeast of Montrose, S. Dak. (latitude 43°43'39" N., longitude 97°05'08" W.): C.P. for new station—frequency 11,625V MHz toward Freeman, S. Dak., on azimuth 211°54'.
- 7372-C1-P-73, same (new): 1.5 miles south of Freeman, S. Dak. (latitude 43°19'30" N., longitude 97°25'40" W.): C.P. for new station—frequency 4,010V MHz toward Moe, S. Dak., on azimuth 106°10'.
- 7373-C1-P-73, same (new): 2 miles west of Moe, S. Dak. (latitude 43°09'25" N., longitude 96°38'55" W.): C.P. for new station—frequency 3,970V MHz toward Elk Point, Nebr., on azimuth 186°05'.
- 7374-C1-P-73, same (new): Elk Point, 1 mile southwest of Waterbury, Nebr. (latitude 42°26'42" N., longitude 96°45'04" W.): C.P. for new station—frequency 3,990H MHz toward Walt Hill, Nebr., on azimuth 140°19'.
- 7375-C1-P-73, same (new): 2.75 miles northeast of Walt Hill, Nebr. (latitude 42°10'14" N., longitude 96°26'44" W.): C.P. for new station—frequency 11,365V MHz toward Knieval, Nebr., on azimuth 196°47'.
- 7376-C1-P-73, same (new): Knieval, 5 miles east-northeast of Crowell, Nebr. (latitude 41°45'12" N., longitude 96°38'49" W.): C.P. for new station—frequency 11,115V MHz toward Wahoo, Nebr., on azimuth 166°43'.
- 7377-C1-P-73, same (new): 9 miles northeast of Wahoo, Nebr. (latitude 41°15'51" N., longitude 96°27'38" W.): C.P. for new station—frequency 4,110V MHz toward Lincoln, Nebr., on azimuth 189°11'.
- 7378-C1-P-73, same (new): 4 miles east of Lincoln, Nebr. (latitude 40°50'58" N., longitude 96°32'56" W.): C.P. for new station—frequency 3,930V MHz toward Beaver Crossing, Nebr., on azimuth 259°09'.
- 7379-C1-P-73, same (new): Beaver Crossing, 6.5 miles west-southwest of Milford, Nebr. (latitude 40°45'22" N., longitude 97°10'38" W.): C.P. for new station—frequency 3,890V MHz toward Sutton, Nebr., on azimuth 260°50'.
- 7380-C1-P-73, same (new): 2.2 miles north-northeast of Sutton, Nebr. (lat. 40°40'20" N., long. 97°50'38" W.): C.P. for new station—frequency 3,930H MHz toward Rosedale, Nebr., on azimuth 276°13'.
- 7381-C1-P-73, same (new): 2 miles east of Rosedale, Nebr. (lat. 40°43'11" N., long. 98°26'06" W.): C.P. for new station—frequency 11,665H MHz toward Grand Island (lat. 40°54'56" N., long. 98°23'44" W.), Nebr., on azimuth 98°41'. (Informative: Mountain proposes to deliver the signal of WTCN-TV of Minneapolis, Minn., to CATV system in Grand Island, Nebr. A waiver of section 21.701(i) of FCC rules is requested by Mountain.)
- 7382-C1-MP-73, KHC Microwave Corp. (WDD97): 2.5 miles south of Labelle, Tex. (lat. 29°50'25" N., long. 94°09'41" W.): Modification of C.P. (8958-C1-P-72) to relocate receiving site at Beaumont, Tex., to latitude 30°05'10" N., longitude 44°06'35" W.
- 7383-C1-P-73, Mountain Microwave Corp. (KZA62): Manchester, 14 miles southwest of Chadron, Nebr. (lat. 42°38'06" N., long. 103°05'30" W.): C.P. to add frequencies 5960.0H MHz, 6,005.0H MHz, 6,050.0V MHz, and 6,167.6V MHz, via path intercept, toward new point of communication at Rushville (lat. 42°43'10" N., long. 102°28'12" W.), Nebr., on azimuth 79°05'. (Informative: Mountain proposes to deliver the signals of KOA-TV, KLZ-TV, KBTB, and KWGN, all of Denver, Colo., to CATV system in Rushville, Nebr.)
- 7384-C1-P-73, Frank K. Spain, doing business as Microwave Service Co. (KOS33): 10 miles east-southeast of Walla Walla, Wash. (lat. 45°59'54" N., long. 118°07'24" W.): C.P. to relocate receiving site at Richland, Wash., to latitude 46°16'00" N., longitude 119°17'45" W.
- 7385-C1-P-73, Eastern Microwave, Inc. (KGO69): Lookout Mountain, 2.1 miles northeast of Keating Summit, Pa. (lat. 41°41'53" N., long. 78°08'54" W.): C.P. to add frequency 6,108.3V MHz, via power split, toward Coudersport (lat. 41°45'24" N., long. 78°00'10" W.), Pa., on azimuth 61°36'. (Informative: Eastern proposes to deliver the signal of WNEW-TV of New York City to CATV system in Coudersport, Pa.)
- 7386-C1-P-73, Eastern Microwave, Inc. (KEM58): Helderberg Mountain, 1.7 miles northwest of New Salem, N.Y. (lat. 42°38'12" N., long. 73°59'45" W.): C.P. to add frequencies 11,305V MHz and 11,625V MHz toward Cherry Valley (KEA44), N.Y., on azimuth 285°33'.
- 7387-C1-P-73, same (KEA64): 4 miles southeast of Cherry Valley, N.Y. (lat. 42°46'31" N., long. 74°40'56" W.): C.P. to add frequencies 11,015H MHz and 11,175H MHz toward Amsterdam (lat. 42°58'39" N., long. 74°08'48" W.), N.Y., on azimuth 62°39'. (Informative: Eastern proposes to deliver the signals of WSBK-TV and WKBG-TV of Boston, Mass., to CATV system in Amsterdam, N.Y.)
- 7388-C1-P-73, The Pacific Telephone & Telegraph Co. (KMG36), 1587 Franklin Street, Oakland, Calif. Latitude 37°48'22" N., longitude 122°16'05" W. C.P. to add frequency 6,315.0V MHz toward San Francisco, Calif.
- 7389-C1-P-73, same (KNB53), 99 Moultrie Street, San Francisco, Calif. Latitude 37°44'36" N., longitude 122°24'51" W. C.P. to add frequency 6,123.1H MHz toward Oakland, Calif.
- 7390-C1-P-73, CML Satellite Corp. (new): 2.5 miles east of Red Oak, Dallas Earth Station, Tex. Latitude 32°31'03" N., longitude 96°45'34" W. C.P. for a new station on frequencies 11,265V and 11,665V MHz toward Dallas, Tex. (Informative: Transmitted herewith on behalf of CML Satellite Corp. is an application for a new terrestrial microwave interconnection facility to be located at the CML Satellite Corp. domestic satellite Earth station in Ellis County, Tex. (file No. 2-DSE-P-73).)
- 7391-C1-ML-73, The Pacific Telephone & Telegraph Co. (KPP95): 5.6 miles north of Julian, Calif. Latitude 33°09'33" N., longitude 116°36'53" W. Modification of license to change polarization from H to V on frequency 6,108.3 MHz toward Sage, Calif.
- 7392-C1-ML-73, same (WHA78): 14.8 miles east-northeast of Glamis, Calif. Latitude 33°34'47" N., longitude 114°49'36" W. Modification of license to change polarization from V to H on frequencies 6197.2 and 6315.9 MHz toward Brawley, Calif.
- 7393-C1-ML-73, same (KPP94): 0.7 mile north-northwest of Sage, Calif. Latitude 33°35'27" N., longitude 116°56'23" W. Modification of license to change polarization from H to V on frequencies 6390.0 MHz toward Julian, Calif.
- 7394-C1-P-73, CPI Microwave, Inc. (new): Record Street at Young Street, WFAA-TV, Tex. Latitude 32°46'30" N., longitude 96°48'17" W. C.P. for a new station on frequency 11,285.0H MHz toward Dallas, Tex.
- 7395-C1-MP-73, same (WQP49): 6 miles southwest of Floresville, Tex. Modification of C.P. to delete frequencies 6019.5 and

- 5960.0 MHz add frequencies 5989.7V and 6059.0V MHz toward San Antonio, Tex.
6049.0V MHz toward San Antonio, Tex.
- 7396-C1-MP-73, same (WQP53): Violet, Tex., 5 miles east of Robstown, Tex. Modification of C.P. to change azimuth to television station KZTV-TV to 276°12' and length of path to 5.7 Km on frequency 10735.0H MHz.
- 7273-C1-P-73, Sierra Microwave, Inc. (KPL 26): Application for reinstatement of C.P. File No. 8177/7713-C1-MP-73 to change location of receive point (drop) at Jerome, Idaho. Frequencies 6110V, 6210V, 6310V, 6410V MHz via power split toward Jerome, Idaho. Station location Jerome Butte, Idaho. Latitude 42°43'50" N., longitude 114°25'10" W.
- 7400-C1-MP-73, MCI Telecommunications Corp. (formerly MCI Texas-Pacific, Inc.) (WPY57): Modification of C.P. to relocate station to 7.2 miles east of Afton, Texas. Latitude 33°44'52" N., longitude 100°41'12" W. Frequencies 6345.5V toward Guthrie, Tex., on azimuth 131°39' and 6226.9H toward Dougherty, Tex., on azimuth 311°46'.
- 7426-C1-ML-73, American Telephone & Telegraph Co. (KQD78): 1.5 miles north of Jones, Mich. Latitude 41°55'18" N., longitude 85°47'52" W. Modification of license to change frequencies to 3730V, 3810V, 3890V, 3970V MHz toward Mishawaka, Ind.
- 7427-C1-ML-73, same (KSA43): 1.2 miles southwest of Mishawaka, Ind. Latitude 41°38'00" N., longitude 86°11'52" W. Modification of license to change frequencies to 3770V, 3850V, 3930V, 4010V, 4090V, and 4170V MHz toward Jones, Mich.; change frequency from 3750H to 4190H MHz toward Elkhart, Ind.
- 7428-C1-ML-73, same (KSO84): 4 miles west of Wheatfield, Inc. Latitude 41°11'13" N., longitude 87°07'47" W. Modification of license to change frequencies to 3750V, 3770H, 3830V, 3850H, 3910V, 3930H, 3990V, 4010H, 4070V, 4090H, 4150V, and 4170H MHz toward Monon, Ind.
- 7429-C1-ML-73, same (KSO82): 1.5 miles west of Monon, Ind. Latitude 40°52'03" N., longitude 86°54'35" W. Modification of license to change frequencies to 3710V, 3730H, 3790V, 3810V, 3870V, 3890H, 3950V, 3970H, 4030V, 4050H, 4110V and 4130H MHz toward Wheatfield, Ind.
- 7430-C1-P-73, Western Tele-Communications, Inc. (new): John Hancock Building, Chicago, Ill. Latitude 41°53'56" N., longitude 87°37'24" W. C.P. for a new station on frequencies 6197.2V, 6256.5V, 6286.2H, 6375.2V and 6404.8H MHz toward Arlington Heights, Ill.
- 7431-C1-P-73, same (new): 0.5 mile south of Arlington Heights, Ill. Latitude 42°04'21" N., longitude 87°59'44" W. C.P. for a new station on frequencies 5945.2V, 6004.5V, 6063.8V, 6093.5H and 6123.1V MHz toward Starks, Ill., and frequency 5974.8V MHz toward Chicago, Ill.
- 7432-C1-P-73, same (new): 1.4 miles east-southeast of Starks, Ill. Latitude 42°05'05" N., longitude 88°29'20" W. C.P. for a new station on frequencies 3750V, 3830V, 3910V, 3990V, and 4070V MHz toward Ward Kings, Ill., and frequency 6226.9V MHz toward Arlington Heights, Ill.
- 7433-C1-P-73, same (new): Kings, 4.8 miles south of Belvedere, Ill. Latitude 42°11'15" N., longitude 88°49'53" W. C.P. for a new station on frequencies 3710H, 3790H, 3870H, 3950H, and 4030H MHz toward Byron, Ill., and frequency 3710- MHz toward Starks, Ill.
- 7434-C1-P-73, Western Tele-Communications, Inc. (new): 3.6 miles south-southwest of Byron, Ill. Latitude 42°04'16" N., longitude 89°16'43" W. C.P. for a new station on frequencies 3850H, 3930H, 4010H, 4090H, and 4170H MHz toward Hazelhurst, Ill., and frequency 3750H MHz toward Kings, Ill.
- 7435-C1-P-73, same (new): 0.3 mile northwest of Hazelhurst, Ill. Latitude 41°58'03" N., longitude 89°41'30" W. C.P. for a new station on frequencies 3710H, 3790H, 3870H, 3950H, and 4030H MHz toward Shady Beach, Ill., and frequency 3810H MHz toward Byron, Ill.
- 7436-C1-P-73, same (new): 2 miles southeast of Shady Beach, Ill. Latitude 41°31'17" N., longitude 90°10'08" W. C.P. for a new station on frequencies 3750V, 3830V, 3910V, 3990V, and 4070V MHz toward Hazelhurst, Ill.
- 7437-C1-P-73, same (new): 0.9 mile south-southeast of Plainview, Iowa. Latitude 41°39'28" N., longitude 90°46'27" W. C.P. for a new station on frequencies 3710V, 3790V, 3870V, 3950V, and 4030V MHz toward Downey, Iowa, and frequency 3710V MHz toward Shady Beach, Ill.
- 7438-C1-P-73, same (new): 2.2 miles southwest of Downey, Iowa. Latitude 41°35'42" N., longitude 91°22'48" W. C.P. for a new station on frequencies 3750V, 3830V, 3910V, 3990V, and 4070V MHz toward Williamsburg, Iowa, and frequency 3750V MHz toward Plainview, Iowa.
- 7439-C1-P-73, same (new): 3.2 miles southwest of Williamsburg, Iowa. Latitude 41°37'14" N., longitude 92°03'07" W. C.P. for a new station on frequencies 3710H, 3790H, 3870H, 3950H, and 4030H MHz toward Ewart, Iowa, and frequency 3710V MHz toward Downey, Iowa.
- 7440-C1-P-73, same (new): 1.8 miles southwest of Ewart, Iowa. Latitude 41°37'15" N., longitude 92°38'23" W. C.P. for a new station on frequencies 5974.8V, 6004.5H, 6034.2V, 6093.5V, and 6152.8V MHz toward Mingo, Iowa, and frequency 3750H MHz toward Williamsburg, Iowa.
- 7441-C1-P-73, same (new): 1.2 miles southwest of Mingo, Iowa. Latitude 41°45'08" N., longitude 93°18'10" W. C.P. for a new station on frequencies 6226.9H, 6256.5V, 6286.2H, 6345.5H, and 6404.8H MHz toward Des Moines, Iowa, and frequency 6226.9V MHz toward Ewart, Iowa.
- 7442-C1-P-73, same (new): 2.2 miles northeast of Des Moines, Iowa. Latitude 41°37'59" N., longitude 93°34'52" W. C.P. for a new station on frequencies 3750V, 3830V, 3910V, 3990V, and 4070V MHz toward Woodward, Iowa, and frequency 5974.8H MHz toward Mingo, Iowa.
- 7443-C1-P-73, same (new): 1.1 miles southeast of Woodward, Iowa. Latitude 41°50'35" N., longitude 93°54'23" W. C.P. for a new station on frequencies 3710V, 3790V, 3870V, 3950V, and 4030V MHz toward Bayard, Iowa, and frequency 3710V MHz toward Des Moines, Iowa.
- 7444-C1-P-73, Western Tele-Communications, Inc. (new): 5.9 miles north-northeast of Bayard, Iowa. Latitude 41°55'52" N., longitude 94°30'14" W. C.P. for a new station on frequencies 3750V, 3830V, 3910V, 3990V, and 4070V MHz toward Audubon, Iowa, and frequency 3750V MHz toward Woodward, Iowa.
- 7445-C1-P-73, same (new): 5 miles east of Audubon, Iowa. Latitude 41°43'28" N., longitude 94°49'40" W. C.P. for a new station on frequencies 3710H, 3790H, 3870H, 3950H, and 4030H MHz toward Defiance, Iowa, and frequency 3710V MHz toward Bayard, Iowa.
- 7446-C1-P-73, same (new): 3.8 miles west-northwest of Defiance, Iowa. Latitude 41°50'16" N., longitude 95°24'43" W. C.P. for a new station on frequencies 3750H, 3830H, 3910H, 3990H, and 4070H MHz toward Beebeetown, Iowa, and frequency 3750H MHz toward Audubon, Iowa.
- 7447-C1-P-73, same (new): 2.3 miles west of Beebeetown, Iowa. Latitude 41°31'34" N., longitude 95°47'55" W. C.P. for a new station on frequencies 6226.9H, 6286.2H, 6315.9V, 6345.5H, and 6404.8H MHz toward Omaha, Nebr., and frequency 3710H MHz toward Defiance, Iowa.
- 7448-C1-P-73, same (new): 7.6 miles southwest of Omaha, Nebr. Latitude 41°12'57" N., longitude 96°05'10" W. C.P. for a new station on frequency 5974.8V MHz toward Beebeetown, Iowa. (Informative: Applicant is proposing to provide network video service, along with occasional video between Chicago, Ill., and Omaha, Nebr., and other intermediate points.)

Informative

It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding Ex parte presentations, by reasons of economic competition.

5344 through 5362-C1-P-73, Nebraska Consolidated Communications Corp. (Chicago-Omaha); Western Tele-Communications, Inc. (Chicago-Omaha).

MAJOR AMENDMENTS

6486-C1-MP-73, CPI Microwave, Inc. (WPE 38), Midway, Tex.: Station 4 miles southwest of Milford, Tex. Add frequency 6004.5V to Axtell, Tex., and delete frequency 6152.8 to Axtell, Tex. Change transmitter power of all frequencies to Axtell, Tex., to 2.5 watts.

4438-C1-MP-73, same (WPE46): Station 8.5 miles west of New Braunfels, Tex. Change polarization of frequency 5989.7 to Driftwood, Tex., to horizontal.

4436-C1-MP-73, same (WPE49): Station at Austin, Tex. latitude 30°16'59" N., longitude 97°44'28" W. Change polarization of frequency 5960.0 to Driftwood, Tex. to horizontal.

4441-C1-MP-73, same (WPE50): Station 2.3 miles southeast of Giddings, Tex. Change polarization of frequency 6049.0 to Welcome, Tex., to horizontal.

4442-C1-MP-73, same (WPE51), Welcome, Tex.: Station 3.5 miles southeast of Wesley, Tex. Change polarization of frequency 6330.7 to Giddings, Tex., to horizontal.

5902-C1-P-70, same (WPE55): Station 2 miles north-northeast of Crosby, Tex. Delete frequency 6241.7 and add frequency 6330.7V to Ames, Tex.

4445-C1-MP-73, same (WPE55): Station 2 miles north-northeast of Crosby, Tex. Delete frequency 6360.3 and add frequency 6241.7V to Ames, Tex.

4445-C1-MP-73, same (WPE55): Station 2 miles north-northeast of Crosby, Tex. Add frequency 6182.4V to Houston, Tex., azimuth 235°56', path 36.0 km.

6353-C1-MP-73, same (WPE59): Station at Houston, Tex. Add frequency 6019.2V to Crosby, Tex., azimuth 55°47', path 36.0 km.

POINT TO POINT MICROWAVE APPLICATIONS ASSOCIATED WITH DOMESTIC SATELLITE PROPOSALS

5171-C1-P-71, American Telephone & Telegraph Co. (new): Change azimuth toward Temecula, Calif., from 69°36' to 65°33' and delete path toward Sky Ranch, Calif.

5172-C1-P-71, same (new): Change path toward Sedco Hills to 348°55' toward Wildomar, Calif., and azimuth 249°40' toward De Luz, Calif., to 245°36'. Change location to Temecula, Calif., at latitude 33°29'26" N., longitude 117°12'37" W.

5173-C1-P-71, same (WIV87): Change from a C.P. for a new station to add frequencies

- 10735H, 10815H, 10895H, 10975H, and 11055H MHz on azimuth 304°40' toward Corona, Calif., and frequencies 2112.0H, 10735H, 10815V, 10895V, 10975V, and 11055V MHz on azimuth 168°54' toward Temecula, Calif. Change location to Wildomar, Calif., at latitude 33°38'20" N., longitude 117°14'42" W.
- 5174-C1-P-71, same (WIV88): Change from a C.P. for a new station to add frequencies 11225V, 11305V, 11385V, 11465V, and 11545V MHz on azimuth 124°29' toward Wildomar, Calif. Change location to Corona City Boundary, Calif., at latitude 33°49'43" N., longitude 117°34'27" W.
- 5195-C1-P-71, same (new): Add frequency 4198.0H MHz toward Chadwick, Ill.
- 5196-C1-P-71, same (new): Change frequencies and path toward Franklin Grove to 3710.0V, 3810.0V, and 4190.0V MHz on azimuth 144°02' toward Dixon, Ill. Add frequency 4190.0H MHz toward Elizabeth, Ill.
- 5197-C1-P-71, same (new): Add frequency 4198.0V MHz and change azimuth to 93°15' toward Lee, Ill. Add frequency 4198.0V MHz and change azimuth to 294°18' toward Chadwick, Ill. Change location to Dixon, Ill., at latitude 41°52'23" N., longitude 89°32'04" W.
- 5198-C1-P-71, same (KSA49): Change frequencies and path toward Franklin Grove to 3710.0F, 3790.0V, 3870.0V, and 4190.0V MHz on azimuth 273°39' toward Dixon, Ill.
- 5209-C1-P-71, same (new): Change frequencies toward Zebulon, Ga., from 10775, 10935, 11015, and 11095 to 11325H, 11485H, and 11645H MHz. Delete path toward Luthersville, Ga.
- 5210-C1-P-71, same (new): Change frequencies toward Woodbury Junction, Ga., from 11345, 11425, 11505, and 11665 to 10715H, 10875H, and 11035H MHz. (All other particulars same as reported in public notice, report No. 539, dated Apr. 12, 1971.)

[FR Doc. 73-7677 Filed 4-20-73; 8:45 am]

FEDERAL MARITIME COMMISSION

[Docket No. 73-18]

POSSIBLE BREACH OF PACIFIC COAST EUROPEAN CONFERENCE RATE AGREEMENT

Order To Show Cause

The Pacific Coast European Conference (Conference) presently has in effect a shipper's rate agreement (Agreement) which was approved by the Commission pursuant to section 14b of the Shipping Act, 1916, and the Commission's decision in *The Dual Rate Cases*, 8 F.M.C. 16 (1964) on December 9, 1966. With the exception of one modification not material or relevant here, this agreement has remained unchanged since its approval.

The Agreement is a standard form of dual rate contract by which signatory shippers agree to confine the carriage of their cargo in certain designated trade areas exclusively to Conference member lines in return for rates lower than the published tariff rates.

Article 1(c) (1) of the Agreement, consistent with the provisions of section 14b(3) of the Shipping Act, 1916, and the mandate of the Commission in *The Dual Rate Cases*, supra, provides that only those goods of the signatory shipper as to which he has the legal right at the time of shipment to select the carrier shall be subject to the Agreement.

Notwithstanding the foregoing provision of the Agreement, the Conference on January 8, 1970, circulated a "Notice to All Contract Shippers" in which it was stated that contract rates would be granted "only to shippers whose cargoes are tendered to Conference vessels, exclusively." This unilateral interpretation was to apply, "regardless of the shippers' terms of sale, whether FOB, FAS, C & F, CIF or otherwise."

Thereafter, on November 28, 1972, the Conference circulated a "Notice to Shippers of Cotton", in which it "ADVISED" all contract shippers "THAT SHIPMENT ON ANY VESSEL OF THE SPANISH LINE, IN ITS PRESENT STATUS [that of a non-Conference carrier], WILL CONSTITUTE A VIOLATION OF THE SHIPPER'S OBLIGATIONS UNDER [the Agreement]." This latter notice was prompted by the announcement of the inauguration of an independent monthly service by Spanish Line from U.S. Pacific Coast ports to ports in Spain, France, and Italy.

Subsequently, and in response to this latest "Notice", certain signatory shippers; namely, Geo. H. McFadden & Bro., Starke-Taylor & Son, Inc., Jess Smith & Sons, Calcot Ltd., and the Allenberg Cotton Co. (hereinafter collectively referred to as "shippers"), notified the Conference pursuant to article 2(c) of the Agreement¹ that certain shipments of cotton were to be carried by non-Conference vessels designated by the Spanish consignees of those goods which were sold on an FOB basis.² Shippers claim that since the term of sales of the cotton transported on non-Conference vessels was FOB and that the routing of the cotton shipments via non-Conference vessels was dictated by the Spanish consignees pursuant to a Spanish decree, they had no legal right, within the meaning of article 1(c) (1) of the Agreement, to select the carrier at the time of shipment.

The Conference on the other hand has held to the interpretation announced in its circular letter of January 8, 1970, claiming that regardless of the terms of sale, the shippers were obligated under the Agreement to utilize Conference vessels on all its shipments of cotton. As a result, during January 1973, the Conference sent similar letters to the ship-

¹ Article 2(c) requires signatory shippers to notify the Conference of any shipment, with which they are involved, made on a non-Conference vessel where the legal right to select the carrier is vested in another person.

² The following cotton shipments have been made on non-Conference vessels:

- Starke-Taylor & Son, Inc.
3152 bales loaded on *SS Star Heranger*
on November 17, 1972.
6148 bales loaded on *SS Star Taranger*
December 28, 1972.
Jess Smith & Sons
1999 bales loaded on *MS Holstenbank*
December 15, 1972.
Calcot, Ltd.
2000 bales loaded on *SS Star Heranger*
November 21, 1972.
McFadden
3604 bales on *MS Holstenbank*
December 12 and 15, 1972.

pers in which it demanded certain enumerated money damages for the loss of cotton shipments to non-Conference vessels. In addition, the Conference announced its intention to suspend the shippers' contract privileges and apply noncontract rates to all future shipments of those signatories unless the requested damages were forthcoming.

Nowhere in the Agreement is the Conference authorized to suspend an individual shipper's contract rights for an asserted breach thereof. While the Commission, in *The Dual Rate Cases*, supra, did prescribe optional clauses, to be used in addition to the mandatory provision fixing the measure of damages, which would allow for the suspension of a shipper's "rights and obligations" for failure to pay or dispute his liability to pay damages, the Conference has chosen not to include these clauses in its Agreement.

The only termination clause contained in the Conference's Agreement is article 13 which allows the Agreement to "be terminated by either party giving to the other ninety (90) days' written notice." Article 13, however, is inapplicable to the present situation since the Commission in permitting this provision, has expressly made its interpretation subject to the third-from-last sentence of section 14b, which states, in relevant part, that a "conference . . . may on 90 days' notice terminate . . . the contract rate system . . . in whole or with respect to any commodity". (emphasis added)³ Thus, article 13 of the Agreement only allows the Conference to terminate the contract with respect to all of its signatories or with respect to a particular commodity. It does not allow for the Conference's termination of its contract with respect to a particular shipper.

The Conference's action in the instant situation appears to constitute a failure to abide by the terms of its own Agreement. Although suspension for asserted breach is not authorized under the terms of the Agreement, the Conference has threatened and continues to threaten suspension as regards certain alleged breaches by various cotton shippers. Moreover, since the Agreement contains an express clause (article 12) providing for the arbitration of disputes arising under the Agreement, the controversy over whether the shippers, heretofore mentioned, had the legal right to select the carrier at the time certain shipments were made is a matter which, we believe, should be submitted to arbitration.

Therefore it is ordered, That pursuant to sections 14b and 22 of the Shipping Act, 1916, respondent Conference show cause why (1) the dispute between it and Geo. H. McFadden & Bro., Starke-Taylor & Son, Inc., Jess Smith & Sons, Calcot Ltd. and the Allenberg Cotton Co., as to whether such shipper-signatories had the legal right to select the carrier at the time certain aforementioned shipments of cotton were made on non-Conference vessels should not be submitted to ar-

³ See footnote 16, 8 F.M.C. 38.

bitration pursuant to article 12 of the Conference's shipper's rate Agreement; (2) it should not be ordered to cease and desist from suspending and/or threatening to suspend its shipper rate Agreement with the above named shipper signatories as well as any other shipper signatories who may be similarly situated; and (3) the Commission should not disapprove the Conference's shipper's rate Agreement for failure to abide by its terms as required by section 14b of the Shipping Act, 1916.

It is further ordered, That there appearing to be no material issues of fact in dispute that this proceeding shall be limited to the submission of affidavits and memoranda of law and replies thereto. Should any party feel that an evidentiary hearing is required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such proof cannot be submitted through affidavit. Requests for hearing shall be filed on or before May 10, 1973. Affidavits of fact and memoranda of law shall be filed by respondent, and served upon all parties no later than the close of business May 10, 1973. Reply affidavits and memoranda of law shall be filed by the Commission's Bureau of Hearing Counsel and intervenors, if any, no later than close of business May 24, 1973. An original and 15 copies of affidavits of fact, memoranda of law, and replies are required to be filed with the Secretary, Federal Maritime Commission, Washington, D.C. 20573. Copies of any papers filed with the Secretary should also be served upon all parties thereto. Time and date of oral argument, if requested and/or deemed necessary by the Commission, will be announced at a later date.

It is further ordered, That the Pacific Coast European Conference and its member lines as listed in appendix A attached hereto be made respondents in this proceeding:

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and a copy thereof be served upon respondents;

It is further ordered, That any person other than those named as respondents herein who desires to become a party to this proceeding and participate therein, shall file a petition to intervene in accordance with rule 5(1) of the Commission's rules of practice and procedure, 46 CFR 502.72;

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, shall be mailed directly to all parties of record.

By the Commission.

[SEAL]

FRANCIS C. HURNEY,
Secretary.

APPENDIX A

Pacific Coast European Conference, G. E. Hay, Chairman, 417 Montgomery St., San Francisco, Calif. 94104.

Anglo Canadian Line, Anglo Canadian Shipping Co. Ltd., 837 West Hastings St., Vancouver 1, British Columbia, Canada.

Blue Star Line Ltd., Dover Shipping Agency, Inc., 21 West St., New York, N.Y. 10006.
D'Amico Mediterranean Pacific Line, c/o Hansen & Tidemann, Inc., 16th floor, Cotton Exchange Bldg., Houston, Tex. 77052.
East Atlantic Co. Ltd., 67 Broad St., New York, French Line, % Atlantic Container Line, 30 Church St., New York, N.Y. 10007.
Hanseatic-Vaasa Line, % Williams, Dimond & Co., 215 Market St., San Francisco, Calif. 94105.

Holland America Line, Pier 40, North River, New York, N.Y.

Hapag-Lloyd Aktiengesellschaft, c/o United States Navigation Inc., 17 Battery Pl., New York, N.Y. 10004.

Italian Line, 1 Whitehall St., New York, N.Y. 10004.

Italpac Line, c/o Transmarine Navigation Corp., 655 South Flower St., Los Angeles, Calif. 90017.

Johnson Line, 110 East 59th St., New York, N.Y. 10022.

Seatrains International, S.A., Port Seatrain, Wehawken, N.J. 07087.

United Yugoslav Lines, c/o Monitor Steamship Agencies, Inc., 2 Pine St., San Francisco, Calif. 94111.

Zim Israel Navigation Co., Ltd., c/o Mediterranean Agencies, 1 World Trade Center, suite 2969, New York, N.Y. 10048.

[FR Doc.73-7808 Filed 4-20-73;8:45 am]

N.V. VOLENDAM AND HOLLAND AMERICA CRUISES, N.V.

Notice of Issuance of Certificate [Casualty]

Security for the protection of the public financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

N.V. Volendam and Holland America Cruises N.V. (Holland America Cruises), c/o Holland America, Pier 40, North River, New York, N.Y. 10014.

Dated April 17, 1973.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-7806 Filed 4-20-73;8:45 am]

N.V. VOLENDAM AND HOLLAND AMERICA CRUISES N.V.

Notice of Issuance of Certificate [Performance]

Security for the protection of the public indemnification of passengers for non-performance of transportation.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime

Commission General Order 20, as amended (46 CFR Part 540):

N.V. Volendam and Holland America Cruises N.V. (Holland America Cruises), % Holland America Cruises, Pier 40, North River, New York, N.Y. 10014.

Dated April 17, 1973.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-7807 Filed 4-20-73;8:45 am]

OCEANIC CRUISES DEVELOPMENT, INC., AND ORIENT OVERSEAS

Notice of Issuance of Certificate [Performance]

Security for the protection of the public indemnification of passengers for non-performance of transportation.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR part 540):

Oceanic Cruises Development, Inc. and/or Orient Overseas Line, Inc., c/o Orient Overseas Services, Inc., 311 California Street, San Francisco, Calif. 94104.

Dated April 17, 1973.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-7804 Filed 4-20-73;8:45 am]

OCEANIC CRUISES DEVELOPMENT, INC., AND ORIENT OVERSEAS LINE, INC.

Notice of Issuance of Certificate [Casualty]

Security for the protection of the public financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR part 540):

Oceanic Cruises Development, Inc. and/or Orient Overseas Line, Inc., c/o Orient Overseas Services, Inc., 311 California Street, San Francisco, Calif. 94104.

Dated April 17, 1973.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-7805 Filed 4-20-73;8:45 am]

**FEDERAL POWER COMMISSION
ALASKA POWER SURVEY ADVISORY
COMMITTEES**

Order Designating Additional Members

APRIL 16, 1973.

The Federal Power Commission, by orders issued June 28, 1972, and August

25, 1972, established the Alaska Power Survey Executive Advisory Committee and various technical advisory committees.

Membership.—Additional members of the following Alaska Power Survey Advisory Committees, as selected by the Chairman of the Commission, with the approval of the Commission, are as follows:

EXECUTIVE ADVISORY COMMITTEE

Mr. C. J. Miller, member, general manager, Fairbanks Municipal Utilities.

Mr. James F. Palin, member, acting manager, Copper Valley Electric Association, Inc.

Mr. C. J. Miller replaces Mr. Arthur J. Movius who has resigned from the Executive Advisory Committee. Mr. James F. Palin replaces Mr. Keith B. Maxwell who has resigned from the Executive Advisory Committee.

TECHNICAL ADVISORY COMMITTEE ON RESOURCES AND ELECTRIC POWER GENERATION

Mr. Robert J. Cross, member, Acting Chief, Division of Project Development, Alaska Power Administration.

Mr. James F. Palin, member, Acting Manager, Copper Valley Electric Association, Inc.

Mr. Homer L. Burrell, member, Director, Division of Oil and Gas, Department of Natural Resources, Anchorage, Alaska.

Mr. Robert J. Cross replaces Mr. Thomas R. Cantine who has resigned from this Technical Advisory Committee. Mr. James F. Palin replaces Mr. Keith B. Maxwell who has resigned from this Technical Advisory Committee.

TECHNICAL ADVISORY COMMITTEE ON COORDINATED SYSTEM DEVELOPMENT AND INTERCONNECTIONS

Mr. James F. Palin, member, Acting Manager, Copper Valley Electric Association, Inc.

Mr. C. J. Miller, member, General Manager, Fairbanks Municipal Utilities System.

Dr. W. M. Sackinger, member, Associate Professor of Electrical Engineering and Arctic Environmental Engineering, University of Alaska.

Mr. James F. Palin replaces Mr. Keith B. Maxwell who has resigned from this Technical Advisory Committee. Mr. C. J. Miller replaces Mr. Arthur J. Movius who has resigned from this Technical Advisory Committee.

By direction of the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 73-7719 Filed 4-20-73; 8:45 am]

[Dockets Nos. RP73-86, RP73-85]

COLUMBIA GAS TRANSMISSION CO. AND COLUMBIA GULF TRANSMISSION CO.

Order Accepting for Filing and Suspending Proposed Revised Tariff Sheets, Providing for Hearing, Permitting Interventions, and Consolidating Proceedings

APRIL 13, 1973.

On February 28, 1973, Columbia Gas Transmission Corp. (Columbia) tendered for filing proposed changes in its FPC gas tariff, original volume No. 1.¹ The

¹ Eighth revised sheet No. 16 (superseding seventh revised sheet No. 16 and second revised sheet Nos. 16A through 16E).

proposed changes would increase Columbia's revenues from jurisdictional sales and service by \$57,985,000 for the 12-month period ending October 31, 1972, as adjusted for known and measurable changes through July 31, 1973. The proposed effective date is April 14, 1973. Copies of the filing were served upon Columbia's jurisdictional customers and the State public service commissions of the States in which Columbia conducts its business.

The filing is made pursuant to the Commission's order issued March 10, 1971, 45 FPC 398, in docket No. CP71-132, wherein the Commission approved the final step in the realignment of the seven jurisdictional Appalachian companies of the Columbia Gas System into a single transmission company. Ordering paragraph E of that order provided that the instant rate filing should be either "in support of * * * then existing rates and rate zones or in support of any new rates or rate zones which Columbia may propose at that time." Columbia does not propose any changes in its rate zones in this filing.

Columbia states that the increased revenues to be derived from the new rates will be due to an increase in rate of return from 8.15 percent to 9 percent, increased depreciation rates and increases in cost of gas transported by others for Columbia. Columbia states that these additional revenues are needed to increase the internal generation of capital to attract more outside capital to aid Columbia in its search for new gas.

Notice of the filing was issued on March 5, 1973, and petitions and one notice to intervene were received by the parties listed in appendix A. The UGI Corp., the city of Charlottesville, Va. (Charlottesville), and the Public Service Commission of New York (New York) also request a 5-month suspension of and a hearing on the proposed rate increase. Charlottesville also requests that the proceedings in this docket be consolidated with those in Columbia Gulf Transmission Co., docket No. RP73-85, for purposes of hearing and decision. Moreover, New York requested that a filing date not be assigned until Columbia filed cost data supporting its rates and rate zones.

On March 28, 1973, the Commission issued an order directing submission of additional data which indicated that Columbia has not

complied with ordering paragraph E of our order issued March 10, 1971, 45 FPC 398 nor with section 154.63 of the Commission's regulations under the Natural Gas Act by not filing sufficient data supporting its historical rates and rate zones. Therefore, we shall not accept Columbia's proposed revised tariff sheets for filing nor assign a filing date thereto until Columbia submits the additional data in satisfactory compliance with the terms and conditions of this order.

On April 12, 1973, Columbia filed data which appears to have complied with our March 28, 1973, order. Therefore, pursuant to § 154.63(c)(4) of the Commission's regulations under the Natural Gas Act, the supplementary material will be deemed to have been filed as of the same date as the initial submittal of the proposed rate increase.

Our review of Columbia's filing indicates that certain issues are raised which may require development in an evidentiary proceeding. The proposed increases in rates and charges have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Moreover, the fact that the operations of Columbia are closely associated with the operations of Columbia Gulf Transmission Co. (Columbia Gulf) makes it appropriate that the filing in docket No. RP73-86 be suspended for 5 months until September 14, 1973, subject to refund, and consolidated with the proceedings in docket No. RP73-85 for purposes of hearing and decision. In view of this action, we will extend the present service and hearing dates set in docket No. RP73-85 as noted below.

In accepting the proposed rates for filing, we note that the entire rate increase has been applied to the commodity rate level. However, comparison of Columbia's cost of service classified on unmodified Seaboard to the revenues generated by such increased commodity rate indicates that these rates fail to recover the classified commodity rates by some \$72 million. To the extent that these rates as filed do not recover fully allocated Seaboard costs, as may be determined herein, Columbia may be required to absorb the impact of any undercollections under these rates as may occur.

The Commission finds

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Columbia's FPC gas tariff, as proposed to be amended in this docket, and that the tendered tariff sheet listed in footnote 1 above be accepted for filing and suspended as hereinafter provided.

(2) In the event this proceeding is not concluded prior to the termination of the suspension period herein ordered, the placing of the tariff changes applied for in this proceeding into effect, subject to refund with interest while pending Commission determination as to their justness and reasonableness, is consistent with the purpose of the Economic Stabilization Act of 1970, as amended.

(3) Participation of the parties listed in appendix A in this proceeding may be in the public interest.

The Commission orders

(A) Pursuant to the authority of the Natural Gas Act particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR ch. I), a public hearing shall be held in a hearing room of the Federal Power Commission, Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in Columbia's FPC gas tariff, as proposed to be amended herein.

(B) Dockets Nos. RP73-86 and RP73-85 are consolidated for purposes of hearing and decision.

(C) Pending hearing and a decision thereon Columbia's tariff sheet listed in footnote 1 above is accepted for filing, suspended for 5 months and the use thereof deferred until September 14, 1973, and until such further time as it is made effective in the manner provided in the Natural Gas Act.

(D) At the prehearing conference on October 9, 1973, the prepared testimony (statement P) of Columbia and Columbia Gulf, together with their entire rate filings, shall be admitted to the record as their complete cases-in-chief subject to appropriate motions, if any, by parties to the proceeding.

(E) On or before October 2, 1973, the Commission staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of all intervenors shall be served on or before October 16, 1973. Any rebuttal evidence by Columbia and Columbia Gulf shall be served on or before October 30, 1973. The public hearing ordered shall convene on November 13, 1973, at 10 a.m., e.s.t.

(F) The petitioners listed in appendix A are hereby permitted to intervene in these proceedings, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in the respective petitions to intervene and *Provide, further,* That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in these proceedings.

(G) Pursuant to § 2.59(c) of the Commission's rules of practice and procedure, Columbia shall promptly serve copies of its filing upon all of the above mentioned intervenors, unless such service has already been effected pursuant to part 154 of the regulations under the Natural Gas Act.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission,

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX A

PARTIES FILING PETITIONS TO INTERVENE¹

Baltimore Gas & Electric Co.
Central Hudson Gas & Electric Corp.
City of Charlottesville, Va.
The Cincinnati Gas & Electric Co.
The Union Light, Heat & Power Co.
Columbia Gas of Kentucky, Inc.
Columbia Gas of Maryland, Inc.
Columbia Gas of New York, Inc.
Columbia Gas of Ohio, Inc.
Columbia Gas of Pennsylvania, Inc.
Columbia Gas of Virginia, Inc.
Columbia Gas of West Virginia, Inc.
Commonwealth Natural Gas Corp.
Dayton Power & Light Co.
General Services Administration
New York State Electric & Gas Corp.
Orange & Rockland Utilities, Inc.

¹The Public Service Commission of New York filed a notice of intervention.

Pennsylvania Gas & Water Co.
The Peoples Natural Gas Co. and West Ohio Gas Co.
Roanoke Gas Co.
UGI Corp.
United Natural Gas Co.
Virginia Pipe Line Co.
Washington Gas Light Co.

[FR Doc.73-7720 Filed 4-20-73; 8:45 am]

[Docket No. E-7453]

IOWA-ILLINOIS GAS & ELECTRIC CO.

Notice of Application

APRIL 16, 1973.

Take notice that on April 9, 1973, Iowa-Illinois Gas & Electric Co. (Applicant) pursuant to section 204 of the Federal Power Act to extend to no later than June 30, 1974, the date of issuance and to no later than June 30, 1975, the final maturity date of notes authorized to be issued, the maximum principal amount of notes authorized to be outstanding to remain at \$40 million.

Applicant is incorporated under the laws of the State of Illinois with its principal business office at Davenport, Iowa, and is engaged in the electric and gas utility businesses within the State of Iowa and the State of Illinois.

The notes are to be issued from time to time to banking institutions and/or sold as commercial paper to direct purchasers or through commercial paper dealers.

Notes to banking institutions will be issued in accordance with various informal lines of credit agreements. The notes are to have maturities of up to 1 year from their dates and in any event on or before June 30, 1975, and are to bear interest at the prime rate in effect at the time of issuance.

Commercial paper will be issued as unsecured promissory notes and, in most cases, sold through established commercial paper dealers. In some cases commercial may be placed directly. Commercial paper notes are to have maturities of not more than 270 days from their dates and in any event on or before June 30, 1975, and the interest rate will be dependent upon the terms of the notes and money market conditions at the time of issuance.

The proceeds from the issuance of notes will be added to working capital for ultimate application toward the cost of gross additions to utility plant. The proposed extension of authority will allow Applicant more freedom in selecting the most appropriate time to replace notes with capital securities.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 2, 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 is available for public inspection.

KENNETH L. PLUMB,
Secretary.

[FR Doc.73-7721 Filed 4-20-73; 8:45 am]

[Docket No. E-8110]

Notice of Application

APRIL 16, 1973.

IOWA POWER & LIGHT CO. ET AL.

Take notice that Iowa Power & Light Co., Iowa Southern Utilities Co., and Iowa Public Service Co. (Applicants) on April 4, 1973, filed an application pursuant to section 204 of the Federal Power Act seeking approval of an agreement to severally and not jointly guaranty repayment of 28 percent, 23 percent, and 20 percent respectively (aggregating \$15,620,000) of \$22 million of pollution control revenue bonds, which the town of Salix, Iowa, intends to issue.

The town intends to issue \$22 million of pollution control revenue bonds to pay for construction of air pollution control facilities to be installed at unit No. 3 at the George Neal Generating Station located near Salix, Iowa, which is jointly owned by Iowa Power & Light Co., Iowa Southern Utilities, Iowa Public Service Co., and Iowa-Illinois Gas & Electric Co. as tenants in common. Final completion of these facilities is expected to be January 1, 1976 or thereafter.

The facilities will be owned by the companies and the financing for the facilities will be arranged under a lease-sublease arrangement between the town and Iowa Power & Light Co., Iowa Southern Utilities Co., Iowa Public Service Co., and Iowa-Illinois Gas & Electric Co. with the companies making payments under the sublease sufficient to pay the principal, premium, if any, and interest due on the bonds together with related expenses.

The bonds will not be issued by Iowa Power & Light Co., Iowa Southern Utilities Co., or Iowa Public Service Co. and no payments will be required under the guarantee if the utilities make all the payments under the sublease.

Any person desiring to be heard or to make any protest with reference to such application should on or before May 2, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (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 proceedings. 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 rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7722 Filed 4-20-73;8:45 am]

[Docket No. CP72-284, etc.]

NORTHERN NATURAL GAS CO., ET AL.

Notice of Postponement of Hearing

APRIL 13, 1973.

Northern Natural Gas Co., docket No. CP72-284 (phase II), St. Croix Valley Natural Gas Co., Inc., docket No. CP72-215, Wisconsin Power & Light Co., docket No. CP73-178, Lloyd V. Crum, Jr., docket No. CP71-321.

On April 6, 1973, Wisconsin Power & Light Co. filed a motion to continue the hearing fixed by order issued March 29, 1973 in the above-designated matters. The motion states that Northern Natural Gas Co., St. Croix Valley Natural Gas Co., and Lloyd V. Crum, Jr. and staff counsel have no objection to the request.

Upon consideration, notice is hereby given that the hearing in the above-designated matters is postponed until May 1, 1973, at 10 a.m., e.d.t., in a hearing room of the Federal Power Commission at 441 G Street NW., Washington, D.C.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7723 Filed 4-20-73;8:45 am]

[Docket No. RP73-75, etc.]

SOUTHWEST GAS CORP., ET AL.

Order Consolidating Proceedings

APRIL 13, 1973.

On January 15, 1973, Southwest Gas Corp. (Southwest) tendered for filing a complaint, pursuant to sections 4(b) and 5(a) of the Natural Gas Act and § 1.6 of the Commission's rules of practice and procedure, against El Paso Natural Gas Co. (El Paso).

In its complaint, Southwest states that it presently purchases gas under El Paso's FPC rate schedule A-1-X. Southwest contends that it fully meets all the qualifications of a schedule G and G-X customer, and that El Paso's refusal, by letter dated October 16, 1972, to serve Southwest under those schedules constitutes discrimination because other of El Paso's customers under the G and G-X schedules receive similar service at similar geographic points as Southwest.

Southwest also notes that El Paso has an application for a rate increase applicable to the Southern Division pending before the Commission in dockets Nos. RP72-150 and 155, and therefore requests that its complaint be consolidated for hearing as an issue in that proceeding.

Notice of the filing of the complaint was issued on February 5, 1973, setting

February 16, 1973, as the due date for protests and petitions to intervene. Timely petitions to intervene were filed by Southern California Gas Co. and Pacific Gas & Electric Co. Untimely petitions to intervene were received from San Diego Gas & Electric Co., Tucson Gas & Electric Co. and the Arizona Public Service Co. The people of the State of California and the public utilities commission of California filed an untimely notice of intervention. All of these petitioners are parties to the proceeding in dockets Nos. RP72-150 and 155.

On January 24, 1973, El Paso filed a letter with the Commission stating that it has no objection to the consolidation of the instant complaint with the proceeding in Dockets Nos. RP72-150 and 155 in order to establish the complaint as an issue of rate design.

While the present FPC rate schedule G is not available to Southwest, we will construe Southwest's complaint as an allegation that the present schedule G is discriminatory, and accordingly set this matter for hearing.

The Commission finds

In view of the fact that Southwest, in its complaint, raises issues which are appropriate for determination in El Paso's pending rate proceedings dockets Nos. RP72-150 and RP72-155 it is reasonable and appropriate to consolidate docket No. RP73-75 with those proceedings.

The Commission orders

Docket No. RP73-75 is hereby consolidated with the proceeding in dockets Nos. RP72-150 and 155.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7725 Filed 4-20-73;8:45 am]

[Docket No. CP73-255]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

APRIL 16, 1973.

Take notice that on March 30, 1973, Transcontinental Gas Pipe Line Corp. (applicant), Post Office Box 1396, Houston, Tex. 77001, filed in docket No. CP73-255 an application pursuant to section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and delivery of natural gas for Texas Eastern Transmission Corp. (Texas Eastern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to render a transportation service for Texas Eastern in accordance with an agreement dated February 20, 1973. Applicant states that under the proposed agreement, Texas Eastern will deliver to applicant volumes of natural gas available to it from the block A-1 field, Brazos area, offshore Matagorda County, Tex. Applicant indicates that it will transport such gas and deliver equivalent volumes to United Gas Pipe Line Co. (United) for

Texas Eastern's account on a firm basis at a presently existing connection between the facilities of United and applicant in Victoria County, Tex. Applicant indicates further that it is not obligated to transport more than 8,000 M ft.³ of such gas per day at 14.7 lb/in.². Applicant states that the gas will enter Texas Eastern's system in Jackson County, Tex., by means of an exchange agreement between United and Texas Eastern. The agreement between applicant and Texas Eastern provides that imbalances in deliveries between them will be corrected within 30 days or a mutually agreeable longer period.

For this transportation service, applicant states that Texas Eastern will pay it 6.25 cents for each M ft.³ transported.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 8, 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) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protesting parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7724 Filed 4-20-73;8:45 am]

[Dockets Nos. RI73-257, et al.]

SUN OIL CO., ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund¹

APRIL 11, 1973.

Respondents have filed proposed changes in rates and charges for jurisd-

¹ Does not consolidate for hearing or dispose of the several matters herein.

dictional sales of natural gas, as set forth in appendix A below.

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 up 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 Ch. 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 ac-

tion by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

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 M ft ³		Rate in effect subject to refund in docket No.
									Rate in effect	Proposed increased rate	
R173-267	San Oil Co.	176	6	El Paso Natural Gas Co. (Payton Unit, Pecos County, Tex., Permian Basin).	(C)	3-12-73		5-13-73	15.9301	17.2930	R170-433.
R173-268	Texas Pacific Oil Co., Inc.	19	16	West Texas Gathering Co. (Emperor Devonian, Winkler County, Tex., Permian Basin).		3-12-73		4-12-73	12 Accepted		
R173-269	Phillips Petroleum Co.	485	6	El Paso Natural Gas Co. (Lusk Plant, Lea County, N. Mex., Permian Basin).	\$186,508	3-12-73		9-12-73	† 21.0	‡ 29.5103	R173-202.
	do	484	8	El Paso Natural Gas Co. (Sales Ranch Field, Martin and Midland Counties, Tex., Permian Basin).	6,448	3-12-73		10-1-73	† 26.85	‡ 27.2	R172-193.
	do	484	8	El Paso Natural Gas Co. (Sales Ranch Field, Martin and Midland Counties, Tex., Permian Basin).	2,010	3-12-73		5-13-73	† 24.85	‡ 26.20	R172-193.
R173-269	Gulf Oil Corp.	259	8	El Paso Natural Gas Co. (West Jal Unit, Lea County, N. Mex., Permian Basin).	1,188	3-12-73		11-12-73	† 35.0	‡ 36.0	R173-40.
	do	259	8	El Paso Natural Gas Co. (West Jal Unit, Lea County, N. Mex., Permian Basin).	3,018	3-19-73		9-19-73	† 30.1800	‡ 31.1800	R173-40.
R173-261	Amoco Production Co.	110	34	El Paso Natural Gas Co. (Eumont and other fields, Lea County, N. Mex., Permian Basin).	1,095	3-19-73		9-27-73	† 30.00	31.00	
R173-262	Getty Oil Co.	67	9	Northern Natural Gas Co. (Emperor Field, Winkler County, Tex., Permian Basin).		3-19-73		4-19-73	12 Accepted		
R173-263	Continental Oil Co.	160	10	West Texas Gathering Co. (Emperor Field, Winkler County, Tex., Permian Basin).	60,257	3-19-73		9-19-73	19.07125	18 28.00	R173-145.
	do	160	17	West Texas Gathering Co. (Emperor Field, Winkler County, Tex., Permian Basin).		3-19-73		4-19-73	12 Accepted		
R173-264	Phillips Petroleum Co.	397	8	El Paso Natural Gas Co. (Lancaster Hill area, Crockett County, Tex., Permian Basin).	93,833	3-19-73		9-19-73	19.0713	28.105	R173-209.
	do	397	6	El Paso Natural Gas Co. (Lancaster Hill area, Crockett County, Tex., Permian Basin).		3-19-73		4-19-73	12 Accepted		
R173-265	Shell Oil Co.	168	7	West Texas Gathering Co. (Emperor Field, Winkler County, Tex., Permian Basin).	(15)	3-19-73		9-19-73	17.7363	11 35.6038	R170-86.
	do	168	12	West Texas Gathering Co. (Emperor Field, Winkler County, Tex., Permian Basin).	934,831	3-21-73		9-21-73	21.00	28.105	R173-291.
R173-266	American Petroleum Co.	20	11	El Paso Natural Gas Co. (Blanco Field, Rio Arriba County, N. Mex.) (San Juan Basin).	9,324	3-14-73		9-14-73	14 22.0	14 28.0	R172-211.
	do	24	19	El Paso Natural Gas Co. (Blanco Field, Rio Arriba County, N. Mex.) (San Juan Basin).	3,034	3-14-73		9-14-73	14 22.0	14 28.0	R172-211.
R173-267	Continental Oil Co.	275	6	El Paso Natural Gas Co. (Aneth Field, San Juan County, Utah).	967	3-19-73		9-19-73	22.22	23.23	R170-1629.

* Unless otherwise stated, the pressure base is 14.65 lb/in².

† No current deliveries.

‡ Amends pricing provisions.

§ Includes quality adjustments.

¶ Subject to quality adjustments.

‡ Correction filed Mar. 19, 1973.

§ Applicable to sales under Supp. No. 5 only.

¶ Rate includes Btu adjustment.

‡ For gas produced from formation below the Strawn Formation only.

§ This rate has been suspended until Apr. 27, 1973, by Commission order of Nov. 22, 1972, in docket No. R173-96.

The proposed increase of Continental Oil Co. under its FPC gas rate schedule No. 275 is for a sale of gas in the Aneth area of Utah where no formal increased ceiling rate has been announced. The proposed rate exceeds rate levels in the area previously suspended by the Commission and also exceeds the rate level for 1-day suspension. Accordingly, Continental's proposed rate is suspended for 5 months.

The proposed increases of Sun Oil Co. and the increase of Phillips Petroleum Co. under its FPC gas rate schedule No. 484, except insofar as it applies to sales under supplement No. 5, do not exceed the rate limits for

1-day suspensions and they are suspended for 1 day from the termination of the 60-day-notice period.

All remaining increases exceed the rate limit for 1-day suspensions and are suspended for 5 months from termination of the 30-day-statutory-notice period or from the contractual effective date, whichever is later.

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).

The rate increases granted in these cases have been reviewed in the light of and are

consistent with the Economic Stabilization Act of 1970, as amended, Executive Order No. 11695, and the rules and regulations issued thereunder.

[FR Doc.73-7654 Filed 4-20-73;8:45 am]

FEDERAL RESERVE SYSTEM

ALABAMA BANCORPORATION

Order Approving Acquisition of Bank

Alabama Bancorporation, Birmingham, Ala., 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 the successor by merger to The Commercial National Bank of Anniston, Anniston, Ala. (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of voting shares of Bank. Accordingly, the proposed acquisition 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 the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls four banks with deposits of \$873.3 million, representing about 14 percent of total deposits in commercial banks in Alabama.¹ Acquisition of Bank (deposits of \$30.6 million) would add only approximately half a percent to Applicant's share of Statewide deposits and would not result in a significant increase in the concentration of banking resources in Alabama.

Bank is the third largest of nine banks located in the Calhoun banking market and controls about 15 percent of the total deposits in that market.² Applicant's closest banking subsidiary is approximately 50 miles distant and there is no significant existing competition between it or any other banking subsidiaries of Applicant and Bank. Nor is there a reasonable probability of substantial future competition developing between Applicant and Bank due to Alabama's restrictive branching laws and the relative unattractiveness of Calhoun County for de novo entry, since one new bank charter has been recently granted for Calhoun County while two other applications for bank charters are presently being processed. On the basis of the record before it, the Board concludes that competitive considerations relating to the proposed acquisition are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks and Bank are satisfactory and consistent with approval of the application. Considerations relating to the convenience and needs of the community to be served lend some weight for approval of the application, since Applicant plans to expand Bank's trust and data processing services. It is the Board's judgment that the proposed acquisition is in the public interest and that the application should be approved.

¹ All banking data are as of June 30, 1972, and reflect bank holding company formations and acquisitions approved by the Board through Feb. 28, 1973.

² The Calhoun banking market is approximated by Calhoun County plus the city of Heflin.

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,³ effective April 11, 1973.

[SEAL] CHESTER B. FELDBERG,
Assistant Secretary of the Board.
[FR Doc.73-7787 Filed 4-20-73;8:45 am]

BANCOHIO CORP.

Order Approving Acquisition of Bank

BancOhio Corp., Columbus, Ohio, 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 all of the voting shares (less directors' qualifying shares) of the successor by merger to the Peoples National Bank of Greenfield, Greenfield, Ohio (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 largest bank holding company in Ohio, controls 36 banks with deposits totaling \$2.1 billion,¹ representing 8.5 percent of the commercial bank deposits in the State.

Bank (\$15.5 million in deposits), one of two banks operating in the market (approximated by Greenfield and Leesburg townships and some additional fringe areas), controls approximately 79 percent of total market deposits (as of Dec. 31, 1972). De novo entry into the market by applicant is not attractive in view of the declining population and the poor economic prospects of the area. Applicant's closest subsidiary to Bank is located 16 miles away, and that subsidiary is prevented from branching into Greenfield by Ohio's restrictive branching law. For these reasons and other facts of rec-

¹ Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, Sheehan and Bucher. Absent and not voting: Chairman Burns.

² All banking data are as of June 30, 1972, and reflect holding company formations and acquisitions approved through Feb. 28, 1973, unless otherwise noted.

ord, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of applicant and its present subsidiaries are regarded as satisfactory; those of Bank are also regarded as satisfactory, but are expected to become even more favorable under the leadership of applicant. Accordingly, considerations relating to the banking factors lend weight toward approval of the application.

One of the major improvements offered Bank by affiliation with applicant would be the increased lending limit made possible by loan participations in arrangements with other subsidiaries of applicant, which could serve to attract new businesses into the area. Accordingly, considerations relating to the convenience and needs of the community to be served lend weight toward approval of the 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 Cleveland pursuant to delegated authority.

By order of the Board of Governors,³ effective April 10, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.
[FR Doc.73-7788 Filed 4-20-73;8:45 am]

CHARTER NEW YORK CORP.

Order Approving Acquisition of Bank

Charter New York Corp., New York, N.Y., 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 all of the voting shares of the Bank of Lake Placid, Lake Placid, N.Y. (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

Applicant, the eighth largest banking organization in New York, controls 13 banks with aggregate deposits of \$4.2 billion representing 4.4 percent of the total

¹ Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns.

domestic deposits of commercial banks in the State.¹ Banking data are as of June 30, 1972 and reflect holding company formations and acquisitions approved by the Board through February 28, 1973. Consummation of the proposed acquisition of Bank, with deposits of \$14.2 million, would neither significantly increase applicant's share of commercial bank deposits in the State nor result in a significant increase in the concentration of banking resources in New York.

Bank, which primarily serves the villages of Lake Placid and Saranac Lake in northern New York's Adirondack Park Reserve, is the third smallest of six banks and controls approximately 13 percent of total deposits in the Franklin banking market (consisting of Franklin County and the towns of North Elba, St. Armand, and Wilmington in Essex County). Applicant's closest banking subsidiary to Bank is 115 miles distant and it appears that there is no meaningful existing competition between Bank and any of applicant's subsidiary banking offices.² Although applicant has the ability to establish a de novo bank in the relevant market, there is little likelihood that it will do so in view of the limited prospects of the Franklin market.³ Consummation of the proposal would enable Bank to compete more effectively with the three larger banking organizations whose aggregate control exceeds 75 percent of market deposits. (The largest bank in the market is a subsidiary of the seventh largest banking organization in the State while the second largest is a proposed subsidiary of the fifth ranked banking organization in New York.) Moreover, this acquisition would not raise significant barriers to entry as two banks headquartered in the market remain available as "footholds" for outside organizations. Furthermore, consummation herein could stimulate additional competition within Bank's service area as a result of its loss of home office protection in Lake Placid. The Board concludes that consummation of this proposal would not have an adverse effect on competition in any relevant area.

The financial condition and managerial resources of applicant and its subsid-

ary banks are satisfactory and future prospects for all are favorable. Bank's financial and managerial resources are good and, upon consummation, its future prospects will be enhanced. Affiliation with applicant should permit Bank to effectively compete with the larger institutions presently in the market as well as those which may enter as a result of statewide branching effective in 1976. Approval of the acquisition would enable Bank to broaden and improve the range of services it presently offers (including expanded consumer lending services and newly-provided trust services) and would provide customers in the area with an additional convenient source of full service banking. Considerations relating to the convenience and needs of the community to be served are therefore consistent with approval. It is the Board's judgment that the proposed transaction is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors,⁴ effective April 10, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board
[FR Doc.73-7789 Filed 4-20-73;8:45 am]

CHEBOYGAN STATE BANK

Order Approving Application for Merger of Banks

Cheboygan State Bank, Cheboygan, Mich., a proposed State member bank of the Federal Reserve System, has applied for the Board's approval pursuant to the Bank Merger Act (12 U.S.C. 1828 (c)) of the merger of that bank with Cheboygan Bank, Cheboygan, Mich., under the name of Cheboygan Bank.

As required by the act, notice of the proposed merger, in form approved by the Board, has been published, and the Board has requested reports on competitive factors from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The Board has considered the application in light of the factors set forth in the act.

On the basis of the record, the application is approved for the reasons summarized in the Board's order of this date relating to the application of First National Financial Corp. to acquire the successor by merger to Cheboygan Bank, provided that said merger shall not be

⁴Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns.

consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,⁵ effective April 10, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.
[FR Doc.73-7790 Filed 4-20-73;8:45 am]

FIRST NATIONAL FINANCIAL CORP.

Order Approving Acquisition of Bank

First National Financial Corp., Kalamazoo, Mich., 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 all of the voting shares of the successor by merger to Cheboygan Bank, Cheboygan, Mich. (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 the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

Applicant controls five banks with aggregate deposits of \$344.8 million,¹ representing 1.4 percent of the commercial banking deposits in the State.

Bank (\$16.6 million in deposits), the smaller of the two banks in the Cheboygan banking market (which is approximated by Cheboygan County), controls 41.6 percent of the total commercial bank deposits in that market. Applicant's acquisition of Bank would not result in Applicant's gaining a dominant share of Cheboygan County banking resources. Applicant's closest subsidiary to Bank is over 100 miles away. There is no meaningful competition between any of applicant's subsidiary banks and Bank; and due to distances involved and the presence of intervening banks, it appears unlikely that competition will develop between them in the future. Consummation of the proposal would not appear to have an adverse effect on any competing bank. Accordingly, the Board concludes that competitive considerations are consistent with approval of the application.

¹Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns.

²All banking data are as of June 30, 1972, and reflect holding company formations and acquisitions approved through Mar. 31, 1973.

¹ Applicant's lead bank, Irving Trust Co., New York City, has deposits of \$3.1 billion and operates 16 branches all within Manhattan; the other 12 subsidiary banks of applicant are small-to-medium size retail banks operating variously in seven of the State's remaining eight banking districts.

² The proposed acquisition would eliminate a negligible amount of existing competition; only 1 percent of Bank's deposits are derived from the combined service areas of applicant's affiliates. The majority of these deposits originate in the service area of Irving Trust Co. and belong to New York City residents who vacation in the Lake Placid area.

³ Projections indicate that the county will remain largely rural with no population growth in the foreseeable future, except for seasonal inflows of tourists. The population per banking office is 4,282, or 47 percent below the State's average of 6,300 persons.

The financial and managerial resources and future prospects of Bank, and of applicant and its present subsidiaries, are regarded as generally satisfactory. Applicant intends to increase Bank's capital accounts upon consummation of the acquisition. Accordingly, considerations relating to the banking factors are consistent with approval of the application. Applicant proposes to enable Bank to improve the services it now provides and to introduce new services so that Bank may become a more effective competitor in the market. Considerations relating to the convenience and needs of the community to be served are consistent with approval of the 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 Chicago pursuant to delegated authority.

By order of the Board of Governors,³ effective April 10, 1973.

[SEAL]

TYNAN SMITH,
Secretary of the Board.

[FR Doc. 73-7791 Filed 4-20-73; 8:45 am]

FEDERAL OPEN MARKET COMMITTEE Current Economic Policy Directive

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's current economic policy directive issued at its meeting held on January 16, 1973.¹

The information reviewed at this meeting suggests that real output of goods and services expanded much more rapidly in the fourth quarter than in the third quarter, and the unemployment rate declined. Wage rates have increased more rapidly in recent months than earlier in the year. Consumer prices rose considerably again in November. Wholesale prices of farm and food products advanced sharply in December but those of industrial commodities increased little. On January 11 the President announced phase III of the economic stabilization program, which has among its major objectives a further reduction in the rate of inflation. The overall deficit in the U.S. balance of payments has remained substantial in recent months, and U.S. merchandise imports rose more than exports in November.

Growth in the narrowly and broadly defined money stock was exceptionally rapid in December, after having been moderate on average during the preceding 4 months. In recent weeks interest

rates on both short- and long-term securities have risen moderately. Effective January 15, Federal Reserve discount rates were raised one-half of a percentage point to 5 percent.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions consonant with the aims of the economic stabilization program, including further abatement of inflationary pressures, sustainable growth in real output and employment, and progress toward equilibrium in the country's balance of payments.

To implement this policy, while taking account of the forthcoming Treasury financing and possible credit market developments, the Committee seeks to achieve bank reserve and money market conditions that will support slower growth in monetary aggregates over the months ahead than occurred in the second half of last year.

By order of the Federal Open Market Committee, April 16, 1973.

ARTHUR L. BROIDA,
Deputy Secretary.

[FR Doc. 73-7822 Filed 4-20-73; 8:45 am]

MANUFACTURERS HANOVER CORP. Proposed Acquisition of Citizens Mortgage Corp.

Manufacturers Hanover Corp., Dover, Del., 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 substantially all of the assets of Citizens Mortgage Corp., Southfield, Mich. Notice of the application was published in newspapers on the following dates:

Clearwater Sun: Clearwater, Fla.: Jan. 30, 1973.
Chicago Daily News: Chicago, Ill.: Jan. 30, 1973.
Arizona Republic: Phoenix, Ariz.: Jan. 29, 1973.
The Birmingham News and The Birmingham Post-Herald: Birmingham, Ala.: Jan. 29, 1973.
American Banker: New York, N.Y.: Jan. 31, 1973.
The New York Times: New York, N.Y.: Jan. 31, 1973.
The Cincinnati Post and Times-Star: Hamilton County, Ohio: Jan. 29, 1973.
Columbus Citizens-Journal: Franklin County, Ohio: Jan. 29, 1973.
The Kalamazoo Gazette: Kalamazoo County, Mich.: Jan. 29, 1973.
The Evening News: Jeffersonville, Ind.: Jan. 27, 1973.
The Cincinnati Enquirer: Hamilton County, Ohio: Jan. 29, 1973.
The Plain Dealer: Cuyahoga County, Ohio: Jan. 29, 1973.
The Courier Journal and The Louisville Times: Louisville, Ky.: Jan. 29, 1973.
The Columbus Dispatch: Columbus, Ohio: Jan. 29, 1973.
The Grand Rapids Press: Grand Rapids, Mich.: Jan. 29, 1973.

¹ The record of policy actions of the Committee for the meeting of Jan. 16, 1973, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Dayton Daily News: Dayton, Ohio: Jan. 29, 1973.

The Vandalla-Butler Chronicle: Montgomery County, Ohio: Jan. 31, 1973.

Sunday Herald-Leader: Lexington, Ky.: Jan. 28, 1973.

The Ann Arbor News: Washtenaw County, Mich.: Jan. 31, 1973.

Detroit Free Press: Detroit, Mich.: Jan. 28, 1973.

Applicant states that the proposed subsidiary would engage in the activities of facets of a mortgage banking business including, without limitation, arranging, making, or acquiring for its own account or for the account of others, loans and other extensions of credit and servicing loans and other extensions of credit; acting as investment advisor and manager to a real estate investment trust; providing bookkeeping or data processing services for Manufacturers Hanover Corp., its subsidiaries and affiliates and storing and processing other banking, financial or related economic data, such as performing payroll, accounts receivable or billing services; and all other activities incidental to the foregoing. Such activities have been specified by the Board in § 225.4(a) of regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 14, 1973.

Board of Governors of the Federal Reserve System, April 16, 1973.

[SEAL] CHESTER B. FELDBERG,
Assistant Secretary of the Board.

[FR Doc. 73-7821 Filed 4-20-73; 8:45 am]

GENERAL SERVICES ADMINISTRATION

[Wildlife Order 102; N-Maine-573]

FORMER TRIAL COURSE RANGE, MONROE ISLAND, OWLS HEAD, MAINE

Transfer of Property

Pursuant to section 2 of Public Law 537, 80th Congress, approved May 15,

² Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns.

1948 (16 U.S.C. 667c), notice is hereby given that:

1. By deed from the United States of America dated March 27, 1973, the property comprising approximately .23 of an acre of land, improved with one 126-foot steel tower, identified as the former Trial Course Range, Monroe Island, Owls Head, Maine, has been conveyed to the State of Maine, Department of Inland Fisheries and Game.

2. The above described property was conveyed for wildlife purposes in accordance with the provisions of section 1 of said Public Law 537 (16 U.S.C. 667b).

Dated April 16, 1973.

THOMAS M. THAWLEY,
Commissioner.

[FR Doc.73-7823 Filed 4-20-73; 8:45 am]

NATIONAL COMMISSION ON MATERIALS POLICY NOTICE OF MEETING

APRIL 18, 1973.

Pursuant to the requirements of the Federal Advisory Committee Act, notice is hereby given that there will be a meeting of the National Commission on Materials Policy on Monday, April 23, 1973, at 9 a.m. The meeting will be held in the Commission's offices, room 3002, 2025 M Street NW., Washington, D.C. The meeting will be held for the purpose of reviewing reports prepared for the Commission by staff members and by various persons and groups outside the Government, and for the purpose of preparing the Commission's final report to the Congress and the President. The meeting will not be open to the public.

JAMES BOYD,
Executive Director.

[FR Doc.73-7816 Filed 4-20-73; 10:44 am]

OFFICE OF TELECOMMUNICATIONS POLICY

ELECTROMAGNETIC RADIATION MAN- AGEMENT ADVISORY COUNCIL

Notice of Public Meeting

Notice is hereby given that the Electromagnetic Radiation Management Advisory Council will meet at 9:30 a.m. on Thursday, April 26, 1973, in room 712, 1800 G Street NW., Washington, D.C.

The principal agenda items will be (a) a critique of the March 1973, status report on the "Program for Control of Electromagnetic Pollution of the Environment; The Assessment of Biological Hazards of Nonionizing Electromagnetic Radiation"; (b) a discussion of the program with a view to evaluating the adequacy and distribution of program activities within the Federal Government as a basis for developing guidelines for future directions; and (c) a briefing on a satellite solar power station.

The meeting will be open to the public; any member of the public will be permitted to file a written statement with the Council, before or after the meeting.

The names of the members of the Council, a copy of the agenda, a summary of the meeting and other information pertaining to the meeting may be obtained from D. M. Jansky, Office of Telecommunications Policy, Washington, D.C. 20504 (telephone: 202-395-4737).

Dated April 18, 1973.

BRYAN M. EAGLE,
Advisory Committee
Management Officer.

[FR Doc.73-7818 Filed 4-20-73; 8:45 am]

TARIFF COMMISSION

[TEA-P-52]

REGINA FOOTWEAR, INC.

Petition for Determination; Notice of Investigation and Hearing

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962 on behalf of Regina Footwear, Inc., Brooklyn, N.Y., the U.S. Tariff Commission, on April 17, 1973, instituted an investigation under section 301(c)(1) of the said act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in items 700.20, 700.43, 700.45, and 700.55 of the Tariff Schedules of the United States) produced by the aforementioned firm, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

A public hearing in connection with this investigation will be held beginning at 10 a.m., e.d.t., on Tuesday, May 15, 1973, in the hearing room, U.S. Tariff Commission Building, Eighth and E Streets NW., Washington, D.C. Requests for appearances at the hearing should be received by the Secretary of the Tariff Commission, in writing, at his office in Washington, D.C., not later than noon, Thursday, May 10, 1973.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C. 20436, and at the New York City office of the Tariff Commission located in room 437 of the Customhouse.

Issued April 18, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.73-7817 Filed 4-20-73; 8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

INDIANA DEVELOPMENTAL PLAN

Occupational Safety and Health Standards; Notice of Submission 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 § 1902.11 of Title 29, Code of Federal Regulations, notice is hereby given that an occupational safety and health plan for the State of Indiana has been submitted to the Assistant Secretary of Labor for Occupational Safety and Health. The Assistant Secretary has preliminarily reviewed the plan, and hereby gives notice that the question of approval of the plan is in issue before him.

The plan identifies the division of labor as the State agency designated by the Governor of the State to administer the plan throughout the State. It defines the covered occupational safety and health issues as defined by the Secretary of Labor in 29 CFR 1902.2(c)(1).

The plan includes proposed draft legislation to be considered by the Indiana Legislature during its 1973 session. Under the legislation the division of labor will have full authority to enforce and administer laws respecting safety and health of employees in all workplaces of the State with the exception of employees of the United States or employees protected under other Federal occupational safety and health laws such as the Atomic Energy Act of 1954, 42 U.S.C. 2021; the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 801; and the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. 941.

The legislation further proposes to bring the plan into conformity with the requirements of 29 CFR part 1902 in areas such as procedures for variances and the protection of employees from hazards, procedures for the development and promulgation of standards, including standards for protection of employees against new and unforeseen hazards; procedures for prompt restraint, or elimination of imminent danger situations.

The legislation is also intended to insure inspections in response to complaints; give employer and employee representatives opportunity to accompany inspectors in order to aid inspections; notification of employees or their representatives when no compliance action is taken as a result of alleged violations, including informal review; notification of employees of their protections and obligations; protection of employees against discharge or discrimination in terms and conditions of employment; adequate safeguards to protect trade secrets; provision for prompt notice to employers and employees of alleged violations of standards and abatement requirements; a system of sanctions against employers for violations of standards; employer right of review and employee participation in review proceedings; and coverage of employees of political subdivisions.

Included in the plan is a statement of the Governor's support for the proposed legislation and a statement of legal opinion that it is consistent with the constitution and laws of Indiana. The plan sets out goals and provides a timetable for bringing it into full conformity with part 1902. The plan provides a

description of personnel employed under a merit system.

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, Occupational Safety and Health Administration, room 305, Railway Labor Building, 400 First Street, NW., Washington, D.C. 20210; Regional Administrator, Occupational Safety and Health Administration, Department of Labor, 300 South Wacker Drive, room 1201, Chicago, Ill. 60606; and State of Indiana Department of Labor, room 1013, State Office Building, Indianapolis, Ind. 46202. Copies of the plan may be obtained at the expense of the person(s) requesting the copies.

3. *Public participation.*—Interested persons are hereby given until May 23, 1973, to submit to the Assistant Secretary written data, views, and arguments concerning the plan. The submissions are to be addressed to the Director, Office of Federal and State Operations, Occupational Safety and Health Administration, Railway Labor Building, room 305, U.S. Department of Labor, Washington, D.C. 20210. The written comments will be available for public inspection and copying, at the expense of the person(s) requesting such copies, at the above address.

Any interested person(s) may request an informal hearing concerning the proposed plan, or any part thereof, whenever particularized written objections thereto are filed by May 9, 1973. If the Assistant Secretary finds that substantial objections are filed, he shall hold a formal or informal hearing on the subjects and issues involved.

The Assistant Secretary of Labor for Occupational Safety and Health shall thereafter consider all relevant comments and arguments presented and issue his decision as to approval or disapproval of the plan.

Signed at Washington, D.C. this third day of April 1973.

CHAIN ROBBINS,
Acting Assistant Secretary of Labor.

[FR Doc. 73-7833 Filed 4-20-73; 8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary of Labor's Order No. 8-73]

REGIONAL DIRECTORS

Redelegation of Authority and Assignment of Procurement Responsibilities

APRIL 10, 1973.

1. *Purpose.*—This Order redelegates contracting officer authority to the regional directors and assigns responsibility for procurement of audit services in the Department of Labor.

2. *Authority and directives affected.*—This order is issued pursuant to Secretary's Order No. 3-73.

3. *Background.*—Secretary's Order No. 1-72 establishes the position of Department of Labor Regional Director in each of the 10 regions in order to expand the responsibility of the field personnel in furtherance of the stated policy of decentralization. Keeping with this policy, there is now a need to redelegate contracting officer authority for the procurement of audit services for contracts and grants issued under manpower administration programs.

4. *Delegation of contracting officer authority.*—a. Consistent with their assigned procurement responsibilities, as hereinafter identified, the regional directors, or officers acting in that capacity, are hereby designated contracting officers with full authority to obligate the Government by their procurement through contracts, subject to such regulations, policies and procedures as may be prescribed by the Assistant Secretary for Administration and Management.

b. The delegation set forth in 4.a. above may be redelegated.

5. *Assignment of procurement responsibilities.*—a. The regional directors or officers acting in that capacity are assigned the procurement responsibilities for audit services for contracts and grants issued pursuant to manpower administration programs.

b. The exercise of procurement responsibilities shall be consistent with policies, procedures, guidelines and limitations prescribed by the Assistant Secretary for Administration and Management, Secretary's Order 3-73 (January 23, 1973) and applicable statutes and regulations.

6. *Effective date.*—This order is effective immediately.

FRED G. CLARK,
Assistant Secretary for
Administration and Management.

[FR Doc. 73-7786 Filed 4-20-73; 8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 225]

ASSIGNMENT OF HEARINGS

APRIL 18, 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.

MC 31389 sub 151, McLean Trucking Co., now assigned May 1, 1973, at Atlanta, Ga., hearing will be held at the Atlanta Interna-

tional Inn, 450 Capital Avenue, instead of the Royal Inn Motel.

MC 29686 sub 285, Dallas & Mavis Forwarding Co., Inc., and MC 124947 sub 17, Machinery Transports, Inc., now being assigned continued hearing June 4, 1973, (2 weeks), at the LaSalle Hotel, 10 North LaSalle St., Chicago, Ill.

I & S 8829 and I & S 8829 sub 1, Grain, Northwestern Transcontinental Territory, now assigned May 8, 1973, at Washington, D.C., is cancelled.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 73-7809 Filed 4-20-73; 8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

APRIL 18, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed on or before May 8, 1973.

FSA No. 42663—Grain, grain products and soybeans to Chicago, Ill.—Filed by Norfolk & Western Railway Co., for interested rail carriers. Rates on grain, grain products and soybeans, in carloads, as described in the application, from Norfolk and Western Railway Co. stations in Illinois and Indiana, to Chicago, Ill.

Grounds for relief—motor competition. FSA No. 42664—sulfuric acid from Malloy, Ark.—Filed by Southwestern Freight Bureau, agent (No. B-409), for interested rail carriers. Rates on acid, sulfuric, in tank carloads, as described in the application, from Malloy, Ark., to Baton Rouge, Destrehan, and New Orleans, La.; also Memphis, Tenn.

Grounds for relief—rate relationship. Tariff—Supplement 120 to Southwestern Freight Bureau, agent, tariff 34, ICC No. 4923. Rates are published to become effective on May 15, 1973.

FSA No. 42665—Cane pith and blackstrap molasses, mixed from Jay, Louisiana.—Filed by Southwestern Freight Bureau, agent (No. B-410), for interested rail carriers. Rates on cane pith and blackstrap molasses, mixed, in carloads, as described in the application, from Jay, La., to points in southwestern territory, including Mississippi River crossings Memphis, Tenn., and south.

Grounds for relief—Market competition, short-line distance formula and grouping.

Tariff—Supplement 182 to Southwestern Freight Bureau, agent, tariff SW-2004-I, ICC No. 4819. Rates are published to become effective on May 16, 1973.

FSA No. 42666—Fresh meats and Packerhouse products from Joslin,

Ill.—Filed by Illinois Freight Association, agent (No. 381), for interested rail carriers. Rates on fresh meats and packing-house products, in carloads, as described in the application, from Joslin, Ill., to points in southern territory.

Ground for relief—Rate relationship and market competition.

Tariff—Supplement 79 to Illinois Freight Association, agent, tariff I/S-102-E, ICC No. 1112. Rates are published to become effective on May 25, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-7810 Filed 4-20-73;8:45 am]

[Rev. S.O. 994; I.C.C. Order No. 89, Amdt. 1]

KANSAS CITY SOUTHERN RAILWAY CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 89 (the Kansas City Southern Railway Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 89 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.*—This order shall expire at 11:59 p.m., April 15, 1973, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., April 12, 1973, and that this order 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 it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 11, 1973.

INTERSTATE COMMERCE
COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.73-7812 Filed 4-20-73;8:45 am]

[Ex Parte No. 241; Exemption No. 39]

LOUISIANA & ARKANSAS RAILWAY CO.

Exemption Under Provision of the Mandatory Car Service Rules

It appearing, That because of flood conditions there is immediate need for shipments of shells for rehabilitation of roads in the New Orleans—Baton Rouge area of Louisiana; that many producers of shells are flooded and unable to furnish normal supplies; that there is an excessive demand for shells from shippers located on the Louisiana & Arkansas Railway Co., who are still able to produce and load shells; and that sufficient gondola cars of suitable ownership are not available to the Louisiana & Arkansas Railway Co. to enable the

loading of emergency shipments of shells during this period.

It is ordered, That pursuant to the authority vested in me by car service rule 19, the Louisiana & Arkansas Railway Co. is authorized to accept empty from connections and to move, place, and accept from shippers gondola cars loaded with shells for movement within the area served by it and by its connections between New Orleans, La., and Baton Rouge, La.

Effective April 13, 1973.

Expires April 28, 1973.

Issued at Washington, D.C., April 13, 1973.

INTERSTATE COMMERCE
COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.73-7813 Filed 4-20-73;8:45 am]

LOUISVILLE & NASHVILLE RAILROAD CO. AUTHORIZED TO OPERATE OVER TRUCKS OF NORFOLK & WESTERN RAILWAY CO.

Rerouting or diversion of Traffic

At a session of the Interstate Commerce Commission, Division 3, acting as an appellate division, held at its office in Washington, D.C., on the 13th day of April 1973.

Upon consideration of the petition filed by the United Transportation Union on April 5, 1973, requesting vacation of service order No. 1128.

It appearing, That service order No. 1128 was issued by the Railroad Service Board in accordance with applicable law and upon its determination that an emergency exists requiring the immediate operation of direct service between the Louisville & Nashville Railroad Co. and the Clinchfield Railroad Co. in order to expedite the movement of traffic and to increase the utilization of freight cars;

It further appearing, That it would be inappropriate to consider imposition of labor protective conditions in the service order, since the order is not issued pursuant to section 5(2) of the Interstate Commerce Act, 49 U.S.C. 5(2) and that service order No. 1128 is proper in all other aspects;

And it further appearing, That the petition state no errors of fact or law warranting the relief sought, and for good cause appearing;

It is ordered, That the petition be, and it is hereby, denied without prejudice to the United Transportation Union's right to assert the need for labor protective conditions at the appropriate time in finance docket No. 27320.

By the Commission, Division 3, acting as an appellate division.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-7811 Filed 4-20-73;8:45 am]

[Notice 49]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 16, 1973.

The following are notices of filing of applications, 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, 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, on or before May 8, 1973. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

No. MC 35334 (sub-No. 73 TA), filed April 9, 1973. Applicant: COOPER-JARRETT INC., P.O. Box 333, 23 South Essex Avenue, Orange, N.J. 07051, Applicant's representative: Irving Klein, 280 Broadway, New York, N.Y. 10007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, with usual exceptions, between Toledo, Ohio, on the one hand, and, on the other, Detroit, Mich. and its commercial zone, Beech, Big Beaver, Clarenceville, Elm, Eloise, New Boston, Newburgh, North Farrington, Oak, Perrinsville, Taylor Center, Sibley, and Trenton, Mich. and regular route, return movement, from Toledo, Ohio over I-75 to Detroit, Mich., and return over the same route, for 150 days. Supporting shipper: Cooper-Jarrett, Inc., 23 South Essex Avenue, Orange, N.J. 07095. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

NOTE.—Applicant holds authority in MC 35334 to serve Toledo, Ohio at which point tacking would take place.

No. MC 57239 (sub-No. 19 TA), filed April 3, 1973. Applicant: RENNER'S EXPRESS, INC., 1350 South West Street, Indianapolis, Ind. 46206. Applicant's representative: Rudy Yessin, 314 Wilkinson Street, Frankfort, Ky. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and

those requiring special equipment), between the plantsite of the Anaconda Aluminum Co. at or near Sebree, Ky. and Evansville, Ind.; Indianapolis, Ind.; Louisville and Hopkinsville, Ky. as follows: (1) From the plantsite at or near Sebree, Ky. via U.S. Highway 41 or Pennyryle Parkway to Evansville, and return over the same route, serving no intermediate points; (2) from the plantsite at or near Sebree via U.S. Highway 41 to its junction with Indiana Highway 57 at Evansville, thence via Indiana Highway 57 to its junction with Indiana Highway 67 at Bloomfield; thence via Indiana Highway 67 to Indianapolis, and return over the same route, serving no intermediate points; (3) from the plantsite at or near Sebree via U.S. Highway 41 to its junction with Indiana Highway 57 at Evansville, thence via Indiana Highway 57 to its junction with Indiana Highway 64 at Oakland City, thence via Indiana Highway 64 to Louisville, and return over the same route, serving no intermediate points; and (4) from the plantsite at or near Sebree, Ky. via U.S. Highway 41 or Pennyryle Parkway to Hopkinsville, Ky., and return over the same route, serving no intermediate points; but serving the junction of U.S. Highway 41 or the Pennyryle Parkway with the Western Kentucky Parkway for purposes of joinder only, for 180 days.

NOTE.—Applicant proposes to tack the above authority at Evansville, Indianapolis, Louisville, and Hopkinsville with its existing authority under MC-57239 and sub numbers thereunder for service to its authorized points in Indiana, Michigan, Kentucky, and Tennessee.

Supporting shipper: Anaconda Aluminum Co., 1251 South Fourth Street, Louisville, Ky. 40203. Send protests to: District Supervisor James W. Habermehl, Bureau of Operations, Interstate Commerce Commission, 802 Century Building, 36 South Penn Street, Indianapolis, Ind. 46204.

No. MC 87717 (sub-No. 7 TA), filed April 9, 1973. Applicant: FANELLI BROTHERS TRUCKING COMPANY, Centre and Nichols Streets, Pottsville, Pa. 17901. Applicant's representative: S. Berne Smith, 100 Pine Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Caps* for beverage containers, from the plantsite of Zapata Industries, Inc., at Muskogee, Okla., to points in Alabama, Arizona, Iowa, Arkansas, California, Colorado, Idaho, Illinois, Kansas, New Mexico, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming; (B) *Perforated steel sheets*, from the plantsite of Zapata Industries, Inc., at Muskogee, Okla., to Sparks, Nevada, Henderson, N.C. and Dallas, Tex.; (C) *Steel*, from Fairfield, Ala.; Gary, Ind. and New Orleans, La., to the plantsite of Zapata Industries, Inc., at Muskogee, Okla.; (D) *Aluminum*, between Sheffield, Ala.

and the plantsite of Zapata Industries, Inc., at Muskogee, Okla.; (E) *Plastic compound material and plastic tape*, except in bulk, from the plantsite of Zapata Industries, Inc., at West Mahoney Township, Schuylkill County, Pa., to the plantsite of Zapata Industries, Inc., at Muskogee, Okla.; and (F) *Wooden pallets*, from Mulberry, Pine Bluff and Payetteville, Ark., to the plantsites of Zapata Industries, Inc., at Muskogee, Okla. and West Mahoney Township, Schuylkill County, Pa., for 180 days. Supporting shipper: Zapata Industries, Inc., P.O. Box 2, Frackville, Pa. 17931. Send protests to: Paul J. Kenworthy, district supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 112963 (sub-No. 38 TA), filed April 6, 1973. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, Mass. 01866. Applicant's representative: Leonard E. Murphy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in rubber-lined tank vehicles, from Orrington, Maine, to points in New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, and New York, for 180 days. Supporting shipper: Sobin Chemicals, Sobin Park, Boston, Mass. 02210. Send protests to: Darrell W. Hammons District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway Street, fifth floor, Boston, Mass. 02114.

No. MC 118956 (sub-No. 3 TA), filed April 9, 1973. Applicant: WHITE-SCARVER TRANSPORTATION CORP., Industrial Road, Carlstadt, N.J. 07072.

Applicant's representative: D. Millner, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats and meat products*, including poultry and frozen foods, between the shipper's warehouse in the village of Mt. Kisco (Westchester County), N.Y., and the shipper's retail stores located in Hunterdon and Mercer Counties, N.J., for 180 days. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with the Grand Union Company of East Paterson, N.J. Supporting shipper: The Grand Union Co., 640 Winters Avenue, Paramus, N.J. 07652. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 134366 (sub-No. 2 TA), filed April 9, 1973. Applicant: CAHOON FARMS TRUCKING, INC., Miner Road, P.O. Box 295, North Rose, N.Y. 14516. Applicant's representative: Herbert M. Canter, 315 Seitz Building, 201 East Jefferson St., Syracuse, N.Y. 13202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* under continuing contract or contracts with Mrs. Smith's Pie Co., of Pottstown, Pa.,

from North Rose, Wolcott, Sodus, Middleport, and Medina, N.Y., to the plantsites and storage facilities of Mrs. Smith's Pie Co. at Pottstown, Lake Winola, Philadelphia, Morgantown, and York, Pa.; Landover, Md.; and Portsmouth, Va., and returned, refused and rejected shipments of the same commodities in the reverse direction, for 180 days. Supporting shipper: Mrs. Smith's Pie Co., Box 298, Pottstown, Pa. 19464. Send protests to: Morris H. Gross, District Supervisor, Bureau of Operations, Interstate Commerce Commission, room 104, 301 Erie Blvd., West Syracuse, N.Y. 13202.

No. MC 138350 (sub-No. 1 TA), filed April 9, 1973. Applicant: FRANKLIN O. DAVIS, doing business as WHITE PLAINS TRANSPORTATION, Box 97, White Plains, Md. 20695. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Avenue, NW., suite 600, Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from Winston-Salem, N.C. and Allentown, Pa., to Waldorf, Md. and (2) *empty bottles, kegs, containers and pallets*, on return from Waldorf, Md., to Winston-Salem, N.C. and Allentown, Pa., for 180 days. Restriction: Restricted to the operations authorized here are limited to a transportation service to be performed under a continuing contract with Bozick Distributors, Inc. Supporting shipper: Bozick Distributors, Inc., P.O. Box 344, Waldorf, Md. 20601. Send protests to: Robert D. Caldwell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 138571 (sub-No. 1 TA), filed April 9, 1973. Applicant: PAUL W. MUMFORD, JR., doing business as MUMFORD HORSE TRANSPORTATION, Turf Trailer Park, Charles Town, W. Va. 25414. Applicant's representative: Bernard J. Hasson, Jr., 927 15th Street NW., suite 306, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Livestock*, other than ordinary, for breeding, racing, show, and other special purposes, and in the same vehicle with such livestock, *personal effects of attendants, trainers, and exhibitors*, and *supplies and equipment* used in the care and exhibition of such animals, between Charles Town, W. Va., on the one hand, and, on the other, points in Delaware, Kentucky, Maryland, Virginia, and West Virginia and return, for 180 days. Supporting shippers: There are approximately 41 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Robert D. Caldwell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 138586 TA, filed April 6, 1973. Applicant: FRIGATE FREIGHT, 37171 Sycamore Street, Newark, Calif. 94560. Applicant's representative: Michael J. Stecher, 140 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electric and gas water heaters, range boilers, hydropneumatic tanks, and component parts thereof*, between Newark, Calif., and points in Arizona, Arkansas, Colorado, Idaho, Illinois, Iowa, Kansas, Louisiana, Mississippi, Missouri, Minnesota, Montana, Texas, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin and Wyoming, for 180 days. Supporting shipper: National Steel Construction Co., P.O. Box 524, Newark, Calif. 94560. Send protests to: A. J. Rodriguez, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 138587 TA, filed April 9, 1973. Applicant: GEORGE T. CROSS AND JANET M. CROSS, doing business as GEORGE & J. CROSS TRUCKING, P. O. Box 477, Sutherlin, Ore. 97479. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, from points in Oregon to points in California, Washington, Arizona, Nevada, Utah, and New Mexico*, for 180 days. Supporting shippers: Douco Sales, Inc., P.O. Box 1490, Roseburg, Ore. 97470; Nordic Plywood, Inc., P.O. Box 718, Sutherlin, Ore. 97479, and Mt. Scott Retail Yard, P.O. Box J, Sutherlin, Ore. 97479. Send protests to: A. E. Odoms, district supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 319 Southwest Pine Street, Portland, Ore. 97204.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 73-7815 Filed 4-20-73; 8:45 am]

[Notice 50]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 17, 1973.

The following are notices of filing of applications, 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, for temporary authority under section 216a(a) of the Interstate Commerce Act provided for under the new rules of Ex parte No. MC-67 (49 CFR part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, on or before May 8, 1973. One copy of such protests

must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 15808 (Sub-No. 22 TA), filed April 10, 1973. Applicant: GIRTON BROS., INC., P.O. Box 341, Brazil, Ind. 47834. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oil, in bulk, in tank vehicles, from Lawrenceville, Ind., to Morral and Caledonia, Ohio*, for 180 days. Supporting shipper: Marion Brick Corp., Marion, Ohio. Send protests to: James W. Habermehl, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 802 Century Building, 36 South Penn. Street, Indianapolis, Ind. 46204.

No. MC 19778 (sub-No. 84 TA), filed April 6, 1973. Applicant: MILWAUKEE MOTOR TRANSPORTATION COMPANY, a corporation, room 508, 516 West Jackson Boulevard, Chicago, Ill. 60606. Applicant's representative: P. L. Cowling (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard, between Missoula, Mont. and the mill site of Hoerner-Waldorf Corp. at or near Schilling, Mont.*, for 180 days. Restriction: Service authorized is restricted to traffic having a prior or subsequent movement by rail. Supporting shipper: Mr. Donald C. Ward, director of transportation, Hoerner-Waldorf Corp., P.O. Box 3260, Saint Paul, Minn. 55165. Send protests to: William J. Gray, Jr., district supervisor, Bureau of Operations, Interstate Commerce Commission, 219 South Dearborn Street, room 1086, Chicago, Ill. 60604.

No. MC 59856 (sub-No. 52 TA) (correction), filed March 21, 1973, published in the FEDERAL REGISTER issue of April 9, 1973, and republished as corrected in this issue. Applicant: SALT CREEK FREIGHTWAYS, 333 West Yellowstone Highway, P.O. Box 39, Casper, Wyo. 82601. Applicant's representative: John R. Davidson, 805 Midland Bank Building, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities, (except commodities in bulk, household goods as defined by the Commission, commodities which because of size or weight require special equipment and articles of unusual value, Between Billings, Mont. and Missoula, Mont., over Interstate Highway 90 and U.S. Highway 10, and return over the same route, serving all intermediate points and the Port*

of Butte located at or near Butte, Mont., for 180 days. Supporting shippers: There are approximately 15 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Paul A. Naughton, district supervisor, Bureau of Operations, Interstate Commerce Commission, room 1006 Federal Building and Post Office, 100 East B Street, Casper, Wyo. 82601.

NOTE.—Applicant requests waiver of restrictions (1) and (2) against tacking and interline as both tacking and interlining services are required to meet shipper's needs. The purpose of this republication is to add route description which was omitted in error.

No. MC 59856 (sub-No. 53 TA) (correction), filed March 21, 1973, published in the FEDERAL REGISTER issue of April 9, 1973, and republished as corrected in this issue. Applicant: SALT CREEK FREIGHTWAYS, 3333 West Yellowstone Highway, P.O. Box 39, Casper, Wyo. 82601. Applicant's representative: John R. Davidson, 805 Midland Bank Building, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities (except commodities in bulk, household goods as defined by the Commission, commodities which because of size or weight require special equipment and articles of unusual value), between Billings, Mont., and Great Falls, Mont., over U.S. Highway 87 and return over the same route, serving all intermediate points, for 180 days. Supporting shippers: There are approximately 14 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Paul A. Naughton, district supervisor, Bureau of Operations, Interstate Commerce Commission, room 1006, Federal Building and Post Office, 100 East B Street, Casper, Wyo. 82601.*

NOTE.—Applicant requests waiver of restrictions (1) and (2) against tacking and interline as both tacking and interlining services are required to meet shipper's needs. The purpose of this republication is to add route description, which was omitted in error.

No. MC 96324 (sub-No. 21 TA), filed April 5, 1973. Applicant: GENERAL DELIVERY, INC., P.O. Box 1816, 1822 Morgantown Avenue, Fairmont, W. Va. 26554. Applicant's representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, 1 gallon or less in capacity, from the plantsite and warehouse facilities of Owens-Illinois, Inc., of Fairmont, W. Va., to the plantsite of the Joseph Schlitz Brewing Co., Winston-Salem, N.C., and refused or rejected glass containers and wood pallets, from the Joseph Schlitz Brewing Co., Winston-Salem, N.C., to the plant-*

site and warehouse facilities of Owens-Illinois, Inc., Fairmont, W. Va., for 90 days. Supporting shipper: Owens-Illinois, Inc., 405 Madison Avenue, Toledo, Ohio 43666. Send protests to: Joseph A. Niggemyer, District Supervisor, Bureau of Operations, Interstate of Commerce Commission, 416 Old Post Office Building, Wheeling, W. Va. 26003.

No. MC 111729 (sub-No. 382 TA), filed April 9, 1973. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success (NHP-PO), N.Y. 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Radiopharmaceuticals, radioactive drugs, and medical isotopes*, in packages not to exceed 45 pounds: (1) Between Oklahoma City, Okla., on the one hand, and, on the other, points in Kansas and Missouri; and (2) between Dallas, Tex., on the one hand, and, on the other, points in Texas, on traffic having an immediate prior or subsequent movement by air, for 90 days. Supporting shipper: Abbott Laboratories, North Chicago, Ill. 60064. Send protests to: Anthony D. Giaimo, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112750 (sub-No. 394 TA), filed April 9, 1973. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments, and business records* (except currency and negotiable securities) as are used in the business of banks and banking institutions; (1) Between Vincennes, Ind., on the one hand, and, on the other, points in Clark, Clay, Crawford, Cook, Cumberland, Edwards, Effingham, Jasper, Lawrence, Wabash, and Wayne Counties, Ill.; and (2) between Bedford and Sullivan, Ind., on the one hand, and, on the other, Chicago, Ill., for 180 days. Supporting shippers: (1) American National Bank, Vincennes, Ind.; (2) The Citizens National Bank, Bedford, Ind. 47421; and (3) Sullivan State Bank, Sullivan, Ind. Send protests to: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112750 (sub-No. 295 TA), filed April 9, 1973. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments, and business records* (except currency and negotiable securities) as are used in the business of banks and banking institutions: (1) Between points in Hartford County, Conn.,

on the one hand, and, on the other, points in Hampden and Hampshire Counties, Mass.; and (2) from Greenfield, Mass. to Windsor Locks, Conn., for 90 days. Supporting shippers: (1) Heritage Bank and Trust Company, 100 Broad Street, Westfield, Mass. 01145; (2) Valley Bank, 1500 Main Street, Springfield, Mass. 01145; (3) Westbank, Western Bank and Trust Co., West Springfield, Mass. 01089; (4) Hartford National Bank and Trust Co., Hartford, Conn. 06115; (5) Northampton National Bank, 130 Main Street, Northampton, Mass. 01060; (6) The First National Bank of Easthampton, 52 Main Street, Easthampton, Mass. 01027; and (7) Franklin County Trust Co., 324 Main Street, Greenfield, Mass. 01301. Send protests to: Anthony D. Giaimo, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 117088 (sub-No. 2 TA), filed April 9, 1973. Applicant: ASPHALT TRANSPORT, INC., 3000 Airline Highway, P.O. Box 10416, New Orleans, La. 70121. Applicant's representative: Henry O'Connor, Jr., 1100 Tulane Avenue, New Orleans, La. 70112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Blasting sand and mineral fillers*, in bulk and bags, from Sun, La., to Mobile, Ala., for 180 days. Supporting shipper: Mississippi Valley Silica Co., Inc., 325 Boston Street, Covington, La. 70433. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, room T-9038, U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 118341 (sub-No. 1 TA), filed April 9, 1973. Applicant: VALLEY TRUCKING CO., INC., P.O. Box 2298, FM 802 and Central Avenue, Brownsville, Tex. 78520. Applicant's representative: Max Marquis (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen berries, frozen vegetables, frozen potato products, frozen onion rings, frozen citrus concentrate, and commodities* the transportation of which are partially exempt under section 203(b)(6) of the Interstate Commerce Act, when moving in the same vehicles and at the same time with the commodities above described, from Laredo, McAllen, Monte Alto, Edinburg, Brownsville, Corpus Christi, San Antonio, and Harlingen, Tex., to Providence, R.I.; Albuquerque, N. Mex.; and to points in Iowa, Louisiana, Maine, Massachusetts, Kansas, Michigan, Kentucky, Maryland, Minnesota, Mississippi, Alabama, California, Delaware, Illinois, New Hampshire, Missouri, Arizona, Colorado, Florida, Indiana, New Jersey, Nebraska, Arkansas, Connecticut, Georgia, New York, Oklahoma, Tennessee, West Virginia, North Carolina, South Carolina, Pennsylvania, Wisconsin, Ohio, Vermont, and Virginia, for 180 days. Supporting shippers: Vahlsing, Inc., P.O. Box 248,

Elsa, Tex. 78543; Texas Fruit & Berry Co., P.O. Box 3023, Weslaco, Tex. 78596; and San Antonio Foreign Trading Co., 8622 Crownhill Boulevard, San Antonio, Tex. 78209. Send protest to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 301 Broadway Building, room 206, San Antonio, Tex. 78205.

No. MC 127705 (sub-No. 38 TA), filed April 10, 1973. Applicant: KREVEDA BROS. EXPRESS, INC., 501 South Broadway, Gas City, Ind. 46933, and mail: Drawer J. Knox, Pa. 16232. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, and closures therefor*, from the plantsite of Glass Containers Corp. at Indianapolis, Ind., to the plantsite of Vlastic Foods, Inc. at Millsboro, Del., for 180 days. Supporting shipper: Glass Containers Corp., 114 Penn Avenue, Knox, Pa. 16232. Send protests to: District Supervisor J. H. Gray, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne Street, room 204, Fort Wayne, Ind. 46802.

No. MC 128285 (sub-No. 13 TA), filed April 5, 1973. Applicant: MELOW TRUCK EXPRESS, INC. P.O. Box 17063, 9801 North Vancouver Way, Portland, Ore. 97217. Applicant's representative: David C. White, 2400 Southwest Fourth Avenue, Portland, Ore. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and particle board*, for the account of Georgia-Pacific Corp., from Georgia Pacific mills at or near Springfield, Eugene, Camp Adair, Junction City, Toledo, Coos Bay, and Coquille, Ore., to points in California, for 180 days. Supporting shipper: Georgia-Pacific Corp., 900 Southwest 5th Avenue, Portland, Ore. 97204. Send protests to: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 319 Southwest Pine Street, Portland, Ore. 97204.

No. MC 133178 (sub-No. 1 TA), filed April 9, 1973. Applicant: PAPER CARGO CORP., 3260 Chicago Drive, Grandville, Mich. 49418. Applicant's representative: Ronald J. Mastel, 900 Guardian Building, Detroit, Mich. 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated paperboard and fiberboard*, from Muncie, Ind., to Grand Rapids, Mich., under continuing contract with Corco, Inc., for 180 days. Restriction: Restricted to traffic originating at and destined to the plant or warehouse facilities of Corco, Inc. Supporting shipper: Robert W. Sinn, General Manager, Corco, Inc., 2505 Thornwood, SW., Grand Rapids, Mich. 49509. Send protests to: C. R. Flenning, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 134806 (sub-No. 11 TA), filed April 4, 1973. Applicant: B-D-R TRANSPORT, INC., P.O. Box 813, Brattleboro, Vt. 05301. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tanned leather*, from Manchester and Pittsfield, N.H., to Wilton and Portland, Maine, for 180 days. Supporting shipper: G. H. Bass & Co., Wilton, Maine 04294. Send protests to: District Supervisor Martin P. Monaghan, Jr., Interstate Commerce Commission, Bureau of Operations, 52 State Street, Montpelier, Vt. 05602.

No. MC 138552 (sub-No. 1 TA), filed April 11, 1973. Applicant: MILTON McCOMBS, JR., 2006 North Central Avenue, Tifton, Ga. 31794. Applicant's representative: John Proctor, 1729 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum* (calcium sulfate), in bulk, in dump vehicles, from points in Florida, to points in Alabama and Georgia, for 180 days. Supporting shipper: Tifton Agriculture Supply Co., P.O. Box 1324, Tifton, Ga. 31794. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 138588 TA, filed April 9, 1973. Applicant: CHAMBERS TRUCK RENTALS, INC., 5 Bartel Place, Huntington Station, N.Y. 11746. Applicant's

representative: George A. Olsen, 69 Ton-nelle Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Malt beverages* (except in bulk), for account of Bay Beverages, Inc., from Rochester and Nyack, N.Y.; Cranston, R.I.; Fort Wayne, Ind.; Winston Salem, N.C.; and points in the New York, N.Y., commercial zone, as defined by the Commission, to Central Islip, N.Y., and (B) *empty pallets*, cases and barrels, from Central Islip, N.Y., to Rochester and Nyack, N.Y.; Cranston, R.I.; Fort Wayne, Ind.; Winston Salem, N.C.; and points in the New York, N.Y., commercial zone as defined by the Commission, for 180 days. Supporting shipper: Bay Beverages, Inc., 228 Blydenburgh Road, Central Islip, N.Y. 11722. Send protests to: Anthony D. Gialmo, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 138589 TA, filed April 10, 1973. Applicant: T. W. KENISON, doing business as R.V.T. COMPANY, Route 5, Box 822 B, Beaumont, Tex. 77706. Applicant's representative: Sidney A. King, Suite 1211 San Jacinto Building, Beaumont, Tex. 77701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Recreational camping trailers*, under contract with Revedi, Inc., from Heston, Kans., to points in Arkansas, Louisiana, New Mexico, Oklahoma, and Texas, for 150 days. Supporting ship-

per: Revedi, Inc., 3780 Hollywood, P.O. Box 4026, Beaumont, Tex. 77704. Send protests to: John C. Redus, district supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 61212, Houston, Tex. 77061.

No. MC 138590 TA, filed April 10, 1973. Applicant: BROOKS ENTERPRISES OF LOUISIANA, INC., P.O. Box 569, Many, La. 71449. Applicant's representative: Billy R. Reid, 6108 Sharon Road, Fort Worth, Tex. 76116. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, lumber byproducts, partial board, poles, and pilings*, treated or untreated, from Columbia, Danville, Dodson, Fisher, Florien, Haynesville, Minden, Natchitoches, Oakdale, Ruston, Simsboro, Winnfield, and Zwolle, La., to points in Arkansas, Mississippi, Louisiana, and Texas, for 180 days. Supporting shippers: (1) Vancouver Plywood Co., Inc., P.O. Box 128, Florien, La. 71429; (2) Willamette Industries, Inc., P.O. Box 907, Albany, Oreg.; and (3) Louisiana-Pacific Corp., Winnfield, La. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, La. 70113.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-7814 Filed 4-20-73;8:45 am]

CUMULATIVE LISTS OF PARTS AFFECTED—APRIL

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 April.

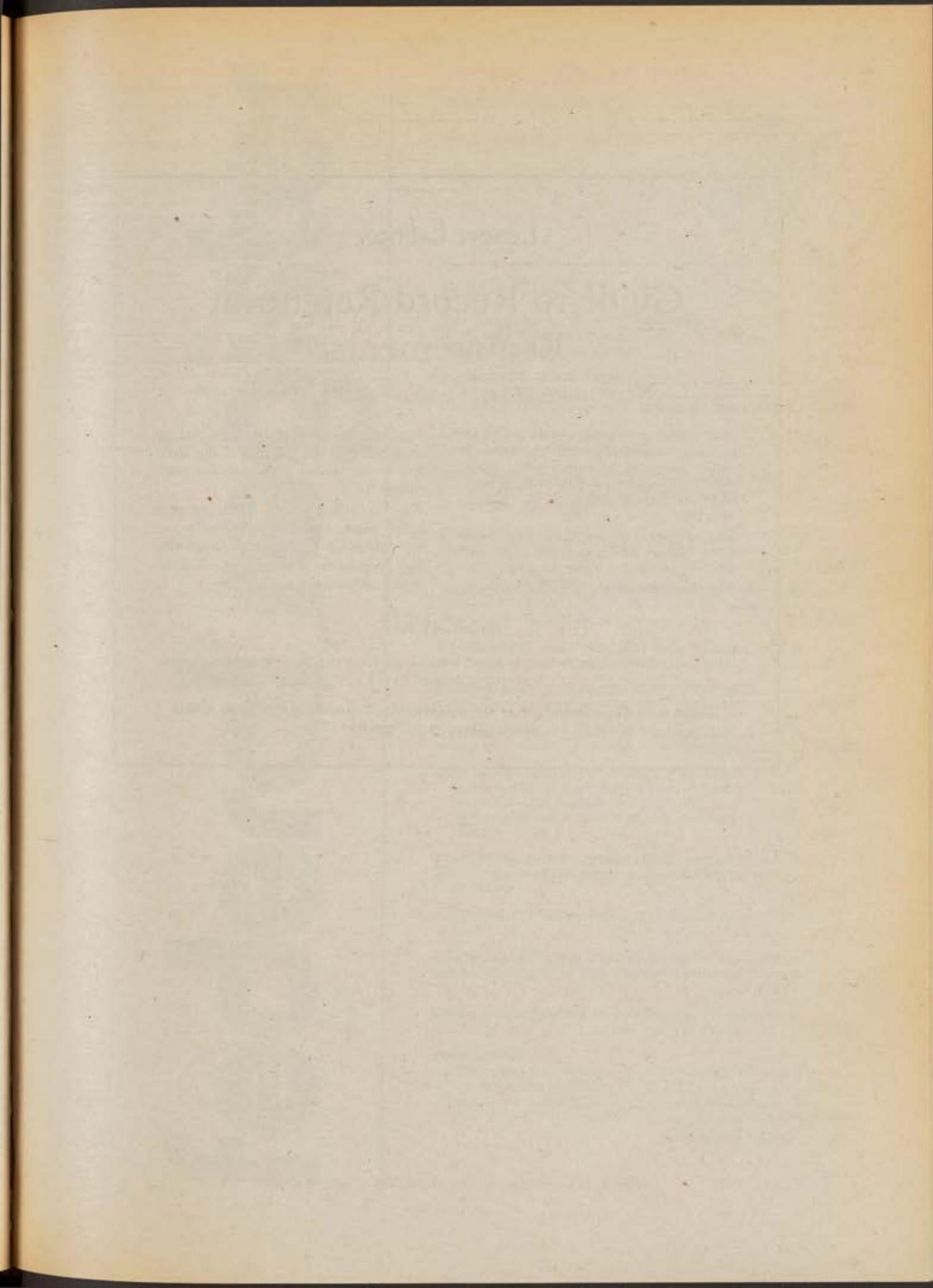
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